

**COMMUNITY FORESTRY ASSISTANCE GRANT APPLICATION
ISSUED BY THE STATE OF NEW MEXICO,
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT,
FORESTRY DIVISION**

PROGRAM OVERVIEW

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), Forestry Division (Forestry Division) in cooperation with the U.S. Department of Agriculture, Forest Service (Forest Service) is seeking applications (Applications) (Attachment 1) for urban and community forestry projects year-round.

The Forestry Division may award multiple contracts from this Request for Applications (RFA).

Match is not required but it is encouraged to demonstrate project commitment. Any matching funds provided must be non-federal and may include allowable and allocable in-kind contributions (i.e., personnel salary, fringe benefits, and indirect costs; services, materials, supplies, and equipment donations; and volunteer assistance), and private and public (non-federal) monetary contributions.

The purpose of the Community Forestry Assistance Grant is to assist communities in developing and maintaining sustainable stewardship of urban and community forestry resources in New Mexico. Projects that support expanding equitable tree canopy cover and access to nature deprived disadvantaged communities experiencing low tree canopy and environmental justice issues will receive higher priority.

The focus of the grants are on projects that occur within or deliver 100 percent of the projects benefits to communities identified as disadvantaged by the federal government. Applicants must use federal online vulnerability and environmental justice equity data tools to support a disadvantaged community designation (e.g., White House Climate and Economic Justice Screening Tool (CEJST), the EPA Environmental Justice and Screening Mapping Tool, and EPA EnviroAtlas Interactive Map). Projects that occur outside of areas identified as disadvantaged may still be funded but it may be at a lower amount.

Eligible applicants (Applicants) are non-federal governmental entities, including public colleges and universities and tribes (as long as other federal money is not involved). Projects located on lands owned or administered by the federal government are not eligible for this funding.

Projects must emphasize the development and management of community forests. Examples of eligible project activities include:

- community forestry program development or improvement such as the creation of management plans, staffing urban forest professional, ordinances, tree boards, site preparation (clearing invasives, removing impervious), tree plantings, wood waste program creation, food forest creation, invasive detection, tree maintenance (mulch, irrigation, pruning, removal), inventory, green infrastructure, assessment, or monitoring;
- professional development to create or expand the technical skillset of diverse and inclusive urban forestry workforce such as development of classes, implementation of workshops, registration to attend conferences; and
- public outreach and education promoting community involvement in urban forestry such as community events, surveys, engagement, creation of publications, multimedia, trainings.

Applications may request any amount up to \$60,000.00. The Forestry Division reserves the right to partially fund projects. Project contacts will be notified by the Forestry Division Program Manager before any partial funding is approved.

The Forestry Division encourages cooperation with federal agencies, although their efforts may not be included as match and federal agencies are not eligible to receive funds. When listing the partnerships, Applicants shall provide the name of any agencies that will be participating and a contact person who will be representing the agency for the purpose of this project. The Forestry Division may contact listed partners during application review to verify their involvement.

SCOPE OF WORK

Successful Applicants shall design and implement urban and community forestry projects that assist communities in developing and maintaining sustainable stewardship of urban and community forestry resources in New Mexico. Projects must emphasize the development and management of community forests. Projects located on lands owned or administered by the federal government are not eligible for this funding. Applicants must collaborate with applicable landowners to obtain any needed permissions or permits. Examples of eligible project activities include:

- community forestry program development or improvement such as the creation of management plans, staffing urban forest professional, ordinances, tree boards, site preparation (clearing invasives, removing impervious), tree plantings, wood waste program creation, food forest creation, invasive detection, tree maintenance (mulch, irrigation, pruning, removal), inventory, green infrastructure, assessment, or monitoring;
- professional development to create or expand the technical skillset of diverse and inclusive urban forestry workforce such as development of classes, implementation of workshops, registration to attend conferences; and
- public outreach and education promoting community involvement in urban forestry such as community events, surveys, engagement, creation of publications, multimedia, trainings.

Any projects that involve tree removal such as site preparation or tree maintenance that includes removal must also include replanting in their proposal.

Any projects that involve planting must include a planting plan including tree species and size selection, tree planting methods to be used, irrigation plans, and long-term maintenance plans. Successful Offerors with tree planting projects must have a community forest ordinance, policy, or management plan that designates legal responsibility for the care of trees in the community. Successful Offerors shall follow American National Standards Institute (ANSI) Z60.1 nursery standards and ANSI A300 tree planting standards.

Successful Applicants shall provide written progress reports to the Forestry Division not less than quarterly but not more frequently than monthly detailing activities undertaken and problems encountered. Successful Offerors shall also provide a final written report to the Forestry Division detailing activities undertaken, project outcomes, project impact, and copies of any products produced as specified within individual agreements.

