STATE PURCHASING DIVISION
OF THE
GENERAL SERVICES DEPARTMENT
AND
DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

REQUEST FOR PROPOSALS (RFP)

System of Record
New Mexico CDBG-DR Funded Programs

RFP#
27-79500-27-0008

Release Date: October 9, 2026

Proposal Due Date: November 9, 2026

ELECTRONIC-ONLY PROPOSAL SUBMISSION

Table of Contents

I. INTRODUCTION 4

A. PURPOSE OF THIS REQUEST FOR PROPOSALS 4
B. BACKGROUND INFORMATION 4
C. SCOPE OF PROCUREMENT 5
D. PROCUREMENT MANAGER 6
E. PROPOSAL SUBMISSION 6
F. DEFINITION OF TERMINOLOGY 6
G. PROCUREMENT LIBRARY 12
A. SEQUENCE OF EVENTS 13
B. EXPLANATION OF EVENTS 13
1. Issue RFP 13
2. Acknowledgement of Receipt Form 13
3. Pre-Proposal Conference 14
4. Deadline to Submit Written Questions 15
5. Response to Written Questions 15
6. Submission of Proposal 15
7. Proposal Evaluation 16
8. Oral Presentations 16
10. Contract Awards 17
11. Protest Deadline 17
C. GENERAL REQUIREMENTS 17
1. Acceptance of Conditions Governing the Procurement 17
2. Incurring Cost 17
3. Contractor Personnel 18
4. Prime Contractor Responsibility 18
5. Subcontractors/Consent 18
6. Subcontracts 18
7. Amended Proposals 18
8. Offeror's Rights to Withdraw Proposal 18
9. Proposal Offer Firm 19
10. Disclosure of Proposal Contents 19
11. No Obligation 19
12. Termination 20
13. Sufficient Appropriation 20
14. Legal Review 20
15. Governing Law 20
16. Basis for Proposal 20
17. Contract Terms and Conditions 20
18. Offeror's Terms and Conditions 21
19. Payment for Purchases 21
20. Contract Deviations 21
21. Offeror Qualifications 21
22. Right to Waive Minor Irregularities 21
23. Change in Contractor Representatives 22
24. Notice of Penalties 22
25. Agency Rights 22
26. Right to Publish 22
27. Ownership of Proposals 22
28. Confidentiality 22
29. Electronic mail address required 22

30. Use of Electronic Versions of this RFP 23
31. New Mexico Employees Health Coverage 23
32. Campaign Contribution Disclosure Form 23
33. Letter of Transmittal 23
34. Disclosure Regarding Responsibility 24
35. New Mexico/Native American Resident Preferences 26

III. RESPONSE FORMAT AND ORGANIZATION 27

A. NUMBER OF RESPONSES 27
B. ELECTRONIC SUBMISSION 27
C. PROPOSAL CONTENT AND ORGANIZATION 28
1. General Requirements 29
2. Additional or Unanticipated Activities (As Assigned) 32
A. TECHNICAL SPECIFICATIONS 32
1. Organizational Experience 32
2. Organizational References 33
3. Mandatory Specification 34
4. Desirable Specifications 34
B. BUSINESS SPECIFICATIONS 35
1. Letter of Transmittal Form 35
2. Campaign Contribution Disclosure Form 35
4. Cost 35
The evaluation of each Offeror's cost proposal will be conducted using the following formula: 35
5. New Mexico/Native American Resident Preferences 35

V. EVALUATION 36

A. EVALUATION POINT SUMMARY 36
B. NOTES ON EVALUATION FACTORS 36
1. B.1 Organizational Experience (See Table 1) 36
2. B.2 Organizational References (See Table 1) 37
3. B.3 Mandatory Specifications (See Table 1) 37
4. B.4 Desirable Specifications (See Table 1) 37
6. C.2 Campaign Contribution Disclosure Form (See Table 1) 37
8. C.4 Cost (See Table 1) 37
C. EVALUATION PROCESS 38

APPENDIX A 39

ACKNOWLEDGEMENT OF RECEIPT FORM 39

APPENDIX B 41

CAMPAIGN CONTRIBUTION DISCLOSURE FORM 41

APPENDIX C 44

DRAFT CONTRACT 44

APPENDIX D 79

LETTER OF TRANSMITTAL FORM 78

APPENDIX E 80

ORGANIZATIONAL REFERENCE QUESTIONNAIRE 80

APPENDIX F 83

COST RESPONSE 83

I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit proposals from qualified offerors who, by reason of their skill, knowledge, and experience, can furnish a technology system and solution for the Department of Homeland Security and Emergency Management's (DHSEM) Community Development Block Grant for Disaster Recovery (CDBG-DR) funded programs. DHSEM is the administrator of CDBG-DR funding in New Mexico.

To be considered, a vendor's response must demonstrate proven experience and capability in providing a technology system that serves as a system of record for federally funded programs, including construction management, and as needed, other programs with similar purposes. DHSEM reserves the right to select a vendor to provide any or all these services. Vendors must remain in good standing with the Department of Homeland Security and Emergency Management (DHSEM) and the State of New Mexico.

B. BACKGROUND INFORMATION

The U.S. Department of Housing and Urban Development (HUD) issued two Community Development Block Grant for Disaster Recovery (CDBG-DR) allocations to the State of New Mexico to address post-disaster unmet needs resulting from the 2022 and 2024 events.

The purpose of CDBG-DR is to support long-term disaster recovery by addressing unmet needs in disaster-impacted communities. Funding for the 2022 CDBG-DR allocation is authorized under the Disaster Relief Supplemental Appropriations Act, 2023, Public Law 117-328, Division N, Title X. Regulations for this CDBG-DR appropriation are detailed in 88 FRN 82982 and the Universal Notice, 90 FRN 1754. Funding for the 2024 CDBG-DR allocation is authorized under Public Law 118-158, the Further Continuing Appropriations and Disaster Relief Supplemental Appropriations Act, 2025 (H.R. 10445-118th Congress (2023-2024). Regulations for this CDBG-DR appropriation are detailed in 90 FRN 4759 and the Universal Notice, 90 FRN 1754.

As the authorized agency for all statewide disaster response and recovery operations, DHSEM is the responsible entity for management of CDBG-DR. DHSEM implements disaster recovery efforts, including CDBG-DR, in coordination with the New Mexico Department of Finance and Administration (DFA), which is responsible for all annual, non-disaster Community Development Block Grant allocations.

There is one program funded by the 2022 CDBG-DR allocation to New Mexico:

- The Building Resiliency Center (BRC) is a one stop, in-person resource for residents whose homes were damaged or destroyed by the Hermit's Peak/Calf Canyon fire under

DR-4652-NM. The BRC serves residents in San Miguel County (HUD-identified Most Impacted and Distressed area) and Mora County (State-identified Most Impacted and Distressed area).

There are three programs funded by the 2024 CDBG-DR allocation to New Mexico:

- The New Mexico Home Recovery Program (HRP) is designed to provide direct rehabilitation, reconstruction, and new construction services for disaster-impacted single-family residents affected by events declared under DR-4795-NM and DR-4843-NM in Lincoln County (HUD-identified Most Impacted and Distressed area) and Chaves County (HUD-identified Most Impacted and Distressed area), respectively.

- The Post-Disaster Infrastructure Investment Program (PDIIP) is designed to provide capital investments for infrastructure projects which address disaster impacts and enhance post-fire watershed stabilization to DR-4795-NM and DR-4843-NM affected communities in Lincoln County and Chaves County (HUD-identified Most Impacted and Distressed areas), and San Juan County, Mescalero Apache Tribe, and Rio Arriba County (State-identified Most Impacted and Distressed areas). Local units of government and political subdivisions are eligible to submit project proposals to the PDIIP.

- The Disaster Resilience Planning Program (DRPP), designed to provide funds to develop plans which address critical post-disaster needs, including but not limited to housing, infrastructure, economic recovery, and capacity building in Lincoln County and Chaves County (HUD-identified Most Impacted and Distressed areas). Local governments, non-profits, and universities are eligible to apply for DRPP assistance.

A full description of the federally declared disasters in New Mexico and CDBG-DR funded programs is available in the State of New Mexico Fire and Flood Recovery Community Development Block Grant – Disaster Recovery Action Plan (2022 Events) and the State of New Mexico Fire and Flood Recovery (2024 Events) Community Development Block Grant for Disaster Recovery Action Plan, which are publicly available on DHSEM's CDBG-DR website at www.dhsem.nm.gov/cdbg-dr/.

Awarded contractors are allowed and encouraged to select local businesses for subcontracting opportunities whenever possible. In alignment with 2 CFR § 200.321, contractors are encouraged to recruit and provide subcontracting opportunities with Section 3, small, women-owned, and minority-owned businesses. This approach not only supports the local economy but also ensures compliance with federal regulations regarding equitable and inclusive procurement practices. This is not an evaluation criterion; no points are associated with the requirement.

Pricing submitted in response to this RFP will be used to establish fixed fees and/or unit rates for defined deliverables.

C. SCOPE OF PROCUREMENT

DHSEM is seeking to enter into agency-specific contract with a contractor to provide a technology system and solution for Community Development Block Grant for Disaster Recovery (CDBG-DR) funded programs, in compliance with applicable local, state, and federal requirements, including 24 CFR Part 570 and other HUD CDBG-DR program requirements.

A comprehensive Scope of Work is available in Section IV. The TERM of the resulting contracts will be five (5) years with the option for two (2) one (1) year renewals for a total TERM not to exceed seven (7) years. DHSEM anticipates selecting one Offeror.

D. PROCUREMENT MANAGER

The DHSEM has assigned a Procurement Manager who is responsible for the conduct of this procurement and whose name, address, telephone number and e-mail address are listed below:

Name: Megan Martinez, Procurement Manager
Telephone: (505) 373-7365
Email: megan.martinez@dhsem.nm.gov

1. **Any inquiries or requests** regarding this procurement must be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of the Procurement Manager.

2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.13.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172 NMSA 1978 and 1.4.1.82 NMAC, **ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals.** Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

E. PROPOSAL SUBMISSION

Submissions of all proposals must be accomplished via DHSEM's prom electronic procurement system. Refer to Section III.B.1 for instructions.

F. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations:

1. "Agency" means the State ADA Purchasing Division of the General Services Department or that State Agency sponsoring this Procurement.

2. “Award” means the final execution of the contract document.

3. “Building Resiliency Center (BRC)” means the in-person resource in Las Vegas, New Mexico for Mora and San Miguel County residents whose homes were damaged or destroyed by the Hermit’s Peak/Calf Canyon fire under DR-4652-NM.

4. “Business Hours” means weekdays (Monday – Friday) 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.

5. “CDBG-DR” means the Community Development Block Grant Disaster Recovery Program, as authorized under Title I of the Housing and Community Development Act of 1974, as amended.

6. “CDBG-DR Home Recovery Program Guide” means the set of guidelines adopted by the Department of Homeland Security and Emergency Management (DHSEM) that govern the implementation of the New Mexico Home Recovery Program (HRP).

7. “CDBG-DR Infrastructure Program Guide” means the set of guidelines adopted by the Department of Homeland Security and Emergency Management (DHSEM) that govern the implementation of the Post Disaster Infrastructure Investment Program (PDIIP).

8. “CFR” means the Code of Federal Regulations (CFR), the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States.

9. “Close of Business” means weekdays (Monday – Friday) 5:00 PM MST/MDT, whichever is in effect on the date given.

10. “Confidential” means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7 NMSA 1978. See also NMAC 1.4.1.45. The following items may not be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is not confidential financial information or that qualifies under the Uniform Trade Secrets Act.

11. “Contract” means any agreement for the procurement of items of tangible personal property, services or construction.

12. “Contractor” means any business having a contract with a state agency or local public body.

13. “Disability” means a disability as defined by federal law under The Social Security Act, as amended, 42 U.S.C. §423(d), The Americans with Disabilities Act of 1990, as amended, 42

U.S.C. §12102(1)-(3), and in accordance with HUD regulations at 24 CFR §§5.403 and 891.505.

14. "Disaster Resiliency Planning Program (DRPP)" means the New Mexico Planning grant program by HUD Community Development Block Grant – Disaster Recovery (CDBG-DR) allocations. DRPP provides funds to develop plans which address critical post-disaster needs related to housing infrastructure, economic recovery, and capacity building, for eligible entities affected by DR-4795-NM and DR-4843-NM.

15. "Determination" means the written documentation of a decision of a procurement officer, including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

16. "Desirable" the terms "may," "can," "should," "preferably," or "prefers" identify a desirable or discretionary item or factor.

17. "Electronic Submission" means a successful submittal of Offeror's proposal in the eProNM system.

18. "Electronic Version/Copy" means a digital format consisting of text, images or both, readable on computers or other electronic devices, which includes all content that the Original document contains. The electronic version/copy CANNOT be emailed.

19. "Evaluation Committee" means a body appointed to perform the evaluation of Offerors' proposals.

20. "Evaluation Committee Report" means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee's recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.

21. "Federal Register" means the official journal of the United States Government that publishes agency rules, proposed rules, and public notices. For each CDBG-DR allocation, HUD issues a Federal Register Notice (FRN) that outlines the rules and requirements applicable to that specific disaster funding.

22. "Final Award" means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.

23. "Finalist" means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee, as explained in Section II.B.8.

24. "Home Recovery Program (HRP)" means the New Mexico Home Recovery Program funded by HUD Community Development Block Grant – Disaster Recovery (CDBG-DR) allocations. HRP provides direct services to repair and replace disaster-damaged single-

family homes, including Mobile and Manufactured Housing Units (MHUs), for eligible residents affected by DR-4795-NM and DR-4843-NM.

25. “HUD” means the United States Department of Housing and Urban Development.

26. “Hourly Rate” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits, and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

27. “Indefinite Delivery/Indefinite Quantity (IDIQ) Contracts” means a type of contract that allows ordering an unspecified amount of services or supplies during a fixed period, price, and schedule, with individual Work Orders defining scope.

28. “IT” means Information Technology.

29. “Liquidated Damages” means a pre-determined daily amount established to reasonably estimate the cost, inconvenience, and administrative burden caused by a contractor’s failure to complete work within the approved timeframe

30. “Mandatory” – the terms ”must,” ”shall” ”will,” ”is required,” or ”are required,” identify a mandatory item or factor. Failure to meet a mandatory item or factor may result in the rejection of the Offeror’s proposal.

31. “Minor Irregularities” means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.

32. “MID” refers to the most-impacted and distressed areas identified by HUD for the CDBG-DR appropriation, in this case, Lincoln and Chaves Counties. At least 80% of CDBG-DR funds received by the State of New Mexico must be spent in MID areas.

33. “Mobilize” means to demonstrate the ability to mobilize resources, personnel, and equipment, as applicable, within 30 days of award, ensure proper management of projects in New Mexico, and show capacity to handle multiple assignments across counties.

34. “Multiple Source Award” means an award of a contract for one or more items of tangible personal property, services, or construction to more than one Offeror.

35. “New Mexico Department of Homeland Security and Emergency Management (DHSEM)” means the administrator of the Community Development Block Grant-Disaster Recovery and Community Development Block Grant-Mitigation programs funded by the U.S. Department of Housing and Urban Development. DHSEM is the governor-designated state authority responsible for administering all long-term disaster recovery funds awarded to the state of New Mexico.

36. “PII” means Personally Identifiable Information.

37. “Post Disaster Infrastructure Investment Program (PDIIP)” means the New Mexico Infrastructure grant program by HUD Community Development Block Grant – Disaster Recovery (CDBG-DR) allocations. PDIIP provides capital investments for infrastructure projects which address disaster impacts and enhance post-fire watershed stabilization in disaster-affected counties, for eligible entities affected by DR-4795-NM and DR-4843-NM.

