

**GENERAL SERVICES DEPARTMENT  
AND  
STATE OF NEW MEXICO, ENERGY MINERALS AND NATURAL  
RESOURCES DEPARTMENT,  
STATE PARKS DIVISION**

**REQUEST FOR PROPOSALS (RFP)**

**Engineering Services**



**RFP#**

22-52100-22-00001

RFP Release Date: February 8, 2022

Proposal Due Date: March 18, 2022

**ELECTRONIC-ONLY PROPOSAL SUBMISSION**

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>II.</b>	<b>CONDITIONS GOVERNING THE PROCUREMENT.....</b>	<b>8</b>
<b>III.</b>	<b>RESPONSE FORMAT AND ORGANIZATION.....</b>	<b>20</b>
<b>IV.</b>	<b>RESPONSE TO QUALIFICATIONS.....</b>	<b>21</b>
<b>V.</b>	<b>EVALUATION.....</b>	<b>24</b>
<b>VI.</b>	<b>APPENDICES.....</b>	<b>29</b>
	<b>APPENDIX A - ACKNOWLEDGEMENT OF RECEIPT FORM .....</b>	<b>29</b>
	<b>APPENDIX B – LETTER OF TRANSMITTAL FORM .....</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>
	<b>APPENDIX C - SAMPLE CONTRACT .....</b>	<b>33</b>
	<b>APPENDIX D - CAMPAIGN CONTRIBUTION DISCLOSURE FORM .....</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>
	<b>APPENDIX E – NM EMPLOYEES HEALTH COVERAGE FORM.....</b>	<b>51</b>
	<b>APPENDIX F – CONSULTANT DATA SHEET .....</b>	<b>52</b>
	<b>APPENDIX G - ORGANIZATIONAL REFERENCE QUESTIONNAIRE .....</b>	<b>54</b>

# **I. INTRODUCTION**

## **A. PURPOSE OF THIS REQUEST FOR PROPOSALS**

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals for the procurement of professional engineering services to assist the State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), State Parks Division (Division) in the design and construction of buildings, sewer and water systems, campground facilities, and other infrastructure in all the state parks throughout New Mexico and other properties owned and managed by the Division in the State. The Division is responsible for the design and construction of buildings and infrastructure at state parks throughout the State. Proper design requires the specialized services of professional engineers to ensure the buildings and infrastructure meet building codes and other rules and regulations.

## **B. BACKGROUND INFORMATION**

Typical engineering needs in the state parks vary considerably, depending upon age and level of use, with a project cost that most commonly ranges between \$250,000 to \$750,000. Projects include specialty engineering on historic buildings; environmental engineering to assess hydrology and geohydrology, provide biological assessments and restoration plans, coordinate National Environmental Policy Act (NEPA) compliance, provide Storm Water Pollution Prevention Plans; environmental engineering for Phase I, II, and III Environmental Site Assessments for hazardous materials, hazardous materials sampling and testing, and oil spill prevention plans; geotechnical engineering including testing and reporting; surveying and civil engineering for sites, roads, and hardscape; structural engineering for buildings, bridges, and site furnishings; mechanical engineering for heating, ventilation and air conditioning systems in new and renovated buildings including system development and controls; mechanical engineering for plumbing systems in new and renovated buildings; electrical engineering for sites, campgrounds, and buildings including system development, controls, and interfacing with local utilities; engineering for water source development, storage, treatment, and distribution systems; engineering for advanced and conventional wastewater treatment systems, lift stations, and sanitary sewers; and engineering of instrumentation and controls for water/wastewater and other systems.

## **C. SCOPE OF PROCUREMENT**

Health Emergency Guidelines - In the event of a state or national health emergency, successful Offerors shall follow all state and local guidelines for as long as those guidelines are in effect as they apply to the work of this RFP.

The Division shall assign work on an “as needed” basis under Task Orders. While EMNRD anticipates the need to assign multiple Task Orders, EMNRD cannot and does not predict or guarantee the number or frequency of Task Order assignments that successful Offeror(s) may be asked to complete. Tasks are generally set forth below. A written Task Order shall delineate specific tasks to be performed.