ADDITIONAL NOTICES

- All Applicants must complete and submit a [Financial Capability Questionnaire](#) (Attachment 4) and submit it with their Application.
- All Applicants must review the criteria indicated on the [Federal Eligibility Checklist \(Attachment 3\)](#). Successful Applicants will be required to comply with the Federal Eligibility Checklist.
- Award of agreements is contingent upon sufficient appropriations and authorization being made by the U.S. Department of Agriculture, Forest Service and the State of New Mexico.
- Any project costs must conform to 2 C.F.R. 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- Where applicable, Applicants must factor in Governmental Gross Receipts Tax (GGRT) as part of their responses. Any response that does not clearly indicate GGRT is included in the cost section may be deemed non-responsive and rejected.
- The Forestry Division may reject any and all applications when it is in the State of New Mexico's best interest.
- The Forestry Division may conduct discussions with Applicants who submit applications but may also accept applications without such discussions.
- This program does not reimburse indirect costs. The Forestry Division shall not allow more than 10% in administrative costs.
- Grant funds cannot be used to purchase capital equipment costing more than \$5,000.00 but may be used to rent equipment.
- Grant funds cannot be used for land acquisition or in construction.
- The last funded project may receive only partial funding if the Forestry Division lacks sufficient monies to fully-fund that project. Project contacts will be notified by the Forestry Division Program Manager before any partial funding is

approved.

- Applicants shall complete and sign Attachment 5, Statement of Assurances, as part of their application.
- The Forestry Division may award multiple contracts under the terms of Attachment 6, Governmental Services Agreement, and in accordance with this RFA.
- All Applicants must have BOTH a Federal Employer Identification Number (FEIN) and a Unique Entity Identifier (UEI). Information on obtaining a UEI can be found at SAM.gov. This video may also be helpful. www.youtube.com/watch?v=0uv1YNAslNk

SUBMISSION AND REVIEW

Applicants must submit their Applications on the Forestry Division's Submittable webpage using this link: <https://emnrd-sfd.submittable.com/submit>.

Any Application that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

Applications are batch-reviewed periodically according to available funds and program demand and scored according to Attachment 2, Scoring Criteria. The latest information on expected review timelines is updated on the Forestry Division's webpage, here: <http://www.emnrd.state.nm.us/SFD/RFPs/RFPMain.html>.

Attachment 1

COMMUNITY FORESTRY PROGRAM APPLICATION FORM

Applicant Information				
Applicant Name				
Organization Type				
Contact Person				
Address				
City/State/Zip Code				
Telephone (Work/Cell)				
E-mail				
Project Summary				
Project Name				
County/Counties Served				
<p>Does this project occur in an area identified as disadvantaged? (check one and provide a map)</p> <p>*verify using the Climate and Economic Justice Screening Tool: https://screeningtool.geoplatform.gov/en/#8.37/40.948/-111.892</p>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Project Type (Check all that apply)				
<input type="checkbox"/>	New program development	<input type="checkbox"/>	Outreach and education	
<input type="checkbox"/>	Improvement to existing program	<input type="checkbox"/>	Professional development	
Project Description				
<p>1. Describe the background of the community forestry issue or need this project addresses. Include information on the status of the community forest</p> 				

2. Describe the goals and objectives for the proposed community forestry project. Clearly state the goals and objectives of this project and how they address any needs or historical issues.	
3. Describe proposed activities that will be accomplished, who will be performing them, and what deliverables will be produced. If the proposed activities include tree planting and establishment, include tree species and size selection, tree planting methods to be used, irrigation plans, and long-term maintenance plans. Successful Applicants with tree planting projects must have a community forest ordinance, policy, or management plan that designates legal responsibility for the care of trees in the community. Successful Applicants shall follow American National Standards Institute (ANSI) Z60.1 nursery standards and ANSI A300 tree planting standards.	
4. Describe how the proposed project increases equitable access to urban tree canopy, addresses environmental injustices and/or improves the communities' resiliency to climate change.	
5. Describe how the project will help in the sustainable development of a community forestry program. How will the project's impacts and benefits be sustained and contribute to the future community forest? How does this project fit into any existing community plans or project elements extending beyond this project?	
Project Timeline (not to exceed two years)	
Month/year	Major Tasks/Deliverables

Proposed Project Completion Date:		
For Tree Planting Projects Only		
<p>Attach map of proposed planting site. Include tree species and size selection, overhead or underground utilities, and irrigation on map.</p>		
<p>Describe tree planting methods to be used, irrigation plans, and long-term maintenance plans.</p>		
<p>Attach a copy of community forest ordinance, policy, or management plan that designates legal responsibility for the care of trees in the community.</p>		
For Tree Removal or Pruning Projects Only		
<p>Attach map of proposed removal; include tree species and size</p>		
<p>Include tree planting information (above)</p>		
Partner Organizations		
<p>Specify the private, local, tribal, county, state, federal, or non-governmental - 501(c)(3) – organizations that will contribute to or participate in this project's completion. Describe briefly the contributions each partner will make (i.e. donating time/equipment, funding, etc.)</p>		
Partner	E-mail or telephone number	Contribution(s) (time, equipment, etc.)

Budget Narrative

Provide a detailed description of your project budget. Explain specific costs listed in the budget categories in the Program Budget Section below.

Project Contributors (Matching Share) (Federal dollars DO NOT qualify. Please specify each match contributor and the dollar amount of each contribution. Please DO NOT show requested funds in this section. This section is for matching share only.)

Proposed in-kind/hourly volunteer match rate:

Contributor name:	Dollars (hard match)	In-kind (soft match)	Total
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$

Program Budget - Include items to be purchased with funding from this application and project contributor matching cost-share. If applicable factor in Gross Receipts Tax. If applicable include match contributions.