38. “Scope of Work” means the design, configuration, implementation and support of a System of Record platform that the contractor selected by DHSEM must complete.

39. “Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

40. “Price Agreement” means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

41. “Procurement Manager” means any person or designee authorized by a state agency or local public body with the responsibility, authority, and resources to conduct the RFP procurement, make written determinations regarding the RFP procurement, and/or enter into or administer contracts as a result of the RFP procurement.

42. “Procuring Agency" means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to procure items of tangible personal property, services or construction from the agreement(s) awarded as a result of this RFP.

43. “Project” means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

44. “Redacted” means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7 NMSA 1978 and NMAC 1.4.1.45 and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out BUT NOT omitted or removed.

45. “Request for Proposals (RFP)” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

46. “Responsible Offeror" means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.

47. “Responsive Offer” or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.

48. “Sealed” means, in terms of electronic submission, an Offeror’s proposal and all accompanying documents has been completely and successfully uploaded into DHSEM’s eProNM system prior to the submission deadline stated in the RFP.

49. “Single Source Award” means an award of contract for items of tangible personal property, services or construction to only one Offeror.

50. “SOR” means a dedicated system of record for tracking and reporting implementation progress toward CDBG-DR funded program objectives, housing critical documentation, and managing CDBG-DR funded programs.

51. “Staff” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

52. “State (the State)” means the State of New Mexico.

53. “State Agency” means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the Purchasing Division of the General Services Department and the State Purchasing Agent but does not include local public bodies.

54. “State Purchasing Agent” means the Director of the Purchasing Division of the General Services Department.

55. “Statement of Concurrence” means an affirmative statement from the Offeror indicating its response to a required Section IV specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal, pursuant to Section III.C.1. (E.g. “We concur,” “Understands and Complies,” “Comply,” “Will Comply if Applicable,” etc.)

56. “Work Order” means a written authorization issued by the Procuring Agency defining the scope, deliverables, schedule, and compensation for specific inspection services under this Agreement.

57. “Unit” means an individual Manufactured Housing Unit

58. “Unredacted” means a version/copy of the proposal containing all complete information; including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.

59. “Written” means typed in standard 8 ½ x 11 inch document format, by common electronic means (such as Microsoft Word, Adobe PDF, etc.). A larger size document is permissible for charts, spreadsheets, etc.

G. PROCUREMENT LIBRARY

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in this document through your own internet connection. The library contains information listed below:

RFP, Questions & Answers, RFP Amendments, etc.
https://www.dhsem.nm.gov/active-procurement-opportunities

Other relevant links:

DHSEM Community Development Block Grant For Disaster Recovery (CDBG-DR) website
http://www.dhsem.nm.gov/cdbg-dr/

State of New Mexico Fire and Flood Recovery (2022 Events) Community Development Block Grant for Disaster Recovery Action Plan http://www.dhsem.nm.gov/hermits-peak-calf-canyon-resources/cdbg0dr2022/

Building Resiliency Center Program Guide http://www.dhsem.nm.gov/hermits-peak-calf-canyon-resources/cdbg0dr2022/

State of New Mexico Fire and Flood Recovery (2024 Events) Community Development Block Grant for Disaster Recovery Action Plan https://www.dhsem.nm.gov/cdbg-dr2025/

New Mexico Home Recovery Program Guide https://www.dhsem.nm.gov/cdbg-dr2025/homerecovery/

Post Disaster Infrastructure Investment Program Guide https://www.dhsem.nm.gov/cdbg-dr2025/iip/

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1. Issue RFP	DHSEM	October 9, 2026
2. Acknowledgement of Receipt Form	Potential Offerors	October 19, 2026
3. Pre-Proposal Conference	DHSEM	October 20, 2026
4. Deadline to submit Written Questions	Potential Offerors	October 23, 2026
5. Response to Written Questions	Procurement Manager	October 30, 2026
6. Submission of Proposal	***Potential Offerors***	**November 9, 2026**
7.* Proposal Evaluation	Evaluation Committee	November 12-16, 2026
8 * Oral Presentation(s)	Finalist Offerors	November 20, 2026
9.* Finalize Contractual Agreements	Agency/Finalist Offerors	November 20-30, 2026
10.* Contract Awards	Agency/ Finalist Offerors	November 30, 2026
11.* Protest Deadline	DHSEM	15 days after award

*Dates indicated in Events 7 through 11 are estimates only, and may be subject to change without necessitating an amendment to the RFP.

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the Sequence of Events shown in Section II.A., above.

1. Issue RFP

This RFP is being issued on behalf of the State of New Mexico DHSEM on the date indicated in Section II.A, Sequence of Events. Offerors may download the RFP in an electronic format by accessing the Department of Homeland Security website at: https://www.dhsem.nm.gov/active-procurement-opportunities/

2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the Procurement Manager, Megan Martinez, megan.martinez@dhsem.nm.gov, to have their organization placed on the procurement Distribution List. The form must be

returned to the Procurement Manager by 3:00 PM MST/ MDT on the date indicated in Section II.A, Sequence of Events

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list, and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to the RFP.

3. Pre-Proposal Conference

An optional pre-proposal conference will be held as indicated in Section II.A, Sequence of Events, beginning at 10 a.m., MST/MDT via Microsoft Teams.

- The pre-proposal conference will be conducted virtually via **Microsoft Teams**.
- Offerors are responsible for ensuring they have access to Microsoft Teams prior to the conference start time.
- Participants are encouraged to join the meeting at least 5 minutes early to allow time for connectivity and audio setup.
- Upon joining, participants must enter their full name, title, and organization to facilitate attendance tracking.
- All participants will be placed on mute upon entry.

Microsoft Teams meeting
Join:
https://teams.microsoft.com/meet/2137646568111033?p=7IEdZh6ZGWBNXAxnbS
Meeting ID: 213 764 656 811 103 3
Passcode: bs9iQ26U

Need help? | System reference
Dial in by phone
+1 505-312-4308,,694699286# United States, Albuquerque
(888) 506-1357,,694699286# United States (Toll-free)
Find a local number
Phone conference ID: 694 699 286#
For organizers: Meeting options | Reset dial-in PIN

Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Procurement Manager (see Section I.D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All questions answered during the Pre-Proposal Conference will be considered **unofficial** until they are posted in writing. All written questions will be addressed in writing on the date listed in Section II.A, Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attended the pre-proposal conference.

A public log of Offerors attending the mandatory pre-proposal conference will be maintained. Only Offerors who attend the mandatory pre-proposal conference, either directly or through an authorized representative, will be eligible to submit a proposal and will be granted access to the log of offerors attending the pre-proposal conference.

Failure to attend the mandatory pre-proposal conference will result in the Offeror being deemed non-responsive and removed from further consideration.

4. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until **5:00 PM MST/MDT** as indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Procurement Manager as declared in Section I.D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

5. Response to Written Questions

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A).

The Questions and Answers will be posted to: https://www.dhsem.nm.gov/active-procurement-opportunities/

6. Submission of Proposal

Only **electronic** proposal submission is allowed. **Do not** submit hard copies until further notice.

ALL PROPOSALS MUST BE RECEIVED BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN **5:00 PM MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS**. **NO LATE PROPOSAL CAN BE ACCEPTED.** The date and time of receipt will be recorded on each proposal. Proposals will be time-stamped in the system when the Offeror clicks "OK" after "Review and Submit." Such electronic submissions will be considered sealed in accordance with statute.

It is the Offeror's responsibility to ensure all documents are completely uploaded and submitted electronically via the ePro NM system by the deadline set forth in this RFP. The ePro NM system will automatically cease uploading data at the date and time of the deadline. Please ensure that you, as the Offeror, ***allow adequate time for large uploads and to fully complete your submittal by the deadline****. A submission that is not both: (1) fully complete; and (2) received, via the ePro NM system by the deadline, will be deemed late. Further, a submission that is not fully complete and received via the ePro NM system by the deadline because the*

response was captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any anti-virus or other security software will be deemed late. In accordance with statute and rule, ***NO LATE PROPOSAL CAN BE ACCEPTED.***

Proposals must be submitted electronically through DHSEM's eProNM electronic procurement system. Refer to Section III.B.1 for instructions. Proposals submitted by facsimile, or other electronic means other than through the DHSEM electronic e-procurement system, will not be accepted.

A log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to §13-1-116 NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required state agency signature on the contract(s) resulting from the procurement has been obtained.

7. Proposal Evaluation

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in Section II.A, Sequence of Events, depending upon the number of proposals received. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Oral Presentations

Finalist Offerors, as selected per Section II.B.8 above, may be required to conduct an oral presentation at a venue to be determined as per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. If Oral Presentations are held, Finalist Offerors may be required to make their presentations through electronic means (Microsoft Teams, Zoom, etc.). The Agency will provide Finalist Offerors with an agenda and applicable details (such as, scheduled presentation date and time, time limits, etc.); including an invitation to the event. Whether or not Oral Presentations will be held is at the sole discretion of the Evaluation Committee.

9. Finalize Contractual Agreements

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), taking into consideration the evaluation factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe

specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

10. Contract Awards

The award is subject to appropriate Department and State approval. Upon receipt of the signed contractual agreement, the Agency Procurement office will award as per Section II.A., Sequence of Events, or as soon as possible thereafter.

11. Protest Deadline

Any protest by an Offeror must be submitted timely and in conformance with §13-1-172 NMSA 1978 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172 NMSA 1978 and 1.4.1.82 NMAC, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15-calendar day protest period shall begin on the day following the notice of award of contract(s) and will end at 5:00 pm MST/MDT on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be directed to:

Megan Martinez, Procurement Manager
Megan.martinez@dhsem.nm.gov

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance to be bound by the Conditions Governing the Procurement, Section II.C, and Evaluation, Section V, by completing and signing the Letter of Transmittal form, pursuant to the requirements in Section II.C.30, located in APPENDIX D.

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Contractor Personnel

Personnel proposed in the Contractor's written submission to the Procuring Agency are considered material to any work performed under the contract. Once a contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the Procuring Agency. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience, and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The Procuring Agency shall retain the right to request the removal of any of the Contractor's personnel at any time.

4. Prime Contractor Responsibility

Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with a State Agency which may derive from this RFP. The State Agency entering into a contractual agreement with a vendor will make payments to only the prime contractor.

5. Subcontractors/Consent

The use of subcontractors is permitted; however, the Contractor shall not subcontract any portion of the contract without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this contract, nor shall any subcontracting obligate payment from the Agency. The prime contractor shall remain wholly responsible for the entire performance of the contractual agreement, including work performed directly by the prime contractor and work provided through subcontractors. The prime contractor must receive approval, in writing, from the agency awarding any resultant contract, before any subcontractor is used during the term of this agreement. Any subcontractors which the Offeror intends to use, and which are known at the time of response should be identified in the proposal response.

6. Subcontracts

The foregoing requirements for Contractor Personnel, Subcontracting, and Audit shall be inserted into all subcontracts from the prime contractor to the subcontractor.

7. Amended Proposals

An Offeror may submit an amended proposal before the proposal due date. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. **Agency personnel will not merge, collate, or assemble proposal materials.**

8. Offeror's Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request

addressed to the Procurement Manager and signed by the Offeror's duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations, 1.4.1.5 & 1.4.1.36 NMAC.

9. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one-hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

10. Disclosure of Proposal Contents

The contents of all submitted proposals will be kept confidential until the final award has been completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be available for public inspection, *except* for proprietary or confidential material as follows:

a. ***Proprietary and Confidential information is restricted to***:
    1. confidential financial information concerning the Offeror's organization; and
    2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7 NMSA 1978.

b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Section III.B.2.a, shall be submitted containing the blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

IMPORTANT: The price of products offered or the cost of services proposed **SHALL NOT** be designated as proprietary or confidential information.

If a request is received for disclosure of proprietary or confidential materials, the Agency shall examine the request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of proprietary or confidential information.

11. No Obligation

This RFP in no manner obligates the State of New Mexico or any of its Agencies to the use of any Offeror's services until a valid written contract is awarded and approved by appropriate authorities.

12. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the Agency determines such action to be in the best interest of the State of New Mexico.

13. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be affected by sending written notice to the contractor. The Agency's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

14. Legal Review

The Agency requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror's concerns must be promptly submitted in writing to the attention of the Procurement Manager.

15. Governing Law

This RFP and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

16. Basis for Proposal

Only information supplied in writing by the Procurement Manager or contained in this RFP shall be used as the basis for the preparation of Offeror proposals.

17. Contract Terms and Conditions

The contract between an agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in the Draft Contract (APPENDIX C). However, the contracting agency reserves the right to negotiate provisions in addition to those contained in this RFP Draft Contract (APPENDIX C) with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of any resultant contract.

The Agency discourages exceptions from the contract terms and conditions as set forth in the RFP Draft Contract (APPENDIX C). Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Agency (and the Evaluation Committee), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should an Offeror object to any of the terms and conditions as set forth in the RFP Draft Contract (APPENDIX C) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The Agency may or may not accept the alternative language. General references to the

Offeror's terms and conditions or attempts at complete substitutions of the Draft Contract are not acceptable to the Agency and will result in disqualification of the Offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. **Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an explicit agreement by the Offeror that the contractual terms and conditions contained herein are accepted by the Offeror.**

18. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Agency. See Section II.C.15 for requirements.

19. Payment for Purchases

Except as otherwise agreed to late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in Section 13-1-158 NMSA 1978.

20. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Offeror), will be discussed only between the Agency and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

21. Offeror Qualifications

The Evaluation Committee may make investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a Responsive Offer as defined in §13-1-83 and §13-1-85 NMSA 1978.

22. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.F.19. The Evaluation Committee also reserves the right to waive mandatory requirements, if **all** of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially

affect the procurement. This right is at the sole discretion of the Evaluation Committee.

23. Change in Contractor Representatives

The Agency reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of the Agency, adequately meeting the needs of the Agency.

24. Notice of Penalties

The Procurement Code, §§13-1-28 through 13-1-199 NMSA 1978, imposes civil, and misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

25. Agency Rights

The Agency in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror's proposal.

26. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from the agency written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or agency contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or removal from the contract.

27. Ownership of Proposals

All documents submitted in response to the RFP shall become property of the State of New Mexico. If the RFP is cancelled, all responses received shall be destroyed by the Agency.

28. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the Agency.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring Agency's written permission.

29. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

30. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the agency, the Offeror acknowledges that the version maintained by the agency shall govern. Please refer to:

https://www.dhsem.nm.gov/active-procurement-opportunities/

31. New Mexico Employees Health Coverage

A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: https://bewellnm.com.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000.

32. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form (APPENDIX B) as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor or other identified official. **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

33. Letter of Transmittal

Offeror's proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX D, which must be **signed** by the individual authorized to contractually obligate the company, identified in #2 below.

Provide the following information:

1. Identify the submitting business entity; Name, Mailing Address, Phone Number, Federal Tax ID Number (TIN), and New Mexico Business Tax ID Number(BTIN, formerly CRS);
2. Identify the Name, Title, Telephone, and E-mail address of the person authorized by the Offeror's organization to (A) contractually obligate the business entity providing the Offer, (B) negotiate a contract on behalf of the organization; and/or (C) provide clarifications or answer questions regarding the Offeror's proposal content *(A response to B and/or C is only necessary if the responses differs from the individual identified in A)*;
3. Identify any subcontractor/s that may be utilized in the performance of any resultant contract award;
4. Identify any other entity/-ies (such as State Agency, reseller, etc., that is not a sub-contractor identified in #3) that may be used in the performance of this awarded contract; and
5. The individual identified in #2 above, must sign and date the form, attesting to the veracity of the information provided, and acknowledging (a) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (b) the organizations acceptance of the Section V Evaluation Factors, and (c) receipt of any and all amendments to the RFP.