On an “as-needed” basis, successful Offeror(s) shall develop and submit, for the Division’s approval, a timetable and budget to perform the work specified in the Task Order. Successful Offeror(s) shall be responsible for all efforts necessary to successfully provide engineering services for a particular Division task, including any materials, facilities, services, equipment, administration, and any other needed instruments.

Professional services requested include geotechnical engineering, civil engineering, structural engineering, mechanical engineering (including instrumentation and controls), electrical engineering (including instrumentation, controls, and technology), environmental engineering, plumbing engineering, surveying, and water/wastewater engineering for the complete range of design and construction phases, including:

- assessment and report phase, including data gathering and mapping;
- environmental documentation, including hazardous materials investigation, soil characterization, geotechnical reports, hydrology, hydrogeology, and biological analysis and recommendations;
- preliminary design phase, including alternatives evaluation and engineering cost estimates;
- final design phase, including documentation for bidding and construction;
- bidding and negotiations phase, including development of addenda;
- construction phase, including review of shop drawings and submittals, construction observation, reports, and change orders;
- operational phase, including assistance with startup, commissioning, and troubleshooting; and
- permitting, including communicating with regulatory authorities and providing supporting documentation.

**1. Implementation Procedures** - EMNRD intends to make multiple awards to qualified engineering professionals that span a wide range of disciplines, specialties, expertise, and geographic locations.

- a. The proposed term of awarded contracts shall not exceed four years, and cannot exceed \$6,000,000 in fees. Each project’s fees shall not exceed \$500,000 including New Mexico Gross Receipts Taxes, and including any amendments.
- b. The successful Offeror (or Offerors) must agree that it/they may not be the sole successful Offeror providing engineering services to the Division; and the Division at its sole discretion shall determine what work is assigned to the successful Offeror (or Offerors).
- c. EMNRD shall review the successful firms’ proposals to identify firms whose qualifications and interests match the project or service profile to be awarded.

- d. During the term of the contract, each identified project will be presented to the successful Offeror (or Offerors) with a scope of work, schedule, and proposed fee as a Task Order. No work shall begin without a signed Task Order and approved Purchase Order.
- e. The Division will provide available documentation and coordination support through all phases of any identified project.

## 2. Proposed Schedule of Services

The proposed project schedule shall be included in the Task Order identifying a specific scope of work, fee, and reimbursable expenses. The project schedule is negotiable, however, project is expected to commence within two weeks of notice to proceed. If the schedule cannot be successfully negotiated, the Division reserves the right to withdraw the work order and offer a similar work order to a second firm under contract.

## 3. Compensation

The actual amount available for contracts resulting under this RFP is unknown.

Award as a result of this RFP does not guarantee any work being ordered under a resultant contract.

The fee will be based upon the approved Architect Rate Schedule as per 1.5.18 New Mexico Administrative Code (NMAC). The Division will negotiate the fee determined to be fair and reasonable for the scope of work. Normal travel expenses in connection with the project shall be included in basic services. Project specific reimbursables will be placed in other services.

## D. PROCUREMENT MANAGER

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

Name: Colleen Baker, Procurement Manager  
Telephone: (505) 699-4669  
Email: Colleen.Baker@state.nm.us

1. **Any inquiries or requests** regarding this procurement should 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 SPD.
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 NMSA 1978, §13-1-172, 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 sent electronically in pdf format to the Procurement Manager via email or other electronic file sharing service. The Offeror is responsible for confirming receipt of the proposal with the Procurement Manager by the proposal due date.

## **F. DEFINITION OF TERMINOLOGY**

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

1. “**Agency**” means the State 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. “**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 1.4.1.45 NMAC. The following items may **not** be labelled as confidential: Offeror’s submitted 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.
4. “**Contract**” means any agreement for the procurement of items of tangible personal property, services, or construction.
5. “**Contractor**” means any business having a contract with a state agency or local public body.
6. “**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.
7. “**Desirable**” – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.
8. “**Electronic Submission**” means a successful submittal of Offeror’s proposal.