Item (describe briefly)	\$ Amount requested	Match		Total
		Dollars	In-kind	
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
Total	\$	\$	\$	\$

Supplemental Information

Applicants may attach supplemental information helpful to application review (maps, management plans, ordinances, references, letters of support, etc.).

Administrative Requirements	
By signing this application, Applicant certifies the following:	
If the Applicant's application substantially adds to, subtracts from, or otherwise changes the provisions of this RFA, the application shall be void.	
Applicant has examined all contract documents, noting particularly all stipulations that in any way affect contract work. The Forestry Division will not consider Applicant's failure to acquaint itself fully with the amount and nature of the work required to fulfill all terms of the contract documents as a basis for extra compensation after a contract has been awarded.	
Applicant certifies that all entities responsible for authorizing the activities of the Applicant have agreed that this application should be submitted as written.	
Applicant certifies that funds awarded to Applicant by EMNRD through any contract issued pursuant to this RFA will not be used to supplant funds the Applicant may have at its disposal from other sources.	
Application Package Checklist	
Application package MUST include digital copies of the documents listed below. If all the required information is not provided, the Forestry Division will deem the application as non-responsive.	
<input type="checkbox"/>	Application – Electronically completed and signed.
<input type="checkbox"/>	Letters of support from all contributors listed in the Project Contributors Section above.
<input type="checkbox"/>	Completed, signed Financial Capability Questionnaire.
<input type="checkbox"/>	Signed Statement of Assurances Form.

Submitted by:

By: _____ Date: _____
 Authorized Representative Signature

 Printed Name and Title


**Attachment 2
Scoring Criteria**

Applications will be scored based upon:		
Within a disadvantaged area?	Yes	No
Methodology		
A. Does the application provide the context and need for the proposed community forestry project. (15 points possible)	Yes = 15	No = 0
B. Does the proposed project address disadvantaged community, environmental inequity, or climate resilience? (15 points possible)	Yes = 15	No = 0
C. Does this project contribute to the sustainability of the community forest? (15 points possible)	Yes = 15	No = 0
D. Does the application clearly indicate the proposed project's goals and objectives? (15 points possible)	Yes = 15	No = 0
E. Does the application clearly explain project activities and tasks? (15 points possible)	Yes = 15	No = 0
F. Does the application include a clear explanation of who will perform the work? (10 points possible)	Yes = 10	No = 0
Does application include a clear timeline, with achievable goals? (15 points possible)	Yes = 15	No = 0
Is match provided and/or are partner organizations clearly named with their contribution detailed? (5 points possible)	Yes = 5	No = 0
Does the budget narrative clearly explain all costs associated with the proposed project? (15 points possible)	Yes = 15	No = 0
Has the applicant had successful past contract performance with this program? New applicants will receive full points in this category. (5 points possible)	Yes = 5	No = 0

**Attachment 3
Federal Eligibility Checklist
Pre-Award
(EMNRD – Forestry Division Use Only)**

Applicant Name:		Reviewer Name:	
Project Name:		Date:	
Determination: <input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor			
Only Applicants who receive a “Yes” answer for each of the items listed below will be considered to receive federal funds in the form of a subaward . Only Applicants who receive a “Yes” answer for each of the items listed below with an asterisk will be considered to receive federal funds in the form of a contract .			
<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> NA	*The Forestry Division has determined the Applicant qualifies as a subrecipient or contractor using the Subrecipient-Contractor Determination Checklist.
<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> NA	The Forestry Division has confirmed the Applicant has an active registration in SAM. (Applicant must be registered in SAM using a valid DUNS number and must maintain an active SAM registration annually.)
<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> NA	The Forestry Division has confirmed the Applicant has an active DUNS number in the System for Award Management (SAM) and the Applicant name matches the registered DUNS number.
<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> NA	*The Forestry Division has confirmed the Applicant is not suspended or debarred using SAM to determine exclusions. (Pursuant to 2 C.F.R. Part 180, provisions restrict federal awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal programs or activities. The Forestry Division reviewer must attach a hard copy of the record to this checklist to document eligibility.)
<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> NA	The Forestry Division has confirmed the Applicant is in compliance with federal and state audit requirements. (Applicant must have a Certification, Agreed Upon Procedures, or Single Audit on file with OSA and must be in compliance from Fiscal Year 12 to current date.)
Applicants may be acting in both capacities. Use the checklist by determination, answering the questions as they pertain to the potential subaward or contract in question. An applicant will receive an “NA” for checklist questions that do not have an asterisk.			