Failure to submit the signed Letter of Transmittal Form located in Appendix D will result in Offeror's disqualification.

34. Disclosure Regarding Responsibility

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
   1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
   2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
      a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
      b. violation of Federal or state antitrust statutes related to the submission of offers; or
      c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
   3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;

4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds $3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
    a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
    b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
    c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)

B. Contractor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this proposal are hereby assigned to the State.

C. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

D. The Contractor shall provide immediate written notice to the State Purchasing Agent or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

E. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

F. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

G. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with

commission of any offenses named in this document the Contractor must provide immediate written notice to the State Purchasing Agent or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

35. New Mexico/Native American Resident Preferences

In accordance with §13-1-21(J) NMSA 1978, the New Mexico/Native American Resident Preferences shall not apply because the expenditures for this RFP includes federal funds.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

B. ELECTRONIC SUBMISSION

ONLY ELECTRONIC SUBMISSION VIA DROPBOX SYSTEM IS PERMITTED
https://www.dropbox.com/request/uubqoaumsz3z2kmw1sgq

Any proposal that does not adhere to the requirements of this **Section II.B** and **Section III.C Proposal Content and Organization** may be deemed non-responsive and rejected on that basis.

1. Electronic Submission Requirements

a. **Follow all submission instructions** - Proposals must be submitted in the manner outlined in Sections III.B.2 and III.B.3, and organized in accordance with Section III.C. Technical and Cost portions of Offerors proposal must be submitted as **separate uploads**, and must be prominently identified as "Technical Proposal," or "Cost Proposal," on the front page of each upload.

b. **Complete proposal upload prior to submission deadline** - ***It is the Offeror's responsibility to ensure all documents are completely uploaded and submitted electronically via the Dropbox system by the deadline set forth in this RFP.*** *The Dropbox system will automatically cease uploading data at the date and time of the deadline. Please ensure that you, as the Offeror,* ***allow adequate time for large uploads and to fully complete your submittal by the deadline****. A submission that is not both: (1) fully complete; and (2) received, via the Dropbox system by the deadline, will be deemed late. Further, a submission that is not fully complete and received via the Dropbox system by the deadline because the response was captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any anti-virus or other security software will be deemed late. In accordance with statute and rule,* ***NO LATE OFFER CAN BE ACCEPTED****.*

c. **Upload a single Technical file and a single Cost file, unless a document exceeds 50MB** - The Offeror need only submit one single electronic copy of each portion of its proposal (one Technical and one Cost), as outlined in Sections III.B.2 and III.B.3. *EXCEPTION: Single electronic files that exceed 50MB may be submitted as multiple uploads, which must be* ***the least number of uploads necessary to fall under the 50mb limit****.*

d. **DO NOT upload .zip files** - In accordance with the State of New Mexico's Information Technology (IT) policies and procedures, we are unable to accept .zip files. See Section II.B.1.d, above, requirements for uploading large files.

e. **DO NOT password-protect proposal documents** – The Dropbox system is secure, and accessible only to the Procurement Manager, through a password-protected login. Confidential information must adhere to the requirements of Section II.C.8 and must be submitted pursuant to Section II.B.2.a.

f. **Dropbox Technical Support**
   i. For assistance with completing the registration process, uploading a proposal, or other technical support issues, call **505-373-7365**

2. **Technical Proposal –** One (1) ELECTRONIC upload must be organized in accordance with **Section III.C.1. Proposal Format**. All information for the Technical Proposal must be combined into a single file/document for uploading. ***EXCEPTION****: Single electronic files that exceed 50mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 50mb limit.* ***The Technical Proposal SHALL NOT contain any Cost information.***

   a. **Confidential Information**: If Offeror's proposal contains confidential information, as defined in Section I.F.5 and detailed in Section II.C.8, Offeror **must** submit **two (2) separate ELECTRONIC technical files** :
      i. One (1) ELECTRONIC version of the requisite proposals identified in Section III.B.2, above, as an **unredacted** (def. Section I.F.38) version for evaluation purposes; **and**
      ii. One (1) **redacted** (def. Section I.F.26) ELECTRONIC for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal. Redacted versions **must** be clearly marked as "REDACTED" or "CONFIDENTIAL" on the first page of the electronic file;

3. **Cost Proposal –** One (1) ELECTRONIC upload of the proposal containing **ONLY** the Cost Proposal. All information for the cost proposal must be combined into a single file/document for uploading. ***EXCEPTION****: Single electronic files that exceed 50mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 50mb limit.*

C. PROPOSAL CONTENT AND ORGANIZATION

All proposals must be submitted as follows:

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material must be minimal. Within each section of the proposal, Offerors

must organize and address the RFP requirements in the order indicated below. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of Offeror's proposal. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in the Cost Proposal.**

Proposal

1. Signed Letter of Transmittal
2. Signed Campaign Contribution Disclosure Form
3. Table of Contents
4. Response to Contract Terms and Conditions (from Section II.C.15)
5. Offeror's Additional Terms and Conditions (from Section II.C.16)
6. Response to Specifications
    a. Organizational Experience
    b. Organizational References (Required: Letters of reference submitted to DHSEM directly from the referencing organization. Optional: Offeror may include a list of its references)
    c. Mandatory Specifications
    d. Desirable Specifications
    e. Completed Cost Estimate SOR Form (APPENDIX F)

IV. SPECIFICATIONS

A. DETAILED SCOPE OF WORK

1. General Requirements

DHSEM is seeking to enter into agency-specific contract with a contractor to provide a Disaster Recovery Grant Management Software application for Community Development Block Grant for Disaster Recovery (CDBG-DR) funded programs, in compliance with applicable local, state, and federal requirements, including 24 CFR Part 570 and other HUD CDBG-DR program requirements.

As requested by DHSEM, professional technology services required to be provided and to be incorporated into the contract to be awarded pursuant to this RFP include, but are not limited to, the following development features:

A. Internal facing system for Building Resiliency Center staff to collect and track service delivery to client information, track recovery progress and referrals, and manage grant funding, to include:
    i. Comprehensive view or "dashboard" of resident cases and recovery progress
    ii. Ability to assign cases into queues and/or to internal users
    iii. Ability to assign permissions to staff, users, and vendors
    iv. Case management and underwriting workflows
    v. Ability to securely store documentation including but not limited to applications, applicant documents, intake documentation, and case notes
    vi. Ability to track resident recovery progress including services providing and

milestones
vii. Outlook compatible, ability to communicate with residents, send documents
viii. Ability to capture and view program activities (full audit trail) for auditing purposes
ix. Ability to input and track case-specific notes/comments

B. Online, public-facing portal for applicants to apply to New Mexico's Home Recovery program, to include:
    i. Landing page with DHSEM custom branding
    ii. Interactive design (mobile compatible)
    iii. Translation of online application into Spanish
    iv. Unlimited unique user login and password protection
    v. Step-by-step application intake
    vi. Intuitive application design
    vii. Multiple document upload options
    viii. Online signature capability
    ix. Application print option

C. Internal-facing systems for New Mexico Home Recovery Program staff to review applications, track multiple program design elements, and manage grant funding, to include:
    i. Comprehensive view or "dashboard" of the application and funding pipelines
    ii. Ability to assign applications into queues and/or to internal users
    iii. Ability to assign permissions to staff, users, and vendors
    iv. Case management and underwriting workflows
    v. Ability to securely store documentation including but not limited to applications, applicant documents, assessments/inspection documentation, Tier 2 environmental review documentation, construction documentation, and financial documentation and invoices
    vi. Ability to track and assign construction management workflows, including assignments to multiple vendors, duration tracking for work at each stage (e.g., number of days with environmental review, number of days with construction vendor), progress and milestone tracking, and work completion
    vii. Outlook compatible, ability to communicate with applicants, send documents
    viii. Ability to capture and view program activities (full audit trail) for auditing purposes
    ix. Ability to input and track case-specific notes/comments

D. Internal-facing systems for Post Disaster Infrastructure Investment Program staff to review project proposal, track awards, and manage grant funding, to include:
    i. Comprehensive view or "dashboard" of project and funding pipelines
    ii. Ability to assign applications into queues and/or to internal users
    iii. Ability to assign permissions to staff, users, and vendors
    iv. Ability to securely store documentation including but not limited to project proposals, project proposal documents, environmental review documentation, reports, and financial documentation and invoices.
    v. Outlook compatible, ability to communicate with applicants, send documents

vi. Ability to capture and view program activities (full audit trail) for auditing purposes
vii. Ability to input and track grant notes/comments

E. Internal-facing systems for Disaster Resiliency Planning Program staff to review project proposal, track awards, and manage grant funding, to include:
    i. Comprehensive view or "dashboard" of project and funding pipelines
    ii. Ability to assign applications into queues and/or to internal users
    iii. Ability to assign permissions to staff, users, and vendors
    iv. Ability to securely store documentation including but not limited to project proposals, project proposal documents, environmental review documentation, reports, and financial documentation and invoices.
    v. Outlook compatible, ability to communicate with applicants, send documents
    vi. Ability to capture and view program activities (full audit trail) for auditing purposes
    vii. Notes/comments

F. Data Integration, Migration, and Security
    i. Integration with other software programs utilized by DHSEM
    ii. Development and integration of the Common Data File
    iii. Rapid deployment of a cloud-based solution with minimum configuration requirements
    iv. Migration of existing records and documentation
    v. PII protection mechanisms

G. Tracking and Reporting
    i. Maintains complete, accurate, and auditable records of applicant, project, financial, compliance, and case management data.
    ii. Supports HUD and CDBG-DR reporting requirements, including Quarterly Performance Reports (QPRs), DRGR reporting, beneficiary reporting, demographic reporting, and Low-to-Moderate Income (LMI) reporting.
    iii. Provides configurable dashboards and reporting tools for program management, financial management, performance monitoring, and compliance oversight.
    iv. Enables Agency staff to create, schedule, and generate standard and ad hoc reports without vendor assistance.
    v. Allows users to filter and analyze data by program, activity, geography, funding source, reporting period, and other configurable criteria.
    vi. Exports data and reports in common formats, including Excel and PDF.
    vii. Includes data validation and quality control features to identify incomplete, inconsistent, duplicate, or inaccurate records.
    viii. Maintains a complete audit trail of user activity, data modifications, workflow actions, and report generation.
    ix. Supports secure, role-based access to reporting data and protects confidential and personally identifiable information (PII).
    x. Retains historical program data in accordance with applicable federal and state record retention requirements.

xi. Provides capabilities to support audits, monitoring reviews, public reporting requests, and program performance analysis.
xii. Meeting reporting guidelines established by the U.S. Department of Housing and Urban Development (HUD) for CDBG-DR funded programs.

H. Training and Technical Assistance
   i. Provide comprehensive training to DHSEM staff and vendors utilizing the system
   ii. Provide responsive and knowledgeable technical support for applicants and DHSEM staff and vendors.
   iii. Provide role-specific user guides

2. Additional or Unanticipated Activities (As Assigned)

DHSEM may authorize the following services, including:

A. Participating in briefings, workshops, or coordination sessions with DHSEM staff, HUD, and other designated entities.
B. Ability to support DHSEM program staff through efficient program administration, to include:
i. Integrating data and tracking for Disaster Case Management.
ii. Integrating data and tracking for related disaster recovery grants and programs.

A. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offeror **must**:

a) Provide a detailed description of services offered, consistent with Section IV.A.1 above, and of relevant experience performing the design, configuration, implementation and support for a System of Record (SOR) platform and related services. The narrative must thoroughly describe how the Offeror has provided similar services under previous contracts and must address the Offeror's experience, expertise, and knowledge as a provider of these services, consistent with the minimum qualification requirements outlined in Section IV.A.1 above. Any experience supporting federally funded or state-funded programs should be highlighted. The narrative must indicate how many like-programs have been served in the last five (5) years and what percentage of the Offeror's business revenue is derived from these services. The narrative must also include the applicable program name(s) (if any) and the state(s) or county(ies) in which the work was performed.

b) Provide a resume/bio of all key personnel that the Offeror proposes to use in performance of the resulting contract, should the Offeror be awarded. Key personnel are defined as individuals responsible for supervising or performing the design, configuration, implementation and support for a System of Record (SOR) platform and related services. Each résumé/bio must include education and work experience

applicable to the required services, and any additional qualifications that demonstrate competency consistent with the Scope of Work.

c)**Mobilization and Utility**

The Offeror shall provide a detailed implementation timeline demonstrating the number of days required following contract execution for DHSEM to utilize the proposed technology system and solution, including milestones for each General Requirement identified in Sections A.1.A through A.1.H.

d) **Data Migration and Storage**

The Offeror should describe its systems, processes, and methodologies for data integration, migration, storage, tracking, reporting, and security. The response shall address the Offeror's ability to: (i) integrate with other software programs utilized by DHSEM; (ii) develop and integrate a Common Data File; (iii) rapidly deploy a cloud-based solution with minimal configuration requirements; (iv) migrate existing records and documentation; (v) meet reporting requirements established by the U.S. Department of Housing and Urban Development for CDBG-DR funded programs; and (vi) protect personally identifiable information (PII). The Offeror shall also describe the security and data protection measures used to ensure compliance with New Mexico State requirements, HUD CDBG-DR requirements, HRP, PDIIP, DRPP requirements, and other applicable federal cross-cutting authorities.

2. Organizational References

Two (2) external references from similar projects/programs, performed for private, state, or large local government clients within the last three (3) years should be received by the designee identified on APPENDIX E, Organizational Reference Questionnaire ("Questionnaire"). Any submitted references must be received by the deadline stated on APPENDIX E.

The references to whom the Offeror provides the Questionnaire **must submit the Questionnaire directly to the designee identified on APPENDIX E. <u>The references must not return the completed Questionnaire to the Offeror.</u>** It is the Offeror's responsibility to ensure the completed Questionnaires are submitted **<u>on or before the deadline</u> stated on APPENDIX E. <u>NO LATE QUESTIONNAIRES CAN BE ACCEPTED.</u>**

Offerors are encouraged to request that their chosen references provide detailed and informative comments.

The Offeror, itself, does not need to submit anything for this Specification in its proposal. The Offeror may, if it chooses, include a list of all organizations to whom Offeror sent the Organizational Reference Questionnaire (APPENDIX E).

3. Mandatory Specification

1. Experience and Expertise

Offeror must demonstrate relevant experience delivering services consistent with Section IV.A, Detailed Scope of Work (e.g., successfully developing software systems for state or federal funded programs and qualifications of assigned personnel). Offeror shall provide at least three (3) examples of comparable projects.

2. UEI/Certification of Eligibility

Offeror must provide a valid Unique Entity Identifier (UEI) and written of eligibility for participation in federally funded programs including that the Offeror is **not** on the SAM.gov exclusion list nor HUD's Limited Denial of Participation list.

3. Compliance with Federal, State, and Local Standards

Offeror must demonstrate the ability to perform activities in accordance with the following:

1. Applicable Federal Requirements, including:
2. 90 FR 4795
3. HUD's CDBG-DR Universal Notice
4. 24 CFR Part 570
5. 2 CFR 200
6. Privacy Act of 1974
7. NIST Cybersecurity Framework, NIST SP 800-53, NIST SP 800-53 Moderate, NIST SP 800-171
8. Title VI of the Civil Rights Act
9. Fair Housing Act
10. Section 504 of the Rehabilitation Act
11. Americans with Disabilities Act
12. Program Requirements, including all policies, templates, workflows, and reporting standards issued by DHSEM.