9. “**Electronic Version/Copy**” means a digital form consisting of text, images, or both readable on computers or other electronic devices.
10. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
11. “**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.
12. “**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.
13. “**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.
14. “**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.
15. “**Minor Irregularities**” are matters of form rather than substance evident from the proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other Offerors; that is, when there is no effect on price, quality, or quantity.
16. “**Multiple Source Award**” means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property, or construction to more than one Offeror.
17. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.
18. “**Procurement Manager**” means any person or designee authorized by a state agency or local public body to enter or administer contracts and make written determinations with respect thereto.
19. “**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.

20. “**Redacted**” means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by NMSA 1978, §§ 57-3A-1 to 57-3A-7, and 1.4.1.45 NMAC and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out BUT NOT omitted or removed.
21. “**Request for Proposals (RFP)**” means all documents, including those attached or incorporated by reference, used for soliciting proposals.
22. “**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.
23. “**Responsive Offer**” or means an offer that 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.
24. “**Sealed**” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.
25. “**Staff**” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.
26. “**State (the State)**” means the State of New Mexico.
27. “**State Agency**” means the Energy, Minerals and Natural Resources Department (EMNRD), State Parks Division (Division).
28. “**State Purchasing Agent**” means the Director of the Purchasing Division of the General Services Department.
29. “**Statement of Concurrence**” means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (E.g. “We concur,” “Understands and Complies,” “Comply,” “Will Comply if Applicable,” etc.)



30. “**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.
31. “**Written**” means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

## 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:

<b>Action</b>	<b>Responsible Party</b>	<b>Due Dates</b>
1. Issue RFP	Agency	02/08/2022
2. Acknowledgement of Receipt Form	Potential Offerors	02/22/2022
3. Deadline to submit Written Questions	Potential Offerors	02/24/2022
4. Response to Written Questions	Procurement Manager	03/01/2022
<b>5. Submission of Proposal</b>	<b>Potential Offerors</b>	<b>03/18/2022</b>
7.* Proposal Evaluation	Evaluation Committee	04/15/2022
8.* Selection of Finalists	Evaluation Committee	04/20/2022
11.* Notice of Award	State Agency/Finalist Offerors	05/06/2022
12.* Contract Awards	State Agency/Finalist Offerors	07/01/2022
13.* Protest Deadline	State Agency	05/27/2022

\*Dates indicated in Events 7 through 13 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, Energy, Minerals and Natural Resources Department, State Parks Division on the date indicated in Section II.A, Sequence of Events.

## 2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the Procurement Manager, to have their organization placed on the procurement Distribution List. The form must be returned to the Procurement Manager by 3:00 p.m. 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 responses to written questions and any amendments to the RFP.

## 3. 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 p.m. 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.

## 4. 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).

## 5. Submission of Proposal

At this time, only **electronic** proposal submission is allowed. **Do not** submit hard copies until further notice.

ALL PROPOSALS MUST BE RECEIVED BY THE PROCUREMENT MANAGER NO LATER THAN 3:00 P.M. 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.

*It is the Offeror's responsibility to ensure all documents are completely uploaded and submitted electronically by the deadline set forth in this RFP.*

**Proposals must be submitted electronically via email or Offeror's file sharing system.**

A log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to NMSA 1978, § 13-1-116, 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 RFP. Awarded in this context means the final required state agency signature on the contract(s) resulting from the procurement has been obtained.

## **6. 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.

## **7. Selection of Finalists**

The Evaluation Committee will select and the Procurement Manager will notify the finalist Offerors as per schedule Section II.A, Sequence of Events or as soon as possible thereafter. Finalists will be comprised of the Offeror(s) receiving the highest cumulative scores per Section VI: Evaluation Factors.

## **8. 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.

## **9. Contract Awards**

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

## **10. Protest Deadline**

Any protest by an Offeror must be timely submitted and in conformance with NMSA 1978, § 13-1-172, and applicable procurement rules. As a Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, 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 15<sup>th</sup> 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 the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Toby Velasquez, Director  
EMNRD, State Parks Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

**PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.**

## **C. GENERAL REQUIREMENTS**

### **1. Acceptance of Conditions Governing the Procurement**

Potential Offerors must indicate their acceptance of these Conditions Governing the Procurement, Section II.C, by completing and signing the Letter of Transmittal form, pursuant to the requirements in Section II.C.30, located in APPENDIX B.

### **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. 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.

### **4. Subcontractors/Consent**

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, 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.