Attachment 4 Financial Capability Questionnaire

	USDA Forest Service	OMB 0596-0217 FS-1500-22
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FINANCIAL CAPABILITY QUESTIONNAIRE		
FISCAL YEAR:		
<p>Adequate accounting systems should meet the following criteria as outlined in the Office of Management and Budget's (OMB) Circular of Uniform Administrative Requirements, Cost Principles, and Audit Requirements found in 2 CFR Part 200, as implemented by USDA regulations 2 CFR Part 400.</p> <p>(1) Accounting records should provide information needed to adequately identify the receipt of funds under each grant awarded and the expenditure of funds for each grant.</p> <p>(2) Entries in accounting records should refer to subsidiary records and/or documentation which support the entry and which can be readily located.</p> <p>(3) The accounting system should provide accurate and current financial reporting information.</p> <p>(4) The accounting system should be integrated with an adequate system of internal controls to safeguard the funds and assets covered, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed management policies.</p>		
APPLICANT ORGANIZATIONAL INFORMATION		
1. Name of Organization and Address:		
2. Authorized Representative's Name and Title:		
3. Phone: - - ext.	4. Fax: - -	5. Email:
6. Year Established:	7. Employer Identification Number (EIN):	8. DUNS Number:
9. Type of Organization:		
10. Approximate Number of Employees:		Part Time (Paid):
Full Time (Paid):		Part Time (Volunteer):
Full Time (Volunteer):		
FEDERAL AUDIT DATA		
11. Have you been audited by a Federal agency?: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please indicate the type: <input type="checkbox"/> OMB A-133 Single Audit (required of institutions that annually expend over \$750,000 in federal funds) <input type="checkbox"/> Incurred Cost <input type="checkbox"/> Accounting System <input type="checkbox"/> Timekeeping		
12. Date of Last Federal Audit/Review (m/d/yyyy):		Audit Agency/Firm:
If findings are reported, explain:		
FINANCIAL STATEMENT AUDIT DATA		
13. Date of Last Financial Statement Audit:		Fiscal Period Audited:
Audit Firm:		
Auditor's Opinion on Financial Statement:	<input type="checkbox"/> Unqualified Opinion	<input type="checkbox"/> Qualified, Disclaimer or Adverse Opinions
If other than unqualified, state reason:		



If you have not had an audit completed in the last two years, please submit a copy of your most recent tax forms (990 for non-profits). If you do not have a current tax form, please explain:

ACCOUNTING SYSTEM

14. Has any Government Agency rendered an official written opinion concerning the adequacy of the accounting system for the collection, identification and allocation of costs under Federal contracts/grants?

☐ Yes ☐ No

15. If yes, provide name and address of Agency performing review:

Attach a copy of the latest review and any subsequent correspondence, clearance documents, etc.

16. Which of the following best describes your accounting system:

☐ Manual ☐ Automated ☐ Combination

17. Does the accounting system identify the receipt and expenditure of program funds separately for each grant?

☐ Yes ☐ No ☐ Not Sure

18. Does the accounting system provide for the recording of expenditures for each grant/contract by budget cost categories shown in the approved budget?

☐ Yes ☐ No ☐ Not Sure

19. Does the accounting system provide for the recording of cost sharing or match for each grant? Can you ensure that documentation is available to support recorded match or cost share?

☐ Yes ☐ No ☐ Not Sure

20. Are time distribution records maintained for each employee that specifically identify effort charged to a particular grant or cost objective?

☐ Yes ☐ No ☐ Not Sure

21. Does the accounting/financial system include budgetary controls to preclude incurring obligations or costs in excess of total funds available for a grant?

☐ Yes ☐ No ☐ Not Sure

22. Does the accounting/financial system include budgetary controls to preclude incurring obligations or costs in excess of total funds available for a budget cost category (e.g. Personnel, Travel, etc.)?

☐ Yes ☐ No ☐ Not Sure

23. Is your organization generally familiar with the existing regulation and guidelines containing the Cost Principles and procedures for the determination and allowance of costs in connection with Federal grants?

☐ Yes ☐ No ☐ Not Sure

FUNDS MANAGEMENT

24. Is a separate bank account maintained for Federal grant funds?

☐ Yes ☐ No

25. If a separate bank account is not maintained, can the Federal grant funds and related expenses be readily identified?

☐ Yes ☐ No

PROPERTY STANDARDS, PROCUREMENT STANDARDS, AND TRAVEL POLICIES

PROPERTY STANDARDS

26. Does your property management system(s) provide for maintaining: (1) a description of the equipment; (2) an identification number; (3) source of the property, including the award number; (4) where title vests; (5) acquisition date; (6) federal share of property cost; (7) location and condition of the property; (8) acquisition cost; & (9) ultimate disposition information?

☐ Yes ☐ No ☐ Not Sure



27. Does your property management system(s) provide for a physical inventory and reconciliation of property at least every two years?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
28. Does your property management system(s) provide controls to insure safeguards against loss, damage or theft of the property?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
PROCUREMENT STANDARDS	
29. Does your organization maintain written procurement procedures which (1) avoid unnecessary purchases; (2) provide an analysis of lease and purchase alternatives; and (3) provide a process for soliciting goods and services?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
30. Does your procurement system provide for the conduct to ensure selection on a competitive basis and documentation of cost or price analysis for each procurement action?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
31. Does your procurement system include provisions for checking the "Excluded Parties List" system for suspended or debarred sub-grantees and contractors, prior to award? www.sam.gov	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
TRAVEL POLICY	
32. Does your organization maintain a standard travel policy or, if no policy exists, does your organization adhere to rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), and policies under the Federal Acquisition Regulations at 48 CFR 31.205-46(a)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
SUBRECIPIENT MANAGEMENT	
33. (For Pass-through entities only). Does your organization have controls in place to monitor activities of subrecipients, as necessary, to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of the award and that performance goals are achieved.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
INDIRECT COSTS	
34. My organization has an established indirect cost rate	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
35. If my organization chooses to charge indirect costs to the Federal award or use indirect costs as a match, you understand that you must prepare an indirect cost rate proposal and submit it to your cognizant Federal agency for approval. Alternatively, you may use a de minimus rate of 10% of modified total direct costs (MTDC).	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS AND APPLICANT CERTIFICATION	
I certify that the above information is complete and correct to the best of my knowledge.	
Signature:	
Name:	
Title:	

**Burden Statement**

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8542 (relay voice). USDA is an equal opportunity provider and employer.