4. Desirable Specifications

a) Offeror should demonstrate a minimum of one (1) instance of providing a system of record for a HUD funded program. Offeror should provide details including program name; dates of participation; and scope of work for which the Offeror was responsible. Offeror must indicate whether they completed their contract or if they ceased work for the program prior to contract end date either voluntarily or because of agency action.

b) Offeror should demonstrate a minimum of one (1) instance of providing a system of record to state, local, or private entities within New Mexico.

B. BUSINESS SPECIFICATIONS

1. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX D. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to submit a signed form will result in Offeror's disqualification.**

2. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

3. Oral Presentation

Offerors who meet all mandatory specifications will be invited to provide interviews and technology demonstrations that cover the services to be performed listed in the Scope of Work section (Section IV.A.1).

4. Cost

The evaluation of each Offeror's cost proposal will be conducted using the following formula:

Lowest Responsive Offeror's Cost

---------- X Available Award Points

Each Offeror's Cost

5. New Mexico/Native American Resident Preferences

In accordance with §13-1-21(J) NMSA 1978, the New Mexico/Native American Resident Preferences shall not apply because the expenditures for this RFP includes federal funds.

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals.

Table 1: Evaluation Point Summary

Evaluation Factors	Points Available
B. Technical Specifications (600 Total Points)	
B. 1. Organizational Experience	**500**
B.1.a. Description of Services Offered	50
B.1.b. Key Personnel Experience	150
B.1.c Mobilization and Utility	150
B.1.d Data Migration and Storage	100
B. 2. Organizational References	50
B.3 Mandatory Specifications	**Pass/Fail**
B.3.a. Experience and Expertise	Pass/Fail
B.3.c. UEI/Certification of Eligibility	Pass/Fail
B.4.d. Compliance with Federal, State and Local Standards	Pass/Fail
B.4. Desirable Specifications	**50**
B.4.a. 2 Instances of Experience with HUD funded programs	25
B.4.b. 1 Instance of Experience with programs within the State of New Mexico	25
C. Business Specifications (150 Total Points)	
C.1. Letter Of Transmittal	Pass/Fail
C.2 Campaign Contribution Disclosure Form	Pass/Fail
C.3 Oral Presentation	100
C.4 Cost	50
TOTAL POINTS AVAILABLE	**700**

B. NOTES ON EVALUATION FACTORS

1. B.1 Organizational Experience (See Table 1)

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror's experience, expertise and knowledge, personnel education and work experience, the ability to mobilize and provide utility of the system rapidly, and the ability to migrate and safely store data.

2. B.2 Organizational References (See Table 1)

Points will be awarded based upon an evaluation of the responses to the questions provided on the Questionnaire (APPENDIX E). Offeror will be evaluated on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/2 of the total points for this category. References not received by the stated deadline on APPENDIX E will earn zero (0) points. For example: if one (1) reference is received, the Offeror would only be eligible for a maximum of one-half (1/2) the total available points.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information at the same time.

3. B.3 Mandatory Specifications (See Table 1)

Evaluated on a Pass/fail basis only. No points will be assigned.

4. B.4 Desirable Specifications (See Table 1)

Points will be awarded based on the quality, relevance, and depth of the Offeror's demonstrated experience and qualifications as outlined in Section IV.D.4, including experience providing systems of record for HUD-funded programs and entities within New Mexico.

5. C.1 Letter of Transmittal (See Table 1)

Evaluated on Pass/Fail only. No points assigned.

6. C.2 Campaign Contribution Disclosure Form (See Table 1)

Evaluated on Pass/Fail only. No points assigned.

7. C.3 Oral Presentation

Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda.

8. C.4 Cost (See Table 1)

Cost points will be awarded based on the total proposed cost. The Offeror with the lowest total evaluated cost will receive the maximum score of fifty (50) points. All other Offerors will receive a proportionally lower score using the following formula:

Cost Score = (Lowest Responsive Offeror Cost ÷ Offeror's Cost) × 50

The State reserves the right to verify all cost information and to correct mathematical errors. Cost proposals determined to be incomplete, unbalanced, unreasonable, or non-responsive may be rejected in accordance with the provisions of this RFP.

If only one responsive Cost Proposal is received, the Offeror shall receive the maximum available points for Cost, provided the State determines that the proposed pricing is fair, reasonable, and in the best interest of the State. The State reserves the right to conduct a cost analysis, negotiate pricing, or reject the proposal if the proposed costs are determined to be unreasonable.

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.

3. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores may be selected as finalist Offerors, based upon the proposals submitted. In accordance with §13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the State taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.12). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

APPENDIX A

REQUEST FOR PROPOSAL

System of Record New Mexico CDBG-DR Funded Programs
RFP #27-79500-27-0008

ACKNOWLEDGEMENT OF RECEIPT FORM

This optional Acknowledgement of Receipt Form establishes a distribution list to be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list, and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to the RFP.

The information below will be used for all correspondence related to the Request for Proposal. Only one contact per Offeror is permitted.

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:
To: Megan Martinez
E-mail: Megan.martinez@dhsem.nm.gov
Subject Line: System of Record RFP#27-79500-0008

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq. NMSA 1978 and § 13-1-191.1 NMSA 1978 (2006), as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars ($250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"**Applicable public official**" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the

authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

"**Campaign Contribution**" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"**Family member**" means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

"**Pendency of the procurement process**s" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

"**Prospective contractor**" means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code [Sections 13-1-28 through 13-1-199 NMSA 1978] or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or small purchase contract.

"**Representative of a prospective contractor**" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any:_____
(This field must be completed by the issuing State Agency. In most cases, the official identified will be the current Governor of New Mexico and Lieutenant Governor. If a local public body is using this template for their RFPs, it must complete this field with the applicable elected official(s).)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

_____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

_____

Purpose of Contribution(s) _____

_____

(Attach extra pages if necessary)

_____ _____

Signature Date

_____

Title (position)

--OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS ($250) WERE MADE to an applicable public official by me, a family member or representative.

_____ _____

Signature Date

_____

Title (Position)

APPENDIX C
STATE OF NEW MEXICO

[Insert Procuring Agency Name]

INFORMATION TECHNOLOGY AGREEMENT
Agreement No._____

THIS INFORMATION TECHNOLOGY AGREEMENT (this "Agreement") is made by and between the State of New Mexico (the "State"), [**Insert Procuring Agency Name**], hereinafter referred to as "Procuring Agency" and [**Insert Contractor Name**], hereinafter referred to as "Contractor" and collectively the parties are hereinafter referred to as the "Parties." This Agreement must be approved by the Department of Information Technology ("DoIT").

WHEREAS, pursuant to the [**CHOICE #1** - Procurement Code, NMSA 1978 13-1-28 *et seq.*; and Procurement Code, NMAC 1.4.1 *et seq.*; **OR CHOICE #2** – New Mexico State Use Act (13-1C-1 NMSA 1978);] Contractor has held itself out as an expert in implementing the Scope of Work attached hereto and Procuring Agency has selected Contractor as the offeror most advantageous to the State; and

[**CHOICE #1 – If procurement method is an RFP or Sole Source Agreement, use the following language:** WHEREAS, all terms and conditions of the [**RFP Number and Name**] or [**SOLE SOURCE AGREEMENT**] and Contractor's response to such document(s) are incorporated herein by reference; and]

[**CHOICE #2 – If procurement method is a statewide or an agency price agreement, use the following language:** "WHEREAS, this Agreement is issued against the statewide or agency price agreement, established and maintained by the New Mexico State Purchasing Division ("SPD") of the General Services Department, [**Insert statewide or agency price agreement number and name**], and through this language the Parties hereby incorporate the statewide price agreement by reference and give the statewide or agency price agreement's terms and conditions precedence over the terms and conditions contained in this Agreement;"]

[**CHOICE #3 – If procurement is made by any other method (please specify)**],

THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

ARTICLE 1 – DEFINITIONS

A. "Acceptance," "Accept" or "Accepted" means the approval, following Quality Assurance, of all the Deliverables by Procuring Agency's ELR ("ELR").
B. "Agency CIO" means Procuring Agency's Chief Information Officer.

C. "Application Deployment Package" or "ADP" means Contractor's centralized and systematic delivery of business critical applications, including the source code (for custom software), documentation, executable code and the deployment tools necessary to successfully install application software fixes, including Contractor's Software related additions, modifications, or deletions.

D. "Business Days" means Monday through Friday, 7:30 a.m. (MST or MDT) to 5:30 p.m. except for Federal and State holidays.

E. "Change Request" means a written document utilized by either Party to request changes or revisions in the Scope of Work – Exhibit A, attached hereto.

F. "Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) that consists of: (1) confidential Procuring Agency or client information as the term is defined in State and/or Federal statutes or regulations; (2) all non-public State budget, expense, payment and other financial information; (3) all attorney-client privileged work product; (4) all information designated by Procuring Agency or any other State office or agency as confidential, including all information designated as confidential under Federal and State statutes or regulations; (5) unless publicly disclosed by Procuring Agency or the State, the pricing, payments, and terms and conditions of this Agreement, and (6) State information that has not been publicly disclosed and that is utilized, received, or maintained by Procuring Agency, Contractor, or other participating State agencies for the purpose of fulfilling a duty or obligation hereunder.

G. "Contract Manager" means a Qualified Person designated by Procuring Agency who is responsible for all aspects of the administration of this Agreement. Under the terms of this Agreement, the Contract Manager will be **[Insert Name]** or his/her Representative.

H. "Data" means a compilation, body, set or sets, of discrete information gathered by Procuring Agency and/or Contractor which Procuring Agency owns and/or controls and which concerns, and may be utilized or manipulated by Procuring Agency and/or Contractor, to further Procuring Agency's governmental interests, role and mission ("Mission"). Data includes, but is not limited to, Procuring Agency's information, whether or not stored in one or more databases, Confidential Information and other internal information which affects or may affect Procuring Agency's ability to further its Mission.

I. "Default" means a violation or breach of this Agreement by a Party's either: (1) failing to perform one's own contractual obligations hereunder, or (2) by interfering with the other Party's performance of its obligations hereunder.

J. "Deliverable" means the verifiable outcomes, results, the Services or products that Contractor will develop, perform, and/or produce and deliver to Procuring Agency according to the Scope of Work.

K. "DoIT" means the New Mexico State Department of Information Technology.

L. "DoIT CIO" means DoIT's Cabinet Secretary or Chief Information Officer, who also serves as the State's Chief Information Officer.

M. "Employees" means stockholders, directors, officers, employees and agents.

N. "Escrow" means a legal document (such as Source Code) delivered by Contractor to a third party escrow agent ("Escrow Agent"), and held by Escrow Agent until Procuring Agency Accepts one or more the Deliverables; in the event Contractor Defaults this Agreement, Procuring Agency will receive the legal document, *e.g.*, Source Code, from Escrow Agent.

O. "Enhancement" means any modification including addition(s), modification(s), or deletion(s) that, when Contractor makes or adds to a Deliverable, materially improves the Deliverable's utility, efficiency, functional capability, or application ("Utility"). An error correction is not an Enhancement unless the Deliverable's Utility is improved in Contractor's process of making the error correction.

P. "Executive Level Representative" or "ELR" means the individual designated and empowered with the authority to represent and make decisions on behalf of Procuring Agency or the Representative of the Executive Level Representative.

Q. "GRT" means New Mexico gross receipts tax.

R. "GSD" means the General Services Department; "GSD/CRB" means the General Services Department, Contracts Review Bureau.

S. "Intellectual Property (IP)" means any and all proprietary information or material, whether tangible or intangible, whether derived, embodied, composed or comprised of any hard copy, soft copy, electronic format, hardware, firmware, software or manifested in any other form, whether solid, liquid or vapor, that consists of, or is directly or indirectly related to, Know How, trade secrets, copyrightable material, patent protected or protectable inventions and/or information, U.S. and foreign patent applications and patents, service marks, trademarks, and trade names, any of which is conceptualized, created or developed by either one or both of the Parties. For the purposes of this Agreement each Party will have exclusive ownership rights and control over Intellectual Property that the Party owns or controls prior to the commencement of this Agreement ("Pre-Owned IP"). Intellectual Property that Contractor creates during the course of Contractor's performance of work hereunder will be deemed work made for hire ("Work Made for Hire"). Procuring Agency will be considered to be the creator and sole and exclusive owner of all Work Made for Hire. Contractor agrees that Contractor will not make any application for nor any other claim of ownership regarding any Work Made For Hire or any of the Procuring Agency's Pre-Owned IP. Together, any and all combinations of Procuring Agency's Pre-Owned IP and Work Made for Hire will comprise "Agency IP."

T. "Independent Verification and Validation ("IV&V")" means the process whereby Procuring Agency retains an independent expert to evaluate, verify and issue a written validation opinion concerning Contractor's performance of the Project and to determine Contractor's compliance with the requirements stated in the Scope of Work, whether with respect to evaluating certain stages of the Deliverables, or to evaluating the body of the Deliverables as a whole, or both.

U. "Know How" means the idea(s), technical information and knowledge including, but not limited to, documents, computer storage devices, drawings, flow charts, plans, proposals, records, notes, memoranda, manuals and other tangible items containing, relating to, or causing the enablement of the Work Made for Hire and the Intellectual Property developed hereunder.

V. "Payment Invoice" means each of Contractor's detailed, certified and written requests for payment concerning the Deliverables that Contractor renders to Procuring Agency. Each Payment Invoice must identify each Deliverable for which the Payment Invoice is submitted and must include the price stated in the Scope of Work (Deliverables section), and in Article 3, below, as well as Contractor's actual charge, for each Deliverable.

W. "Performance Bond" means a surety bond which guarantees against Contractor's Default as well as Contractor's full performance of its obligations hereunder.

X. "Project" means the sum of Contractor's efforts necessary to produce and deliver the Deliverables to Procuring Agency according to the Scope of Work. [**If applicable, insert only for DoIT certified projects:** The title for this Project is [**Insert Name of Project**].

Y. "Project Manager" means a Qualified Person appointed by Procuring Agency who oversees and manages Contractor's efforts to produce and deliver the Deliverables to Procuring Agency. The Project Manager for this Project is [**Insert Name**] or his/her Representative.

Z. "Qualified Person" means a person who has demonstrated experience performing and completing activities and tasks similar to the Project.

AA. "Quality Assurance" or "Quality Assurance Review" means the planned and systematic pattern of rules, measures, procedures and process established by Procuring Agency to ensure that each Deliverable conforms to the requirements stated in the Scope of Work.

BB. "Representative" means one or more substitute person(s) for a title or role, e.g. Project Manager or Contract Manager, when the Party's primary contact person is unavailable.

CC. "Scope of Work" or "SOW" means the statements of Purpose and the Deliverables attached to this Agreement as Exhibit "A."

DD. "Service" or "the Services" means the task(s), function(s), and responsibility(ies) assigned to, and performed by Contractor according to the SOW.

EE. "State" means the State of New Mexico.

FF. "State Purchasing Agent (NMSPA)" means the New Mexico State Purchasing Agent or his/her Representative.

GG. "State Purchasing Division (SPD)" means the State Purchasing Division of the New Mexico General Services Department.

HH. "Software" means the operating system and/or application software used by Contractor to provide the Deliverables hereunder. Software may include, but is not limited to, Third Party Software. "Third Party Software" means software owned by third parties which is utilized by Contractor and/or Procuring Agency hereunder.