Attachment 5
STATEMENT OF ASSURANCES FORM

Each Applicant MUST complete this form and return it with Applicant's application or EMNRD will deem the application as non-responsive. By signing this form below, Applicant acknowledges and agrees to the following:

This RFA does not commit the State of New Mexico (State) to pay any costs incurred in the in the preparation or submission of this application. Any cost incurred by the Applicant in developing an application shall be borne solely by the Applicant. Applicant understands Applicant's application shall become part of the official file on this matter without obligation to the State. Issuance of this RFA does not constitute an award commitment on the part of the State.

Applicant shall examine all contract documents, noting particularly all stipulations that in any way affect contract work. Failure of an Applicant to acquaint itself fully with the amount and nature of the work required to fulfill all terms of the contract documents shall not be considered a basis for extra compensation after a contract has been awarded.

Applicant represents and warrants to the State that Applicant has the staff, facilities, and competence to furnish the required services. The State may investigate Applicant's adequacy of the staff, facilities, and competence. For this purpose, representatives of the State may inspect Applicant's facilities, equipment, etc., and interview staff.

To receive consideration, Applicant's application must be signed by an officer having the authority to bind Applicant.

Applicant agrees to comply with all relevant federal and state laws and regulations or rules.

Application of New Mexico Preference Laws:

This procurement is excluded from state preference laws because it is funded with federal dollars.

Applicant Signature

Date:

Applicant's Printed Name and Title: _____

Attachment 6

STATE OF NEW MEXICO, GOVERNMENTAL SERVICES AGREEMENT BETWEEN THE STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT AND ENTITY

THIS GOVERNMENTAL SERVICES AGREEMENT (Agreement) is made and entered into by and between the State of New Mexico, Energy, Minerals, and Natural Resources Department (EMNRD) and (Insert Entity name. Remove this instruction.) (Entity).

THE PARTIES MUTUALLY AGREE:

1. Scope of Work: Entity shall:

(Insert description of work. Remove this instruction.)

Entity shall also provide brief written progress reports to EMNRD on a *(weekly, bi-weekly, monthly, quarterly, annual, with each request for payment/reimbursement or some other time frame)* basis. (All contracts must have reporting requirements, or the program manager must justify the lack of reports in a written memo to the file for auditing purposes.)

2. Compensation: (For paragraph A, select option 1, 2, 3, or 4)

Option 1: Work Product. If you choose this option, remove this Option 1 heading and remove the optional Paragraph A as below.

A. EMNRD shall pay Entity for services satisfactorily performed pursuant to the Scope of Work and as specified below. This amount shall not exceed _____ (\$ _____), including New Mexico gross receipts taxes, and any travel, if necessary, pursuant to Paragraphs B and C of this Compensation Section. EMNRD shall make payment upon the satisfactory and timely completion of the work described in the Scope of Work and for no more than the maximum amount set forth below for each deliverable:

(Insert deliverables/payment schedule here. Remove this instruction)

This amount is a maximum and not a guarantee that the work assigned to be performed by Entity under this Agreement shall equal the amount stated herein or the amounts state per task. The parties do not intend for the Entity to continue to provide services without compensation when the total compensation amount is reached. Entity is responsible for notifying EMNRD when the services provided under this Agreement reach the total compensation amount. In no event shall the Entity be paid for services provided exceeding the total compensation amount without this Agreement being amended in writing prior to those services exceeding the total compensation amount being provided. EMNRD MUST receive all invoices no later than 15 days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date SHALL NOT BE PAID.

Option 2: Lump Sum Amount Upon Completion of All Work. If you choose this option, remove Paragraph B of this Compensation Section as well and re-letter successive paragraphs accordingly. Remove the paragraph above it. Remove this Option 2 heading.

A. Upon satisfactory completion of services, EMNRD shall pay Entity for services satisfactorily performed pursuant to the Scope of Work in an amount not to exceed _____ (\$ _____), which amount includes New Mexico gross receipts taxes, and any travel, if necessary, pursuant to Paragraphs B and C of this Compensation Section. In no event shall the Entity be paid for services provided exceeding the total compensation amount without this Agreement being amended in writing prior to those services exceeding the total compensation amount being provided. EMNRD MUST receive all invoices no later than 15 days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date SHALL NOT BE PAID.

Option 3: Time and Materials. If you choose this option, remove this Option 3 heading and the paragraphs above it.

A. EMNRD shall pay Entity for services rendered and amount not to exceed _____ (\$ _____) per (hour, day, week, month), such compensation not to exceed _____ (\$ _____) in total, which amount includes gross receipts taxes and travel as shown in Paragraphs B and C of this Compensation Section. EMNRD shall reimburse Entity for the cost of materials necessary under this Agreement for an amount not to exceed _____ (\$ _____). This amount is a maximum and not a guarantee that the work assigned to Entity under this Agreement to be performed shall equal the amount stated herein. EMNRD MUST receive all invoices no later than 15 days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date SHALL NOT BE PAID. Payment shall not relieve the Entity of any unperformed obligations under the Scope of Work.

B. EMNRD shall pay such travel expenses as may be incurred in, and that are necessary for, this Agreement's performance at the rates established in the New Mexico Per Diem and Mileage Act, NMSA 1978, Section 10-8-1 *et seq.* as implemented by the current Department of Finance and Administration (DFA) rule and the current EMNRD travel policy.

C. Entity shall be responsible for paying New Mexico Governmental Gross Receipts taxes levied on amounts payable under this Agreement.

D. Entity must submit detailed invoices accounting for all services performed, and expenses incurred. Invoices evidencing the propriety of each claim for payment must be supported by approved purchase order. (When compensation is based on hourly rates, Entity shall also provide documentation of hours expended on the services provided.) If EMNRD finds that the invoice services, or expenses are not acceptable, within 30 days of receipt of written notice from Entity that payment is requested for services received, EMNRD shall provide Entity a letter of exception explaining the defect or objection to the invoice, services, or expenses, and outlining steps Entity may take to provide remedial action. Upon certification by EMNRD that the invoice, services, or expenses have been received and accepted, EMNRD shall tender payment to Entity within 30 days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, EMNRD shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

Option 4: Advance of Funds. If you choose this option, remove all the previous choices.
Remove this Option 4 heading.

A. Within XX days following this Agreement's effective date, EMNRD shall transfer to Entity _____ (\$ _____), which shall include New Mexico Governmental Gross Receipts Taxes, for completion of the Tasks described in the Scope of Work above. Payment shall not relieve Entity of any unperformed obligations under the Scope of Work.

B. Upon expiration or termination of this Agreement, if either party has property or funds in its possession belonging to the other, it shall return the property or funds in proportion to the parties' original contribution.

C. Entity shall be responsible for paying New Mexico Governmental Gross Receipts taxes levied on amounts payable under this Agreement, if applicable.

3. Term: This Agreement becomes effective when executed by an authorized representative of Entity and of EMNRD and when DFA encumbers funds for this Agreement. It shall terminate on (Insert date) unless earlier terminated pursuant to Section 4, Termination, or Section 5, Appropriations, below.

4. Termination: Either party may terminate this Agreement upon written notice delivered to the other at least 10 days prior to the intended termination date. By such termination, neither party may nullify or avoid any obligation required to have been performed prior to termination.

5. Appropriations: This Agreement's terms are contingent upon the New Mexico State Legislature (option - and insert name of federal funding agency) granting sufficient appropriation and authorization. If sufficient appropriation or authorization is not granted, EMNRD may terminate this Agreement, or in the alternative suspend performance pending approval of sufficient appropriation or authorization, upon written notice from EMNRD to Entity. EMNRD's decision as to whether sufficient appropriations are available shall be at its sole and absolute discretion and shall be final, binding, and accepted by Entity.

Option: If Entity is another state agency, revise this section to reflect Entity is not an EMNRD employee. Remove this instruction.)

6. Status of Entity: Entity and its agents and employees are independent contractors performing professional services for EMNRD and are not employees of the State of New Mexico. Entity and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. Entity acknowledges that all sums received hereunder are reportable by the Entity for tax purposes, including without limitation, self-employment and business income tax. Entity agrees not to purport to bind the State of New Mexico unless the Entity has express written authority to do so, and then only within the strict limits of that written authority.

7. Assignment: Entity shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without EMNRD's prior written approval.

8. Subcontracting: Entity shall not subcontract any portion of the services to be performed under this Agreement or obligate itself in any manner to any third party, with respect to any rights or responsibilities under this Agreement, without EMNRD's prior written approval. EMNRD may disallow costs incurred by the Entity in relation to a subcontract if Entity does not obtain prior written approval.

Option: Include A, B, and C if you are using federal funds for the work of this contract.
Remove this instruction.

A. Entity shall comply with 2 C.F.R. 200.318 through 200.326 for procurement of subcontractors conducted pursuant to this Agreement.

B. Entity is required to provide EMNRD with evidence of competitive procurement for any subcontract, including records of advertisement of bid, proposals received, and methods to select each subcontractor.

C. Any subcontract agreement shall include all provisions necessary to allow Entity to meet its obligations and requirements under this Agreement and all provisions required by law.

Option: Include subparagraph below if subcontractor will be reimbursed for travel expenses.
Remove instruction.

D. Travel expense reimbursement requested for subcontractors, if applicable, shall be reimbursed in accordance with rates established in the New Mexico Per Diem and Mileage Act, NMSA 1978, Section 10-8-1 *et seq.*, as implemented by the current DFA Rule and EMNRD Travel Policy.

9. Release: Final payment of the amounts due under this Agreement shall operate as a release of EMNRD, its officers and employees, and the State of New Mexico from all liabilities, claims, and obligations whatsoever arising from or under this Agreement.

10. Confidentiality: Any confidential information provided to or developed by Entity in the performance of this Agreement shall be kept confidential and shall not be made available by Entity to any individual or organization without EMNRD's prior written approval.

11. Product of Services; Copyright: All materials developed or acquired by Entity under this Agreement shall become the State of New Mexico's property and be delivered to EMNRD no later than this Agreement's expiration date. Nothing Entity produces, in whole or in part, under this Agreement shall be the subject of a copyright application or other claim of ownership by or on behalf of Entity.