II. "Software Maintenance" means the set of activities that result in changes to the Accepted (baseline) product set of Software. These activities consist of corrections, insertions, deletions, extensions, and Enhancements to the baseline Software and operating system.

JJ. "Source Code" means the human-readable programming instructions organized into sets of files that represent the business logic for the Project application. Source Code may be read as text and subsequently edited, requiring compilation or interpretation by a Qualified Person into binary or machine-readable form before being directly useable by a computer.

KK. "Turnover Plan" means the written plan developed by Contractor and approved by Procuring Agency to continue the Project in the event the Deliverables stated in the SOW are transferred, either directly to Procuring Agency or to a third party.

ARTICLE 2 – SCOPE OF WORK

A. The Scope of Work. The Scope of Work, or "SOW" attached hereto as "Exhibit A," is incorporated into this Agreement as if fully set forth herein. The SOW governs Contractor's production and delivery of the Deliverables to Procuring Agency. The Parties may amend the SOW by executing one or more mutually agreed upon written amendments. In the event a conflict of terms exists between this Agreement and the SOW, the terms of this Agreement will govern.

B. Contractor Default. Contractor will deliver the Deliverables as stated in the SOW. In the event Contractor fails to deliver the Deliverables according to the SOW, Procuring Agency may declare Contractor to be in Default hereunder. In the event Procuring Agency declares Contractor to be in Default, Procuring Agency will give written notice to Contractor describing the Default and will specify a reasonable period of time during which Contractor will remediate the Default. Contractor will then give Procuring Agency a written response that advises Procuring Agency concerning the measures Contractor will take to cure the Default as well as Contractor's proposed timetable for implementing those measures. Nothing in this Section will be construed to prevent Procuring Agency from exercising Procuring Agency's rights pursuant to Article 6 or Article 16, below.

C. Schedule. Contractor will deliver the final Deliverables to Procuring Agency on or before the due dates stated in the SOW. The due dates will not be altered or waived by Contractor absent Procuring Agency's prior written consent, according to the Amendment process stated in Article 25, below.

D. License. **[If a software license is required, use the following language:]** Contractor hereby grants Procuring Agency a **[CHOICE #1- If a perpetual license is required, use the following language:]** non-exclusive, irrevocable, perpetual license to use, modify, and copy the following Software: [Insert name of the software and the patent number if applicable] **[CHOICE #2- If a Software license is required for the term of this Agreement, use the following language:]** non-exclusive, irrevocable, license to use, modify, and copy the [Insert name of Software and patent number if applicable] Software and any and all updates, corrections and revisions as stated in Article 2 and the SOW for the term of this Agreement.

Procuring Agency's right to copy the Software is limited to Procuring Agency's archival, backup and training purposes only. All of Procuring Agency's archival and backup copies of the Software are subject to the provisions of this Agreement, and Procuring Agency will reproduce all Software related titles, patent numbers, trademarks, copyright and other restricted rights notices on Procuring Agency's Software copies.

1. Contractor will maintain, at Contractor's sole expense, a copy of the Software Source Code to be kept by Escrow Agent and will identify Procuring Agency as an authorized recipient of the Software Source Code from Escrow Agent. Contractor will store the Software Source Code in magnetic form on media specified by Procuring Agency. Escrow Agent will be responsible for storing and safekeeping the Software Source Code magnetic media. Contractor will replace the escrowed Software Source Code magnetic media at least every six (6) months to ensure readability and to preserve the Software at the then current revision level. Contractor will include all associated Software documentation with the magnetic media, which will allow Procuring Agency to "top load," compile and maintain the Software in the event of Contractor's Default(s).

2. In the event Contractor (a) ceases to do business or ceases to support the Project, or (b) fails to make adequate provision for continued support of the Software that Contractor develops or provides to Procuring Agency, or (c) if Contractor Defaults hereunder, or (d) if this Agreement is terminated, Contractor will, within a twenty-

four (24) hour period, make all of the following items available to Procuring Agency: (i) the latest available Source Code and documentation related to the Software that Contractor develops or provides according to the SOW; (ii) the Source Code and compiler/utilities necessary to maintain Procuring Agency's system; and, (iii) Contractor's related documentation for Software developed by third parties to the extent Contractor is authorized to disclose such Software to Procuring Agency. In any of the above circumstances (a), (b), (c) or (d), Contractor will, by virtue of this Section, grant Procuring Agency an automatic, uncontested and unlimited right to use, modify and copy the Software, the Source Code and all of their related documentation.

[**CHOICE #3 –** Not Applicable. The Parties agree there is no License.]

E. Source Code. [**CHOICE #1 – If this is a new development and/or a maintenance and operations agreement, use the following language:**] Contractor will deliver any and all Software and Source Code that Contractor develops as a result of Contractor's new development and/or maintenance Software releases. Each of Contractor's Application Deployment Packages ("ADP") must be able to reproduce fully operational applications that include all base application functionalities, all cumulative release functionalities and include the functionalities, as documented, verified and supported by Contractor, which comprise each new application release.

[**CHOICE #2 – If Contractor will hold Software and Source Code in escrow, use the following language:**] For each maintenance release, at Contractor's sole expense, Contractor will update Contractor's Application Deployment Packages ("ADP") and place the updated ADP for escrow with Escrow Agent. The ADP will be in magnetic or digital form on media specified by Procuring Agency. Escrow Agent will be responsible for storage and safekeeping of the ADP storage media. Contractor will identify Procuring Agency to Escrow Agent as an authorized recipient of the ADP storage media, which will contain the most recent application release.

[**CHOICE #3 – If Contractor will not hold Software and/or Source Code in escrow, use the following language:**] For each maintenance release, at Contractor's sole expense, Contractor will update Contractor's Application Deployment Packages ("ADP") and deliver the updated ADP to Procuring Agency in magnetic or digital form on media specified by Procuring Agency.

[**CHOICE #4 –** Not Applicable. The Parties agree there is no Source Code.]

F. Procuring Agency's Rights.

1. Rights to Software. [**CHOICE #1 – If Procuring Agency has right to own the Software, use the following language:**] Procuring Agency will own all right, title, and interest in and to Procuring Agency's Confidential Information, the Software, the Source Code and other Deliverables, including without limitation, the specifications, the work plan, and the Custom Software, except that the Deliverables will not include third party software and its associated documentation

for the purposes of this Section. Contractor will take all actions necessary and transfer ownership of the Confidential Information, the Software, the Source Code and the other Deliverables to Procuring Agency, without limitation, as well as the Custom Software and associated Documentation on Final Acceptance or as otherwise provided hereunder.] [**CHOICE #2 –**Procuring Agency will have rights to the software as stated in Article 2. D., above.] [**CHOICE #3 –** Not Applicable. The Parties agree that this is an agreement pertaining only to professional services and does not involve the provision or use of Software.]

2. Protection of Proprietary Rights. Contractor will reproduce and attach the State's copyright, product identifications and other proprietary notices on the copies Contractor makes and delivers of the Software, the Source Code and other Deliverables for Procuring Agency, in whole or in part, or on any electronic, hard copy or other tangible form of the Deliverables.

3. Protection of Data. Contractor will protect and safekeep all of Procuring Agency's Data to the same or a higher degree of care that Contractor takes with respect to its own information and data. Contractor will implement all measures necessary to protect Procuring Agency's Data from any and all harm, including but not limited to, breach, intrusion, contamination, corruption, loss, leak, theft, disintegration, viral attack, denial-of-service, malware, worms, trojans, ransomware, hacking, phishing, skimming and other damage of any kind (collectively "Data Damage"), whether caused by Contractor, Contractor's Employees or one or more third parties. In the event a Data Damage incident occurs while Procuring Agency's Data is within Contractor's purview and/or control, within one (1) hour of Contractor's discovery of a Data Damage incident, Contractor will notify the Project Manager concerning the Data Damage incident, including sufficient information for the Project Manager to determine, in conjunction with Contractor, which measures, if any, Contractor must implement to mitigate the Data Damage.

4. Rights to Data. [**CHOICE #1 – If the Data belongs to Procuring Agency, use the following language:**] Any and all of Procuring Agency's Data that is stored upon Contractor's servers or lies within Contractor's custody hereunder, is Procuring Agency's sole and separate property and inures to Procuring Agency's exclusive benefit. None of Contractor or Contractor's Employees, subcontractor(s), affiliates and/or assigns will make use of, disclose, sell, copy, license or reproduce Procuring Agency's Data in any manner, or provide of Procuring Agency's Data to any third party absent Procuring Agency's prior written authorization. [**CHOICE #2 –** Not Applicable. The Parties agree Procuring Agency has no rights to the Data.]

ARTICLE 3 - COMPENSATION

A. Compensation Schedule. Procuring Agency will pay Contractor according to the fixed price set for each Deliverable, per the schedule stated in the SOW, less retainage, if any, as identified in Paragraph D.

B. Payment. The total compensation hereunder will not exceed [**Insert Dollar Amount**] [**CHOICE #1 -** excluding New Mexico gross receipts tax. **CHOICE #2 -** including New Mexico gross receipts tax.] This amount is the maximum total amount; it is not a guarantee that the work to be performed by Contractor, and the total of the corresponding payments

that Procuring Agency pays to Contractor, will equal the maximum total amount. However, the Parties do not intend for Contractor to continue to deliver the Deliverables without compensation once the total compensation amount has been reached. Therefore, Contractor must notify Procuring Agency before the price of a Deliverable reaches the compensation amount for that Deliverable stated in the SOW. In no event will Procuring Agency pay Contractor for any Deliverables in an amount that exceeds the maximum total amount without this Agreement being amended in writing prior to Contractor's continued delivery of the Deliverables.

Procuring Agency will pay Contractor upon Procuring Agency's Acceptance of each Deliverable according to Article 4, below, and upon the receipt and Acceptance of Contractor's detailed and certified Payment Invoice(s). Procuring Agency will forward its payments to Contractor's designated mailing address, stated in Article 28, below. In accordance with Section 13-1-158 NMSA 1978, Procuring Agency will tender payment to Contractor within thirty (30) days of the date of Procuring Agency's written certification of Acceptance. All Payment Invoices MUST BE received by Procuring Agency no later than fifteen (15) days after the termination of this Agreement. Contractor's Payment Invoices received by Procuring Agency later than fifteen (15) days after the termination of this Agreement WILL NOT BE PAID.

C. Taxes. [**CHOICE #1- Use if Agreement is between two public entities:** - Not Applicable - This Agreement is between two public entities.]

[**CHOICE #2** – Contractor [**Use either:** - will **OR** will not] be reimbursed by Procuring Agency for applicable New Mexico gross receipts taxes ("GRT"), excluding interest or penalties assessed on Contractor by the New Mexico Taxation and Revenue Department. Contractor is solely responsible for the payment of GRT for any money Contractor receives hereunder. Contractor must report its GRT, income tax and other tax obligations under Contractor's Federal and State tax identification number(s).

Contractor and its subcontractors, if any, will pay all Federal, State and local income and other taxes and government fees applicable to its operation(s) as well as the taxes and fees associated with Contractor's employment of its Employees. Contractor will require its subcontractors, if any, to hold Procuring Agency harmless from any responsibility for taxes, damages, fees and interest, if applicable, as well as any and all contributions required under Federal and/or state and local laws and regulations, including any other costs, transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

D. Retainage. [**CHOICE #1 -** Procuring Agency will retain **[INSERT percentage (which is recommended at - twenty percent (20%))]** of the fixed-price cost of each stated Deliverable as security for Contractor's full performance of this Agreement. Procuring Agency will release all retained amounts to Contractor upon Procuring Agency's Acceptance of the final Deliverable.] [**CHOICE #2** – Not Applicable. The Parties agree there is no retainage.]

E. Performance Bond. [**CHOICE #1- If the amount of this Agreement exceeds $1Million OR, if this Agreement is intended for custom developed software/application, OR Commercial Off the Shelf (COTS) software with greater than 20% Enhancement, OR for any other critical project execution concerns, use the following language:**] Contractor will execute and deliver to Procuring Agency, contemporaneously with the execution of this Agreement, a performance bond in the amount of [**Insert Total Amount of the agreed upon Performance Bond**] (the "Performance Bond") in Procuring Agency's name. The Performance Bond will be in effect for the duration of this Agreement and any renewals hereof. Procuring Agency will condition its release of the Performance Bond upon Procuring Agency's Acceptance of Contractor's full performance and fulfillment of each and every of its Deliverables, terms, conditions, provisions, and obligations hereunder. Procuring Agency's right to recoup monies against the Performance Bond will include all of Procuring Agency's costs and damages associated with the transfer of the Deliverables to a third party or to the State as a result of Contractor's performance failure(s).

[**CHOICE #2 –** Not Applicable. The Parties agree there is no Performance Bond.]

ARTICLE 4 – ACCEPTANCE

A. Submission. Upon Contractor's completion and delivery of each Deliverable stated in the SOW, Contractor will submit a Payment Invoice, together with an accurate description of the Deliverable, to Procuring Agency. Contractor will submit its Payment Invoices to Procuring Agency according to, or lower than, the Deliverable price stated in the SOW, less the retainage, if any, stated in Article 3(D), above. Contractor will not submit Payment Invoices to Procuring Agency for any amount(s) that exceed the amount(s) stated in the SOW absent Procuring Agency's prior written permission.

B. Acceptance. According to Section 13-1-158 NMSA 1978, the ELR will determine whether the Deliverable(s) meet(s) the specifications stated in the SOW. Procuring Agency will not pay for any Deliverable until the ELR Accepts the Deliverable in writing. In order to Accept a Deliverable, the ELR, in conjunction with the Project Manager, will perform a Quality Assurance Review of the Deliverable to determine, at a minimum, whether the Deliverable:

1. Meets or exceeds the Deliverable requirements stated in the SOW; and
2. Complies with the terms and conditions of [**CHOICE #1-** RFP or Sole Source Agreement] [**CHOICE #2** – statewide or agency price agreement] [**CHOICE #3 – specify any other procurement method (please specify)**]; and
3. Meets or exceeds the generally accepted industry standards and procedures applicable to the Deliverable(s); and
4. Complies with all other of Contractor's requirements, duties and obligations hereunder.

In the event the ELR Accepts a Deliverable according to the ELR's Quality Assurance Review, the ELR will send Contractor the ELR's written Acceptance within **[INSERT # of days - recommend at not less than fifteen (15)] Business Days]** (the "Acceptance/Rejection Period") from the date the ELR receives each of Contractor's Payment Invoice(s).

C. Rejection. If the ELR fails to give Contractor notice of Procuring Agency's rejection of a Payment Invoice within the Acceptance/Rejection Period, the Deliverable, together with its corresponding Payment Invoice will be deemed to be Accepted by Procuring Agency. In the event the ELR rejects the Deliverable following the ELR's Quality Assurance Review within the Acceptance/Rejection Period, the ELR will send Contractor a rejection notice together with a consolidated set of comments ("Comments") indicating the issues, unacceptable items, and/or requested revisions that Contractor should make or perform with respect to the rejected Deliverable. Upon Contractor's receipt of the ELR's rejection and Comments, Contractor will have ten (10) Business Days to resubmit the rejected Deliverable to Procuring Agency together with Contractor's revisions, corrections and/or modifications made according to the ELR's Comments. Upon receipt of Contractor's revised, corrected or modified ("Revised") Deliverable, the ELR will determine whether the Revised Deliverable is Acceptable by conducting a second Quality Assurance Review. The ELR will then issue a written determination of Procuring Agency's acceptance or rejection of the Revised Deliverable within fifteen (15) Business Days of Procuring Agency's receipt of the Revised Deliverable. In the event the ELR rejects the Revised Deliverable according to the second Quality Assurance Review, Contractor will be then required to provide a remediation plan that will include a list of Contractor's planned corrective measures and an associated timeline for Contractor to complete its remediation of the Deliverable. Contractor's remediation plan must be accepted by the ELR prior to Contractor's implementation of its Deliverable remediation plan. At the same time, Contractor will also be subject to pay Procuring Agency all of Procuring Agency's monetary damages associated with Contractor's failure to timely deliver an Acceptable Deliverable and must complete all remedies attributable to Contractor's late delivery of the Deliverable. In the event ELR rejects a Deliverable three times, Procuring Agency may declare Contractor to be in Default and may immediately terminate this Agreement. Procuring Agency may then seek to recover from Contractor any and all damages and remedies available hereunder and otherwise available in law or equity.

ARTICLE 5 – TERM

[**CHOICE #1:** If this Agreement contains professional services whether based on a statewide or agency price agreement or based on a separate procurement for IT professional services (small purchase, RFP, etc.), use the following language:] THIS AGREEMENT WILL BECOME EFFECTIVE AND BINDING ONLY UPON THE SIGNATURE OF THE STATE PURCHASING DIVISION.

[**CHOICE #2:** If this Agreement is NOT based on a statewide or agency price agreement and is only for tangible property and does not include professional services, use the following language:]

THIS AGREEMENT WILL BECOME EFFECTIVE AND BINDING ONLY UPON THE APPROVAL SIGNATURES OF DoIT AND THE STATE PURCHASING DIVISION.

[**CHOICE #3:** If this Agreement is based on a statewide or agency price agreement and is only for tangible property and/or the Deliverables, use the following language:] THIS AGREEMENT WILL BECOME EFFECTIVE AND BINDING ONLY UPON THE APPROVAL SIGNATURE OF DoIT.

This Agreement will terminate on **[Insert Termination Date]**, unless terminated pursuant to Article 6, below. The term of this Agreement, including extensions and renewals, will not exceed four years, except as may otherwise be allowed by Section 13-1-150 NMSA 1978.

ARTICLE 6 – TERMINATION

A. Grounds. Procuring Agency may terminate this Agreement at any time for convenience or cause. Contractor may only terminate this Agreement in the event Procuring Agency materially Defaults hereunder and subsequently fails to cure its Default within ninety (90) days from the date Contractor first declares Procuring Agency to be in Default.

B. Appropriations. Procuring Agency may terminate this Agreement if required by changes in State or federal law, or so ordered by a court of competent jurisdiction, or due to insufficient appropriations made available by the United States Congress and/or the State Legislature concerning the Parties' performance hereunder. Procuring Agency's determination concerning whether sufficient appropriations are available will be deemed fully accepted by Contractor and will be final. In the event Procuring Agency terminates this Agreement pursuant to this subparagraph B, Procuring Agency will provide Contractor written notice of such termination at least fifteen (15) Business Days prior to the effective date of the termination.

C. Notice; Opportunity to Cure.

1. Except as otherwise provided in Paragraph (B), immediately above, Procuring Agency will give Contractor written notice of Procuring Agency's intended termination at least thirty (30) days prior to the effective termination date.
2. Contractor will give Procuring Agency written notice of Contractor's termination at least thirty (30) days prior to Contractor's effective termination date, which notice will (i) identify Procuring Agency's material Default(s) upon which Contractor bases its termination, and (ii) state the measures Procuring Agency should implement to cure such material Default(s). Contractor's termination notice to Procuring Agency will only take effect: (i) if Procuring Agency fails to commence curing Procuring Agency's material Default(s) within Contractor's thirty (30) day notice period, or (ii) in the event Procuring Agency cannot commence to cure its material Default(s) within Contractor's thirty (30) day notice period, Procuring Agency will issue a written notice to Contractor concerning: (a) Procuring Agency's intent to cure, and (b) Procuring Agency's commencement of the due diligence necessary to cure its material Default.
3. Notwithstanding the foregoing, Procuring Agency may terminate this Agreement immediately upon its written notice sent to Contractor: (i) in the event Contractor

becomes patently unable to deliver the Deliverables, as Procuring Agency may, in its sole and exclusive discretion, determine; (ii) if, during the term of this Agreement, Contractor is suspended or debarred by the State Purchasing Agent; or (iii) this Agreement is terminated pursuant to Article 5, above.

D. Liability. Except as otherwise expressly allowed or provided hereunder, Procuring Agency's sole liability upon termination by either Party will be to compensate Contractor for Contractor's Acceptable work performed prior to Contractor's receipt or issuance of a written termination notice; provided, however, that a notice of termination issued by either Party will not nullify or otherwise affect either Party's liability for pre-termination defaults hereunder. Contractor will submit a Payment Invoice to Procuring Agency for Contractor's Acceptable work within thirty (30) days of receiving or issuing a notice of termination.

THE PROVISIONS CONTAINED WITHIN THIS ARTICLE 6 ARE NOT EXCLUSIVE AND DO NOT ACT TO WAIVE PROCURING AGENCY'S OTHER LEGAL RIGHTS AND EQUITABLE REMEDIES ENGENDERED BY CONTRACTOR'S DEFAULT HEREUNDER.

ARTICLE 7 – TERMINATION MANAGEMENT

A. Contractor's Duties. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all of Procuring Agency's other rights to receive Deliverables and other property hereunder, Contractor will:

1. Transfer, deliver, and/or make readily available to Procuring Agency every Deliverable, partially completed Deliverable, and any and all other property in which Procuring Agency has a financial interest, including but not limited to, any and all Procuring Agency Data and/or Procuring Agency Intellectual Property;
2. Not incur any further financial obligations for materials, services, or facilities hereunder absent Procuring Agency's prior written approval;
3. Terminate all of Contractor's purchase orders, procurements and subcontractors and will cease all work, except as Procuring Agency may direct, for the orderly completion of the Deliverables and the transition, if any, to a third party;
4. Take and effect all actions as Procuring Agency may direct, for the protection and preservation of the Deliverables, the Data, Procuring Agency's Intellectual Property and all other all Procuring Agency property as well as any and all records pertaining to, related to and/or required hereunder;
5. Agree in writing that Procuring Agency is not liable for any costs arising out of the termination other than the costs related to the Deliverables Accepted by Procuring Agency prior to the termination;
6. Cooperate fully in the closeout or transition of Contractor's activities to facilitate Procuring Agency's administration continuity with respect to Procuring Agency's ongoing projects and programs;
7. In the event this Agreement is terminated due to Contractor's Default, lack of performance and/or negligence or willful misconduct, which result(s) in funding reduction(s) to Procuring Agency from any governmental or other source, Contractor will remit the full amount of the funding reduction(s) to Procuring

Agency within thirty (30) days of the date of Procuring Agency's request to Contractor for remittance of the funding reduction(s);

8. Should this Agreement terminate due to Contractor's Default, Contractor will reimburse Procuring Agency for all costs arising from retaining one or more third party(ies) at potentially higher rates as well as for all other direct and indirect costs incurred by Procuring Agency following Contractor's Default up to the full amount of the total compensation stated in Article 3. B. above;
9. In the event this Agreement is terminated for any reason, or upon its expiration, Contractor will develop and submit for Procuring Agency's Acceptance a turnover plan ("Turnover Plan") at least ten (10) Business Days prior to the effective date of termination or expiration of this Agreement. Contractor's Turnover Plan will state Contractor's policies, procedures, and measures necessary to ensure: (1) the least disruption in the delivery of the Deliverables during Procuring Agency's transition of the Project to a third party; and (2) Contractor's cooperation with Procuring Agency and the third party with respect to Contractor's orderly transfer of all partial or completed Deliverables to Procuring Agency and the third party.

Contractor's Turnover Plan will consist of Contractor's orderly and timely transfer or return to Procuring Agency of any and all documents, files, Procuring Agency Data, the Software, the Source code, all other related software, documentation, the system turnover plan, IP Procuring Agency IP and other materials. Upon receipt of Procuring Agency's written request for such transfer or return, Contractor will, within five (5) Business Days, provide to Procuring Agency a copy of Contractor's most recent versions of all pertinent documents, files, Procuring Agency's Data, the Software, the Source Code, all other related software, documentation, the system turnover plan, IP Procuring Agency IP and other materials, whether provided by Procuring Agency or created by Contractor hereunder.

B. Procuring Agency. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, Procuring Agency will:
   1. Retain ownership of all Deliverables, Procuring Agency's Intellectual Property, Contractor's other work products hereunder, and all related documentation created by Contractor hereunder; and
   2. Pay Contractor all amounts due for the Deliverables Accepted by Procuring Agency prior to the effective date of such termination or expiration.

ARTICLE 8 – INDEMNIFICATION

A. General. **[Delete if this Agreement is between two public entities -** Contractor will defend, indemnify and hold harmless Procuring Agency, the State and their Employees free from all actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of Contractor's performance of this Agreement, which is caused by Contractor's or Contractor's Employees' negligent act(s) or failure(s) to act, during the time when Contractor, and/or any of Contractor's Employees, has delivered or is delivering the

Deliverables hereunder. In the event that any action, suit or proceeding related to the Deliverables is brought against Contractor and/or any of Contractor's Employees, Contractor will, as soon as practicable, but no later than two (2) Business Days after Contractor receives notice thereof, will notify, by certified mail, the legal counsel of Procuring Agency, the Risk Management Division of GSD, and DoIT.]

[**Use if this Agreement is between two public entities -** Neither Party will be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et seq.]

B. [**Delete if this Agreement is between two public entities -** The indemnification obligation hereunder will not be limited by the existence of any insurance policy or by any limitation concerning the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and will survive the termination of this Agreement. Money due or to become due to Contractor hereunder may be retained by Procuring Agency, as necessary, to satisfy any outstanding claim that Procuring Agency may have against Contractor.]

ARTICLE 9 – INTELLECTUAL PROPERTY

[**CHOICE #1 – If purchasing only IT hardware/equipment, use the following language:** - Not Applicable. The Parties agree there is no Intellectual Property.]

[**CHOICE #2 - Use this provision if Procuring Agency is to own the Intellectual Property:**]
Ownership. Procuring Agency IP will solely belong and inure to Procuring Agency for Procuring Agency's sole and exclusive use and benefit. Procuring Agency will own and control all right, title and interest to Procuring Agency IP on a worldwide basis. None of Contractor or Contractor's Employees, subcontractor(s), affiliates and assigns will utilize, copy, re-compile, re-engineer, reverse engineer, create derivative works, or otherwise utilize Procuring Agency IP for Contractor's benefit or the benefit of any third party or for any purpose other than to fulfill Contractor's obligations hereunder. Contractor will not disclose Procuring Agency IP to any entity or person outside of Procuring Agency absent Procuring Agency's prior written permission.

Contractor will notify Procuring Agency, within ten (10) Business Days, of any IP created hereunder by Contractor, Contractor's Employees or Contractor's subcontractor(s), all of which IP will be considered Work For Hire and a part of Agency IP. Contractor, on behalf of itself and its Employees and subcontractor(s), will execute or will cause to have executed any and all written assignments and other document(s) necessary to ensure that ownership of such IP vests solely in Procuring Agency. Contractor will take no affirmative action(s) that might have the effect of vesting all or any portion of Procuring Agency IP in any person or entity other than Procuring Agency.

In the event, by judgment of a court of competent jurisdiction, Procuring Agency IP is deemed not to have been created or owned by Procuring Agency, Contractor will grant to Procuring Agency

and the State, a perpetual, non-exclusive, royalty free license to reproduce, publish, use, copy and modify all or any portion of the disputed IP for Procuring Agency's and/or the State's continued use. Procuring Agency, together with DoIT, may extend to Contractor the privilege of utilizing all or any portion(s) of Procuring Agency IP through one or more intellectual property use license agreements that may be created separate and apart from this Agreement.

[CHOICE #3 - If the Parties agree that Procuring Agency will grant Contractor the right to own and/or use any Procuring Agency IP, delete the above language and insert the following language:] In the event Procuring Agency grants Contractor the right to own and/or use any Procuring Agency IP, Contractor hereby acknowledges and grants to Procuring Agency and the State, a perpetual, non-exclusive, royalty free license to reproduce, publish, sell, trade, transfer, transmit, use, copy and modify any and all Procuring Agency IP.

ARTICLE 10 – INTELLECTUAL PROPERTY LICENSE AND INDEMNIFICATION

A. Intellectual Property License.. For the purpose of this Agreement, Contractor hereby grants Procuring Agency a full, complete and non-transferable right and license to utilize any and all of Contractor's Related Pre-Owned IP for so long as Procuring Agency utilizes the Software, Source Code and other Deliverables. Contractor does not grant Procuring Agency any right or license to utilize Contractor's Unrelated Pre-Owned IP. If Contractor expects that any of Contractor's Pre-Owned IP will be used by Contractor to fulfill the scope of work under this Agreement, it is Contractor's responsibility to make the Procuring Agency aware of such Pre-Owned IP in order to eliminate questions of ownership of such IP. If Contractor does use Pre-Owned IP to fulfill the scope of work under this Agreement and identifies such, Contractor, at Procuring Agency's request, hereby grants Procuring Agency a permanent, full, complete, non-sublicensable, and non-transferable right and license to utilize any and all such IP.

B. Intellectual Property Indemnification. At Contractor's sole expense, Contractor will defend Procuring Agency, the State and/or any other State entity against any claim brought or made by a third party alleging that any product, Service or Deliverable that Contractor provides hereunder infringes the third party's Intellectual Property (an "Infringement Claim"). Contractor will pay all costs, damages and attorney's fees and monetary damages that may be awarded as a result of such Infringement Claim(s) in addition to the amount of the judgment award(s). To qualify to receive Contractor's defense cost(s) and/or other payment(s) related to any Infringement Claim(s), Procuring Agency will:

1. Give Contractor written notice, within forty-eight (48) hours, of Procuring Agency's receipt of an Infringement Claim;
2. Work with Contractor to control the defense and settlement of the Infringement Claim(s); and
3. Cooperate with Contractor, in a reasonable manner, to facilitate Contractor's defense or settlement of the Infringement Claim(s).

C. Procuring Agency's Rights. In the event any product, Service or Deliverable that Contractor provides to Procuring Agency hereunder becomes, or in Contractor's opinion is

likely to become, the subject of an Infringement Claim, Contractor will, at its sole cost and expense:

1. Provide Procuring Agency the right to continue using the product, Service or Deliverable and fully indemnify Procuring Agency against any and all third Infringement Claim(s) that may arise from Procuring Agency's use of the product, Service or Deliverable;
2. Replace or modify the product, Service or Deliverable so that such product, Service or Deliverable becomes non-infringing; or
3. Accept the return of the product, Service or Deliverable and refund an amount equal to the value of the returned product, Service or Deliverable, less the unpaid portion of the purchase price and any other amounts, which Procuring Agency owes to Contractor. Contractor's obligation will be void with respect to any product, Service or Deliverable modified by Procuring Agency to the extent the modification is the direct cause of the Infringement Claim.

ARTICLE 11 - WARRANTIES

A. General. Contractor hereby expressly warrants the Deliverable(s) will be correct in all aspects according to the specifications stated in the SOW and all generally accepted industry standards (the combination of which comprise the "Applicable Specifications"). Contractor's warranty includes, but is not limited to, Contractor's making correction(s) of defective Deliverable(s) and revision(s) of those defective Deliverables, as necessary, including Contractor's repair of deficiencies in the Deliverables that are discovered during testing, implementation, or post-implementation phases.