12. Conflict of Interest; Governmental Conduct Act: Entity warrants that it presently has no interest and that it shall not acquire any interest, direct or indirect, which would conflict in any manner with performance or other services required under this Agreement. Entity certifies that all applicable provisions of the requirements of the Governmental Conduct Act, NMSA 1978, Section 10-16-1 through -18, including provisions related to contracting with, or employing, public officers, legislators, state employees, or former state employees, have been followed.

13. Amendment: This Agreement shall not be altered, changed, or amended except by written instrument executed and approved by the parties hereto.

14. Merger: This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless as embodied in this Agreement.

15. Penalties for Violation of Law: The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

16. Equal Opportunity Compliance: Entity agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Entity assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or 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 under this Agreement. If Entity is found not to be in compliance with these requirements during the life of this Agreement, Entity agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law: The laws of the State of New Mexico shall govern this Agreement, without giving effect to New Mexico's choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G). By execution of this Agreement, Entity acknowledges and agrees to the exclusive jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Records and Audit:

A. Entity shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during the Agreement's term and effect and retain them until six years after the termination date specified in Section 3, Term. These records shall be maintained and available within the State of New Mexico if the Entity has an office within the state; otherwise, Entity shall make such records available to EMNRD within 10 days upon EMNRD's request. During this time, such records shall be subject to inspection by EMNRD, DFA, and the State Auditor (and insert name of federal funding agency). Entity further agrees to include in all subcontracts hereunder the same right of inspection and audit against all subcontractors. EMNRD shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose EMNRD's right to recover excessive or illegal payments. The periods of inspection and audit may be extended for records, which relate to litigation or settlement of claims arising out of performance of this Agreement (and costs and expenses related to this Agreement for which exception is under consideration by insert name of federal funding agency or any authorized representative) and shall continue until all potential litigation, appeals, claims, or exceptions have expired or been resolved.

Option: Are you using federal funds to pay for this contract? If yes, you must make a determination whether your provider is a subrecipient or a contractor. If you determine your provider is a subrecipient, you need to include the following paragraph in your contract. If you

determine your provider is a contractor, the requirements do not apply and you will remove this this paragraph. Delete this instruction.

B. If Entity receives \$750,000 or more in federal funding from all sources in the aggregate in a fiscal year, Entity's financial records involving services and procurement under this Agreement shall be audited annually pursuant to all federal, state, and local government audit requirements, and in accordance with the Single Audit Act Amendments of 1996, 2 C.F.R. 200, Subpart F – Audit Requirements, OMB Circular Compliance Supplement and Government Auditing Standards, as prescribed by the Single Audit Act of 1984, or any subsequent OMB Circular. Contractors who do not meet the \$750,000 audit threshold (Tier 7), must complete the State of New Mexico – Office of the State Auditor Certification Form for Tier 1 and Tier 2, or the Office of the State Auditor Agreed Upon Procedures (Tiers 3-6) in accordance with the Audit Act, NMSA 1978, Section 12-6-1 through 12-6-14, and 2.2.2.16 NMAC, Annual Financial Procedures Required for Local Public Bodies with Annual Revenues Less than Five Hundred Thousand Dollars. To comply with state audit requirements, Contractors shall have one of the above-mentioned Forms or Agreed Upon Procedures on file with the Office of the State Auditor. Entity shall provide EMNRD with a copy of the independent financial audit, either in hard copy format or on disk, no more than 45 days after the audit's completion for each fiscal year this Agreement is in effect.

19. Liability: Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1 *et seq.*, as amended.

20. Procurement, Utilization, and Disposition of Property: Entity shall report acquisition of any capital property (property with an expected life of at least one year) to EMNRD within one month following the acquisition. If upon termination of this Agreement Entity has any property in its possession belonging to EMNRD, Entity shall account for the property and dispose of it as EMNRD directs. (Option: If federal funding is involved include the following statement. Otherwise remove it and this instruction) All property acquired by the Entity or procured under this Agreement shall be used and disposed of in accordance with [insert federal funding agency's name] regulations governing disposal of property.

21. Invalid Term or Condition: If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

22. Enforcement of Agreement: A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict performance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no waiver of a specified right by a party shall be effective to waive any other rights.

23. Notice: Except as otherwise specified herein, all notices hereunder shall be in writing) and shall be given to the relevant party at its address set forth below, or such other address as such party may hereafter specify by notice to the other given by courier, by United States certified or registered mail, or by telecommunication device capable of creating a written record of such notice and its receipt.

To EMNRD:

(insert position title and address of project manager)

General Counsel
EMNRD – Office of the Secretary
1220 S. St. Francis Drive
Santa Fe, NM 87505

To the Entity:

(insert contact information)

To Risk Management Division:

Risk Management Division
General Services Department
P.O. Drawer 26100
Santa Fe, NM 87502-0110

24. Authority: If Entity is other than a natural person, the individual(s) signing this Agreement on behalf of Entity represent and warrant that he or she has the power and authority to bind Entity, and that no further action, resolution, or approval from Entity or any other entity is necessary to enter a binding contract.

Option: Include the following if acknowledgment required. If not, remove this section and renumber successive accordingly. Remove this instruction.