B. Software. **[CHOICE #1- Use only if the Parties intend to purchase or develop software.]** Contractor warrants that Software will be correct in all aspects according to the Applicable Specifications. Contractor further warrants that Software will meet the Applicable Specifications for **[INSERT # of years - recommend 6mo.-2yrs.]** years following Acceptance by the ELR and implementation by Procuring Agency. In the event Software fails to meet the Applicable Specifications during the warranty period, Contractor will correct the deficiencies, at no additional cost to Procuring Agency, so that the Software meets the Applicable Specifications. **[CHOICE #2 –** Not Applicable. The Parties agree there is no Software.**]**

ARTICLE 12 – CONTRACTOR PERSONNEL

A. Key Personnel. Contractor's key personnel ("Key Personnel") will not be diverted from this Agreement absent Procuring Agency's prior written approval. Key Personnel are those individuals Procuring Agency considers to be mandatory to the work to be performed hereunder. Contractor's Key Personnel hereunder will be:

[Insert Contractor and/or Subcontractor Key Personnel name(s) and title(s), as listed in their statewide price agreement or procurement method.]

B. Personnel Changes. In the event Contractor replaces any of its personnel, Contractor will make such replacement(s), with Contractor's other personnel of equal or superior ability, experience, and qualifications. Contractor's personnel replacements must be pre-approved in writing by Procuring Agency's Project Manager. For all of Contractor's personnel, Procuring Agency reserves the right to require submission of their resumes prior to receiving Procuring Agency's approval. In the event Contractor reduces the number of its personnel assigned to the Project for any reason, Contractor will, within ten (10) Business Days of its personnel reduction, replace those persons with the same or a greater number of persons with equal or superior ability, experience, and qualifications, subject to Procuring Agency's prior written approval. Procuring Agency, in its sole and exclusive determination, may extend the time Contractor is allowed beyond the required ten (10) Business Day period concerning Contractor's replacement of its personnel. Contractor will include status reports to Procuring Agency concerning Contractor's personnel replacement efforts as well as the impact upon the progress of the Project due to the absence of Contractor's personnel. In addition, Contractor will make interim arrangements to assure that the progress of the Project remains unimpeded by the loss of any of Contractor's personnel. Procuring Agency reserves the right to require a change in Contractor's personnel in the event Contractor's personnel are not, in Procuring Agency's sole and exclusive determination, meeting Procuring Agency's standards and/or expectations.

ARTICLE 13 – INDEPENDENT CONTRACTOR STATUS

A. Independent Contractor. For the purposes of this Agreement, Contractor and Contractor's Employees are independent Contractors who produce and deliver the Deliverables to Procuring Agency. Contractor's Employees are neither employees nor agents of the State ("State Employees"). None of Contractor and Contractor's Employees will accrue State benefits, including but not limited to, leave, retirement, insurance, bonding, use of state vehicles, or any other benefits that may be afforded to State Employees as a result of Contractor's entering this Agreement. Contractor acknowledges and agrees that all sums received hereunder are either reportable as a separate business entity or are, in the event Contractor operates as a sole proprietorship, personally reportable by Contractor for income and GRT tax purposes as self-employment or business income and are reportable for self-employment tax.

B. Subject of Proceedings. Contractor warrants that neither Contractor nor any of Contractor's Employees are presently subject to any litigation or administrative proceeding before any court or administrative body which could adversely affect Contractor's ability to perform hereunder; nor, to the best of Contractor's knowledge, information or belief, is any such litigation or proceeding presently threatened against Contractor or any of Contractor's Employees. In the event any such proceeding is initiated or threatened during the term of this Agreement, Contractor will immediately disclose such initiation or threat to Procuring Agency.

ARTICLE 14 - CHANGE MANAGEMENT

Change Request Process. In the event circumstances warrant Contractor making a Change to accomplish the SOW, Contractor will submit a Change Request to Procuring Agency. Each Change Request must meet the following criteria:

1. The Project Manager will draft a written Change Request for the ELR's review and approval, including:
   (a) the name of the person requesting the Change;
   (b) a summary of the requested Change;
   (c) the start date for the requested Change;
   (d) the reason and necessity for the requested Change;
   (e) the elements in the Deliverable(s) and/or the SOW that must be altered in order for Contractor to produce and deliver the Change; and
   (f) the impact of the Change upon the Project.

2. The ELR will provide a written decision concerning each Change Request to Contractor within ten (10) Business Days of the ELR's receipt of each Change Request. All decisions made by the ELR concerning a Change Request will be deemed final. Each Change Request, once approved by the ELR, will be integrated into the SOW through an Amendment executed by the Parties if required by Article 25, Section 2.

ARTICLE 15 – INDEPENDENT VERIFICATION AND VALIDATION

A. In the event IV&V Professional Services are used for the Project associated with this Agreement, Contractor will fully comply and cooperate with the IV&V vendor. Contractor's cooperation includes, but is not limited to:
   1. Providing the Project documentation;
   2. Allowing the IV&V vendor to attend Project related meetings; and
   3. Supplying the IV&V vendor with any/all other information and/or material(s) as may be directed by the Project Manager.

B. In the event the purpose of this Agreement is for Contractor to provide IV&V Professional Services, then Contractor will:
   1. Submit its IV&V reports directly to DoIT's Project Oversight and Compliance Division (EPMO@state.nm.us) according to DoIT's IV&V Reporting Template and Guidelines located on DoIT's webpage: http://www.doit.state.nm.us/project_templates.html, with a copy to Procuring Agency.
   2. Use a report format consistent with DoIT's IV&V Reporting Template and Guidelines located on the same DoIT website.

ARTICLE 16 – DEFAULT

In case of Contactor's Default, for any reason whatsoever, Procuring Agency and/or the State may procure the Deliverables from another source and hold Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages and special damages. Procuring Agency and/or the State may also seek all other available remedies against Contractor hereunder or which may be otherwise available under law or equity.

ARTICLE 17 – EQUITABLE REMEDIES

Contractor acknowledges that its failure to comply with any provision hereunder may cause Procuring Agency irrevocable harm and that a remedy at law for such a failure would constitute an inadequate remedy for Procuring Agency. Contractor consents to Procuring Agency's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. Procuring Agency's right to obtain equitable relief pursuant to this Agreement will be in addition to, and not in lieu of, any other remedy that Procuring Agency may have under applicable law, including, but not limited to, monetary damages.

ARTICLE 18 - LIABILITY

Contractor will be liable for damages arising out of injury to persons and/or damage to real, tangible or intangible property at any time, in any way, if and to the extent that the injury or damage was caused by or due to Contractor's fault or negligence or to a defect in Contractor's production or delivery of any Deliverable hereunder, whether Contractor produces or delivers the Deliverable in whole or part. Contractor will not be liable for damages arising out of, or caused by, alterations made by Procuring Agency to any equipment or its installation or for losses caused by Procuring Agency's fault or negligence. In the event Contractor's negligent or omitted production or delivery of any Deliverable results in a defect which is the direct or indirect cause of injury to any third party and/or employee of Procuring Agency or the State, nothing hereunder will act to limit Contractor's, or Contractor's Employees' liability to such third party and/or employee, or will act to limit any remedy that may exist under law or equity with respect to Contractor's and/or Contractor's Employees' negligent act or omission.

ARTICLE 19 – ASSIGNMENT

Contractor will not assign or transfer any of Contractor's interests, rights, responsibilities, duties, obligations and/or liabilities hereunder or assign any of Contractor's claims for money due or that might become due hereunder absent Procuring Agency's prior written approval.

ARTICLE 20 – SUBCONTRACTING

A. General Provision. Contractor will not subcontract or assign any portion of this Agreement or the SOW to any subcontractor absent Procuring Agency's prior written approval. No

such subcontracting or assignment will relieve Contractor of its direct and indirect responsibilities, duties, obligations and/or liabilities hereunder, nor will any such subcontracting trigger or obligate Procuring Agency to make a payment, either directly or indirectly, to any subcontractor.

B. Responsibility for Subcontractors to Maintain Confidentiality. Contractor will not disclose any of Procuring Agency's or State's Confidential Information to a subcontractor absent Procuring Agency's prior written consent. Each subcontractor will agree in a written form pre-approved by Procuring Agency to protect and keep confidential any and all Confidential Information in the same manner required of Contractor stated in Article 22, below.

ARTICLE 21 – RELEASE

Contractor's Acceptance of Procuring Agency's final payment made hereunder will operate as Contractor's full release of Procuring Agency, the State, and their officers, employees and agents from any and all liabilities, claims and obligations whatsoever arising hereunder.

ARTICLE 22 – CONFIDENTIALITY

Contractor will protect and keep confidential any and all Confidential Information that Procuring Agency provides to Contractor as well as any and all Confidential Information that Contractor develops based upon information provided by Procuring Agency during Contractor's performance hereunder. Contractor will not make available or provide Confidential Information to any third party absent Procuring Agency's prior written approval. Upon termination of this Agreement, Contractor will: (a) deliver all Confidential Information in its possession to Procuring Agency within thirty (30) Business Days of the termination, and (b) Contractor will protect and will not make available or provide Confidential Information to any third party absent Procuring Agency's prior written approval for a period of five (5) years commencing on the termination or expiration date. Contractor acknowledges that Contractor's failure: (a) to deliver such Confidential Information to Procuring Agency, or (b) to protect and keep Confidential Information secret may result in Procuring Agency's seeking to obtain direct, special and/or incidental damages from Contractor.

ARTICLE 23 –CONFLICT OF INTEREST

Contractor warrants that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with Contractor's delivery of the Deliverables required hereunder. Contractor certifies that it has followed the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer, state employee or former state employee.

ARTICLE 24 - RECORDS AND AUDIT

Contractor will maintain detailed time and expenditure records, which indicate the date, time, nature and cost of the Deliverables rendered during this Agreement's term and will retain those records for a period of [**Insert # of years, minimum is three (3) years**] from the date of Procuring Agency's final payment to Contractor hereunder. Contractor's records will be subject to inspection by Procuring Agency, DoIT's CIO, NMSPA, GSD, Department of Finance Authority and the New Mexico State Auditor's Office. Procuring Agency will have the right to audit Contractor's billings prior and subsequent to each of Procuring Agency's payments made to Contractor. Procuring Agency's payment for the Deliverables hereunder will not foreclose Procuring Agency's right to recover Procuring Agency's payments made to Contractor or its affiliates against Contractor's excessive or illegal Payment Invoices, if any.

ARTICLE 25 - AMENDMENT

This Agreement will not be altered, changed, or amended except by an instrument in writing executed by the Parties. No amendment will be effective or binding unless approved by all of the State's and Contractor's approval authorities. Amendments are required for the following:

1. Deliverable requirements stated in the SOW;
2. Due Date of any Deliverable stated in the SOW only if due date change requires extension of Article 5 termination date;
3. Compensation for any Deliverable stated in the SOW;
4. Agreement Compensation, pursuant to Article 3; or
5. Agreement termination, pursuant to Article 5.

ARTICLE 26 – NEW MEXICO EMPLOYEES HEALTH COVERAGE

A. In the event Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period on the Project during the term of this Agreement, Contractor certifies, by signing this Agreement, to have in place, and agree to maintain for the term of this Agreement, health insurance for those employees and offer that health insurance to those employees in the event the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Contractor will maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. Contractor's records are subject to review and audit by a representative of the State.

C. Contractor will advise Contractor's Employees concerning the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: https://www.bewellnm.com.

D. For Indefinite Quantity, Indefinite Delivery contracts (statewide or agency price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against them); Contractor agrees those requirements will become applicable on the first day of the second month after Contractor reports its combined sales (to the State and, if applicable, to local public bodies in the event those sales are made pursuant to a statewide or agency price agreement) in the aggregated amount of $250,000 or more.

ARTICLE 27 – SEVERABILITY, MERGER, SCOPE, ORDER OF PRECEDENCE

A. Severability. The provisions of this Agreement are severable, and in the event for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court, agency or commission having jurisdiction over the subject matter hereof, such invalidity will not affect the other provisions of this Agreement, which will be given effect absent the invalid provision.

B. Merger/Scope/Order. This Agreement incorporates any and all agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this Agreement. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents or assignees will be valid or enforceable unless stated in this Agreement.

ARTICLE 28 – NOTICES

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement will be in writing and will be deemed to have been given when sent by registered or certified mail (return receipt requested), when sent by overnight carrier, or by email addressed to the other Party's Representative.

Notices will be addressed as follows:

For PROCURING AGENCY
[Insert: Name of Individual, Position
Procuring Agency Name
E-mail Address
Telephone Number
Mailing Address]

For CONTRACTOR
[Insert Name of Individual, Position

Company Name
E-mail Address
Telephone Number
Mailing Address]

Any change made concerning either a change of address or a replacement of a Party's Representative must be made in an email or a hard copy letter addressed to the other Party's Representative.

ARTICLE 29 – GENERAL PROVISIONS

A. Contractor will abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State, including but not limited to:

1. Civil and Criminal Penalties. The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.
2. Equal Opportunity Compliance. Contractor will abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State, pertaining to equal employment opportunity. In accordance with all such laws of the State, Contractor will assure that no person in the United States will, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed hereunder. In the event Contractor is found to be out of compliance with these requirements during the life of this Agreement, Contractor will take appropriate measures to correct its deficiencies.
3. Nondiscrimination. Contractor, and all deliverables under this Agreement, shall comply, as applicable, with the Federal Civil Rights Act of 1964, the American with Disabilities Act of 1990 (Public Law 101-336), and every other federal and state law that prohibits discrimination or mandates accommodation for disability, injury, sickness, disease or specified hardship. Any deliverable constituting an interactive or informational system or display solely for use or consumption by a public employee shall comply with accessibility standards for a comparable system or display used or consumed by a member of the public.
4. Workers Compensation. Contractor will comply with state laws and rules applicable to workers compensation benefits for its employees. In the event Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by Procuring Agency.

B. Applicable Law. The laws of the State will govern this Agreement. Venue will be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By executing this Agreement, Contractor acknowledges and will submit

to the jurisdiction of the courts of the State over any and all such lawsuits arising hereunder.

C. Waiver. A Party's failure to require strict performance of any provision of this Agreement will not waive or diminish that Party's right thereafter to demand strict compliance with that or any other provision. No waiver by a Party of any of its rights hereunder will be effective unless made in writing, and no effective waiver by a Party of any of its rights will be effective to waive any of its other rights, duties or obligations hereunder.

D. Headings. Any and all headings within this Agreement are inserted for convenience and ease of reference and will not be considered in the construction or interpretation of any article, section or provision of this Agreement or the SOW. Numbered or lettered provisions, sections and subsections contained herein refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

E. Dispute Resolution. In the event dispute arises between the Parties, either Party may send a letter to the other Party requesting the other Party to enter into a dispute resolution process, such as mediation or arbitration, in accordance with NMSA 1978 12-8A-1 through 12-8A-3.

ARTICLE 30 - SURVIVAL

The Articles titled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties will survive the expiration or termination of this Agreement. Software License and Software Escrow agreements entered into by the Parties in conjunction with this Agreement will survive the expiration or termination of this Agreement. [**Choice #1** – Other unexpired agreements, promises, or warranties that will survive the termination of this Agreement are: (list here.)]

ARTICLE 31 - TIME

Calculation of Time. Any time period herein calculated by reference to a "day" or "days" means a calendar day or calendar days, unless Business Days are used; provided, however, that in the event the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State, the day for such given act will be the first day following that is not a Saturday, Sunday, or a State observed holiday.