25. Acknowledgment: Entity shall acknowledge EMNRD (option - and insert name of federal funding agency) as a co-sponsor and funding source in all news releases, programs, proceedings, and related publicity/publications for the project.

26. Attorney's Fees and Costs: Entity agrees that if a court of competent jurisdiction finds Entity has breached this Agreement, or amendments hereto, or to have committed any tortious act relating to this Agreement's scope, EMNRD may recover from Entity reasonable attorneys' fees and costs in connection with litigation brought to obtain the judicial determination and to collect any judgment.

27. Minimum Wage Rate: If applicable, Entity shall comply with minimum wage rates as established by the New Mexico Department of Workforce Solutions, Labor Relations Division, and with all other applicable requirements of that Department, including posting of the wage rates in a prominent location on the site for hiring and performing of this Agreement.

28. Compliance with Law and Funding Source Conditions:

A. Entity shall comply with all applicable state and federal statutes, regulations, or rules, including without limitation those imposed as a consequence of funding pursuant to this Agreement.

(If you are using federal funds to pay for the work of this agreement, the following clauses must be included. If you are using non-federal funding, delete the clauses and this instruction.)

B. Compliance with use of Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) - Entity shall take affirmative steps to assure that MBEs and WBEs are used when possible as sources of supplies and services. The affirmative steps shall include the following:

- 1) including qualified MBEs/WBEs on solicitation lists;
- 2) assuring that MBEs/WBEs are solicited once they are identified;
- 3) when economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum MBE/WBE participation;
- 4) where feasible, establishing delivery schedules which will encourage MBE/WBE participation;
- 5) encouraging use of the services of the U.S. Department of Commerce's Minority Business Development Agency and the U.S. Small Business Administration to identify MBEs/WBEs, as required; and
- 6) if any subcontracts are to be let, requiring the subcontractor to take the affirmative steps listed above.

C. Compliance with Trafficking Victims Protection Act of 2000 - Entity, Entity's employees, subcontractors, and subcontractors' employees shall not:

- 1) engage in severe forms of trafficking in persons during this Agreement's term;
- 2) procure a commercial sex act during this Agreement's term; or
- 3) use forced labor in the performance of this Agreement.

D. Compliance with NMSA 1978, Section 66-7-374, Texting While Driving - Entity and Entity's employees shall not read or view a text message or manually type on a handheld mobile communication device for any purpose while driving a motor vehicle in connection with this Agreement, except to summon medical or other emergency help, or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the Federal Communications Commission.

E. In the event this Agreement is funded with federal monies, Entity shall comply with 2 C.F.R. 200.318 through 200.326 for procurement conducted pursuant to this Agreement.

F. In the event this Agreement is funded with federal monies and Entity wishes to enter into an agreement with a small business firm or non-profit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work under this Agreement, Entity shall comply with the requirements of 37 C.F.R. 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 (insert name of federal funder).

G. Entity shall not award subcontracts to parties listed on the government-wide exclusions in the federal System for Award Management (SAM), in accordance with OMB guidelines that implement federal Executive Orders 12549 (3 C.F.R. part 1986, Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension". SAM exclusions contain 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.

H. If the value of this Agreement exceeds \$100,000, Entity shall comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) regarding the limitations of use of appropriated funds to influence certain federal contracting and financial transactions.

I. If this Agreement is valued at more than \$150,000, Entity shall comply with all applicable standards orders or requirements issued under the federal Clean Air Act (42 U.S.C. § 7401 *et seq.*); Clean Water Act (33 U.S.C. § 1251 *et seq.*); Executive Order 11738 (Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants, or Loans); and U.S. Environmental Protection Agency (EPA) regulations.

Option: If agreement is with a state agency do not include the following provision because all state agencies are covered by Risk Management Division. Remove this Section (and this instruction) and renumber successive sections accordingly. If agreement is with a county, municipality, state university, or public school, determine whether it has insurance coverage. If it does, keep the following. If the county, municipality, state university, or public school does not have coverage, discuss the situation with legal as to how it should be addressed. Remove these instructions.

29. Insurance Coverage: Entity shall provide EMNRD a statement indicating that the activities described in the Scope of Work are covered by insurance as set forth below, secured in accordance with any method allowed by applicable law, including self-insurance, pooling of self-insured reserves, or insurance provided by a third party, prior to commencing work under this Agreement. Entity shall maintain continuous coverage of the activities described in the Scope of Work, so long as this Agreement is in effect. Failure to maintain such coverage is reason for immediate termination of this Agreement. Entity shall notify EMNRD prior to cancellation or expiration of any insurance required under this Agreement.

A. Worker's Compensation protection that complies with the requirements of the New Mexico Worker's Compensation Act, NMSA 1978, Section 52-1-1 *et seq.*, if applicable. If the Entity fails to comply with the Workers Compensation Act and applicable rules when required to do so, EMNRD may terminate this Agreement.

B. Comprehensive public liability protection covering property damage and personal injury liability that may arise under this Agreement and any amendments hereto, in amounts equal or greater than liability limits set forth in NMSA 1978, Section 41-4-19, as it may be amended from time to time.

IN WITNESS WHEREOF, the parties hereto have herein below executed this Agreement.

**STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT**

By: _____ Date: _____
Cabinet Secretary or Designee

ENTITY NAME

By: _____ Date: _____
Authorized Representative Signature

Printed Name and Title