ARTICLE 32 – FORCE MAJEURE

Neither Party will be liable for damages or have any right to terminate this Agreement for any delay or Default in performing hereunder in the event such delay or Default is caused by conditions beyond the Party's control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), war, insurrection and/or any other cause beyond the reasonable control of the Party whose performance is affected thereby.

CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARD – APPENDIX II TO PART 200

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

- (B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis- Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non- Federal entity in excess of $100,000 that

involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

- (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- (H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non- Federal

funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- (J) Procurement of recovered materials - A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- (K) Prohibition on certain telecommunications and video surveillance services or equipment

  (a) Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:

  (1) Procure or obtain covered telecommunications equipment or services;

  (2) Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or

  (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

  (b) As described in Public Law 115-232, section 889, "covered telecommunications equipment or services," means any of the following:
  (1) is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

  (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

  (3) Telecommunications or video surveillance services provided by such entities or using such equipment.

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

(L) Domestic preferences for procurements –

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

IN WITNESS WHEREOF, the Parties hereby execute this Agreement, which will take effect on the last signature date of the required approval authorities below. Each of the signatories, below, may execute this Agreement by hard copy original, facsimile, digital or electronic signature, any of which will be deemed to be a true and original signature hereunder.

By:_____ Date:_____
[Insert Procuring Agency Cabinet Secretary Name], Cabinet Secretary
[Insert Agency Name]

By: _____ Date:_____
[Insert Contractor Name, Title]
[Company Name]

By: _____ Date:_____
[Insert Procuring Agency CIO Name], Chief Information Officer
[Insert Procuring Agency Name]

Approved for legal sufficiency:

By: _____ Date:_____
[Insert Procuring Agency General Counsel Name], General Counsel
[Insert Procuring Agency Name]

Approved for financial sufficiency:

By: _____ Date:_____
[Insert Procuring Agency Chief Financial Officer Name], Chief Financial Officer
[Insert Procuring Agency Name]

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and/or compensating taxes:

BTIN ID Number: Enter this number before uploading to DocuSign

By: _____ Date:_____
Taxation & Revenue Department

Taxation and Revenue is only verifying the registration and will not confirm or deny taxability statements contained in this contract.

Approved for compliance with the Department of Information Technology Act, Chapter 9, Article 27 NMSA 1978 and Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico.

By: _____ Date:_____
Manny Barreras, Cabinet Secretary & State Chief Information Officer
Department of Information Technology

This Agreement has been approved by the General Services Department, State Purchasing Division:

By: _____ Date:_____
State of New Mexico, State Purchasing Division

EXHIBIT A – SCOPE OF WORK

I. Purpose:

The Purpose of this Agreement, including its goals and objectives are:

[Include a brief narrative that describes the work to be conducted by the Contractor and include the project's goals and objectives. Performance measures and activities are not required, but if being included, do so in this section.]

[If applicable, insert **Certified Project Name: Name**]

II. The Deliverables:

The following sections describe the required tasks and subtasks to be performed by Contractor concerning each service or product delivered by Contractor to Procuring Agency (a "Deliverable") pursuant to this Agreement. Contractor will deliver each Deliverable, but Contractor is not limited to delivering only the identified Deliverables in a given area of the Project. The Parties agree that the Deliverables are the controlling items and that Contractor's primary obligation is to deliver the Deliverables to Procuring Agency according to the following sections.
[Procuring Agency may identify as many Deliverables, with as many associated tasks and subtasks, as may be needed for Contractor to accomplish the Scope of Work.]

A. Sample Deliverable Number 1 – [Insert name of deliverable. Name of deliverable here should be the same as the deliverable name in the table.]

Deliverable Name	Due Date	Compensation
[Insert name of deliverable. Deliverable name here should be the same as the name used in the title line above the table.]	[Due dates must be stated to facilitate Procuring Agency and Contractor's efforts to monitor project progress. Insert actual date this deliverable is due. If an actual date is not available, enter a no later than date.]	• [Total Compensation not to exceed $ amount, including __% GRT of $ amount or excluding GRT; To be Paid (include frequency of payment, Monthly, Quarterly, Upon Review and Acceptance or if one payment, indicate Fixed Cost to Be Paid in Full Upon Invoice) at $ amount rate per hour, hours not to exceed XX. If retainage, include: Less __% retainage of $ amount.] Amount Payable on Acceptance Not to Exceed $ amount including or excluding GRT.

Task Item	Sub Tasks	Description
[Insert Name of Task 1 or tasks to be performed for each Deliverable.]	**Sub 1 through however many subtasks are needed to accomplish Task 1, which leads to the number of Tasks needed to accomplish Deliverable 1.**	• [Insert Description. Use active verbs to describe the tasks and subtasks to be completed. Begin the statement by assigning responsibility for the party completing the task, for example, The Contractor will. Contractor name should not be used, only the term Contractor, as stated in the first sentence of this template. Also, references to the agency name should not be used, instead use Procuring Agency. Note that Contractor and Procuring Agency are capitalized.] • [Include the expected deliverable and the agreed upon format. For example, weekly reports to be delivered in Word format, schedule to be delivered in Microsoft Project format. If there is a designated repository the Contractor should use for storing files, include here.] • [Conclude with review and acceptance of the deliverable by the Procuring Agency.]

B. Deliverable Number 2 – Project Management Services

Deliverable Name	Due Date	Compensation
Project Management Services	To Begin Upon Contract Execution Through June 30, 2022	• Total Compensation Not to Exceed $259,200 including 5.125% GRT of $13,284; To be Paid Monthly at a Rate of $135 per Hour including GRT, Not to Exceed 480 hours.

Task Item	Sub Tasks	Description
2.0 Stakeholder Management		• Contractor will initiate stakeholders and develop and maintain a current stakeholder registry. • Contract will schedule interviews with stakeholders.
2.1 Gather and Develop Requirements		• Contractor will schedule meetings with subject matter experts and stakeholders to gather and develop requirements to be delivered in a Requirements Traceability Matrix. • Contractor will develop and deliver a work breakdown structure.

2.2 Project Management Plan		• Contractor will develop and maintain an updated Project Management Plan to include integration, scope, schedule, cost, quality, resources, communication, risk, procurement and stakeholder plans in Microsoft Word format. • Contractor Project Management Plan shall clearly identify process, procedures and plans for completion of project activities. Project Management Plan shall be reviewed and approved by the Procuring Agency.
2.3 Establish Project Governance		• Facilitate the development of an Executive Steering Committee (ESC) and Project Steering Committee in collaboration with the Procuring Agency. Provide organizational charts to include participants and illustrate reporting responsibilities. • Provide project team member management.
2.4 Manage Risks and Issues		• Develop risk and issues logs, mitigate risks and manage identified issues through communications with ESC and Project Steering Committee.
2.5 Project Documentation		• Develop materials required for Project Certification Committee to include certification request form, presentation, project charter, project management plan and any additionally requested information. • Develop materials required for Technical Architecture Review Committee (TARC) to include TARC request form, system design document, security questionnaire, business continuity plan, operations and support plan, any additionally requested information. • Develop monthly project status reports and deliver to Procuring Agency and epmo@state.nm.us.
2.6 Review and Acceptance		• All materials developed for this deliverable will be presented to the Procuring Agency for review and acceptance.

C. Deliverable Number 3 – IV&V Initial Assessment

Deliverable Name	Due Date	Compensation
IV&V Initial Assessment	To Begin Upon Contract Execution Through June 30, 2022	• Total Compensation Not to Exceed $15,181.25 including 5.125% GRT of $778.03; Fixed Cost to be Paid in Full Upon Procuring Agency Review and Acceptance.

Task Item	Sub Tasks	Description
3.0 Initial Assessment	3.1	The Contractor shall provide an initial review of the activities required early in the project, particularly as it relates to planning. This will include a high-level review of previous activities conducted since project inception.
	3.2	The Contractor shall assess the project management processes and project organization and verify that lines of reporting and responsibility provide solid managerial/sponsor oversight of the project.
	3.3	The Contractor shall verify that project team roles and responsibilities of key project personnel are well-defined both for business and technical ownership of the project's tasks and activities.
	3.4	The Contractor shall evaluate risk and issue management including processes for monitoring and tracking risks and issues.
	3.5	The Contractor shall evaluate and make recommendations on the estimating and scheduling process of the project to ensure that the project planning assumptions, budget and resources are adequate for the work-breakdown structure and schedule.
	3.6	The Contractor shall assess coordination, communication and management to verify that the Procuring Agency is communicating appropriately and not working independent of one another.
Review and Acceptance	3.8	The Contractor shall deliver the report to the Department of Information Technology (DoIT), Project Oversight and Compliance Division at epmo@state.nm.us), the Procuring Agency Chief Information Officer (CIO) and any other designated Procuring Agency recipients for review and acceptance.

D. Deliverable Number 4 – Retainage Release [Include for fixed price deliverable contracts over $500,000 or other instances when retainage is held]

Deliverable Name	Due Date	Compensation
Retainage Release	[Insert date payment is due.	• Total Compensation not to exceed $ Amount, including/excluding GRT.]

Task Item	Sub Tasks	Description
4.0 Retainage Release	**Notice of Acceptance of All Deliverables**	Procuring Agency shall release payment for the retainage invoice, representing retainage held against this contract, upon review and acceptance of the Deliverables specified in this scope of work.

APPENDIX D

LETTER OF TRANSMITTAL FORM

APPENDIX D
Letter of Transmittal Form

Please complete this form in its entirety. Failure to **sign and/or submit** this form will result in the disqualification of Offeror's proposal.

RFP#: 27-79500-27-0008

1. **Identify the following information for the submitting organization**:

Offeror Name	
Mailing Address	
Telephone	
FED TIN#	
NM BTIN#	

2. **Identify the individual(s) authorized by the organization to (A) contractually obligate, (B) negotiate, and/or (C) clarify/respond to queries on behalf of this Offeror**:

	A **Contractually Obligate**	**B** **Negotiate***	**C** **Clarify/Respond to Queries***
Name			
Title			
E-mail			
Telephone			

* If the individual identified in Column A also performs the functions identified in Columns B & C, then no response is required for those Columns. If separate individuals perform the functions in Columns B and/or C, they must be identified.

-

3. **Will any subcontractor/s be used in the performance of any resultant contract?** (Select one):
____ No.
____ Yes. Identify subcontractor/s: _____

4. **Will any other entity/-ies (such as a State Agency, reseller, etc., that is not a subcontractor identified in #3 above) be used in the performance of any resultant contract**? (Select one)
____ No.
____ Yes. Identify entity/-ies: _____

By signing the form below, the Authorized Signatory attests to the accuracy and veracity of the information provided on this form, and explicitly acknowledges the following:

- On behalf of the submitting-organization identified in item #1, above, I accept the Conditions Governing the Procurement, as required in Section II.C.1. of this RFP;
- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP; and
- I acknowledge receipt of any and all amendments to this RFP, if any.

Sign: _____ Date: _____
(*Must be signed by the individual identified in item #2.A, above*.)

APPENDIX E

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The State of New Mexico, as a part of the RFP process, requires Offerors to list a minimum of two (2) organizational references in their proposals. The purpose of these references is to document Offeror's experience relevant to the Section IV.A, Detailed Scope of Work in an effort to evaluate Offeror's ability to provide goods and/or services, performance under similar contracts, and ability to provide knowledgeable and experienced staffing.

Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.2. The business reference, if it chooses to respond, is required to submit its response to the Organizational Reference Questionnaire directly to: Procurement Manager at megan.martinez@dhsem.nm.gov by November 9, 2026, 5 p.m. MST/MDT for inclusion in the evaluation process. The Questionnaire and information provided will become a part of the submitted proposal. Businesses/Organizations providing references may be contacted for validation of content provided therein.

<Agencies may tailor the Questionnaire to suit their individual program/project requirements.>

RFP # 27-79500-0008
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

Offeror, your name goes here

This form is being submitted to your company for completion as a reference for the organization listed above. Submit this Questionnaire to the State of New Mexico, Department of Homeland Security and Emergency Management Procurement Manager via e-mail to:

Name: Megan Martinez
Email: Megan Martinez@dhsem.nm.gov

Forms must be submitted no later than November 9, 2026 at 5 p.m. MST/MDT**,** and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide thorough comments in response to the questions asked. The comments you provide will help the State of New Mexico evaluate the above-referenced Offeror's service history, successful execution of services, and evidence of customer/client satisfaction.

For questions or concerns regarding this form, please contact the State of New Mexico **Procurement Manager** at Megan.Martinez@dhsem.nm.gov. When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

Organization providing reference	
Contact name and title/position	
Contact telephone number(s)	
Contact e-mail address	
Project/Service description	
Project/Service dates (start and end dates)	
Technical environment for the project your providing a reference (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);	

QUESTIONS:

1. In what capacity have you worked with [Offeror name] in the past?

2. How would you describe [Offeror name]'s knowledge and expertise?

3. How would you describe [Offeror name] flexibility relative to changes in the project scope and timelines?

4. How satisfied are you with the materials/documentation produced by [Offeror name]?

5. How would you describe the dynamics/interaction between [Offeror name]'s personnel and your staff?

6. By name, please identify who are/were [Offeror name]'s principal representatives involved in your project. How would you describe your satisfaction with each representative, individually? Please provide a brief comment on the skills, knowledge, behaviors, or other factors on which you based your satisfaction.

7. How satisfied are/were you with the services rendered and/or products developed by [Offeror name]? Please provide a brief explanation as to why you were or were not satisfied.

8. With which aspect(s) of [Offeror name]'s services are/were you most satisfied? Please provide a brief explanation as to why you were satisfied.

9. With which aspect(s) of [Offeror name]'s services are/were you least satisfied? Please provide a brief explanation as to why you were dissatisfied.

10. Would you recommend [Offeror name]'s services to your organization again? Why or why not?

11. Is there any other information you wish to share regarding [Offeror name]?

APPENDIX F

Cost Response

Project Deliverables	
Feature Type	Total Cost
Internal facing system for Building Resiliency Center staff to collect and track service delivery to client information, track recovery progress and referrals, and manage grant funding as detailed in Section IV.A.1.A	**$0.00**
New Mexico Home Recovery Program online, public facing portal as detailed in Section IV.A.1.B	**$0.00**
Internal-facing systems for New Mexico Home Recovery Program staff to review applications, track multiple program design elements, and manage grant funding as detailed in Section IV.A.1.C	**$0.00**
Internal-facing systems for Post Disaster Infrastructure Investment Program staff to review project proposal, track awards, and manage grant funding as detailed in Section IV.A.1.D	**$0.00**
Internal-facing systems for Disaster Resiliency Planning Program staff to review project proposal, track awards, and manage grant funding as detailed in Section IV.A.1.E	**$0.00**
Data Integration, Migration, and Security as detailed in Section IV.A.1.F	**$0.00**
Tracking and Reporting as detailed in Section IV.A.1.G	**$0.00**
Training and Technical Assistance as detailed in Section IV.A.1.H	**$0.00**

HOURLY RATES		
Position	**Unit of Measure**	**Unit Price**
Project Manager	Hourly	**$0.00**
Solution Architect	Hourly	**$0.00**
Application Configuration Specialist	Hourly	**$0.00**
Integration Developer	Hourly	**$0.00**
Data Migration Specialist	Hourly	**$0.00**
Reporting Developer	Hourly	**$0.00**
Quality Assurance	Hourly	**$0.00**
Training Specialist	Hourly	**$0.00**
Technical Support Specialist	Hourly	**$0.00**