### **5. Amended Proposals**

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

## **6. 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 and 1.4.1.36 NMAC.

## **7. Proposal Offer Firm**

Responses to this RFP, including proposal prices for services, will be considered firm for 365 days after the due date for receipt of proposals.

## **8. Disclosure of Proposal Contents**

The contents of all submitted proposals will be kept confidential until the final award has been completed by the State 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, NMSA 1978, §§ 57-3A-1 through 57-3A-7.
- b. Proprietary or confidential data shall be readily separable from the proposal to facilitate eventual public inspection of the non-confidential portion of the 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 State 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.

## **9. 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.

## **10. 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.

## **11. 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 State Agency's decision as to whether sufficient appropriations and authorizations are available will be accepted by the Contractor as final.

## **12. Legal Review**

The State 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.

## **13. 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.

## **14. 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.

## **15. Contract Terms and Conditions**

The contract between an Agency and a Contractor will follow the format specified by the State 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) 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 State Agency discourages exceptions from the contract terms and conditions as set forth in the RFP Draft Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the State Agency (and its evaluation team), 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 State 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 State 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.

## **16. 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 State Agency. See Section II.C.15 for requirements.

## **17. 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 State Agency and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

## **18. Offeror Qualifications**

The Evaluation Committee may make such 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 NMSA 1978, § 13-1-83 and § 13-1-85.

**19. Right to Waive Minor Irregularities**

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.F.20. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that **all** 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.

**20. Change in Contractor Representatives**

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

**21. Notice of Penalties**

The Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-1998, 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.

**22. 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.

**23. 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 or State 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.

**24. 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.



## **25. 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 State 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 State Agency's written permission.

## **26. 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.

## **27. 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 State Agency, the Offeror acknowledges that the version maintained by the State Agency shall govern.

## **28. New Mexico Employees Health Coverage**

- a. If the Offeror has, or grows to, six or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six-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 (1) accepted health insurance; (2) decline health insurance due to other health insurance coverage already in place; or (3) 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.

## 29. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX D, 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.**

## 30. Letter of Transmittal

Offeror's proposal must be accompanied by an **unaltered** Letter of Transmittal Form (APPENDIX B), which must be **completed** and **signed** by the individual authorized to contractually obligate the company, identified in #2 below. **DO NOT LEAVE ANY OF THE ITEMS ON THE FORM BLANK** (NA, None, Does not apply, etc. are acceptable responses).

The Letter of Transmittal MUST:

- a. identify the submitting business entity (its name, mailing address, and phone number);
- b. identify the name, title, phone number, and e-mail address of the person authorized by the Offeror's organization to (1) contractually obligate the business entity providing the Offer, (2) negotiate a contract on behalf of the organization; or (3) provide clarifications or answer questions regarding the Offeror's proposal content (*A response to B or C is only required if the response differs from the individual identified in A*);
- c. identify subcontractors, if any, anticipated to be used in the performance of any resultant contract award;
- d. describe any relationship with any other entity (such as State Agency, reseller, etc., that is not a subcontractor identified in #3), if any, which will be used in the performance of this awarded contract; and
- e. be signed and dated by the person identified in #2 above; attesting to the veracity of the information provided, and acknowledging (1) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (2) the organization's acceptance of the Section V Evaluation Factors, and (3) receipt of any and all amendments to the RFP.

**Failure to respond to ALL items as indicated above, will result in Offeror's disqualification.**

### 31. Disclosure Regarding Responsibility

- a. Any prospective Contractor and any of its Principals who enter into a contract greater than \$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;

- (5) 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. 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.
- c. 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.
- d. 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.
- e. Nothing contained in the foregoing shall be construed to require establishment of a system of records 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.
- f. 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.

### 32. New Mexico Preferences

The New Mexico Preferences shall not apply because the expenditures for this RFP may include federal funds.

## III. RESPONSE FORMAT AND ORGANIZATION

### A. NUMBER OF RESPONSES

Offerors shall submit only one proposal as a prime contractor in response to this RFP. Offerors are required to submit in teams including at minimum civil, structural, mechanical, electrical, plumbing, surveying, and geotechnical engineering. Other engineering disciplines are encouraged if the service can be provided by the Offeror. Offerors may submit only one prime proposal but may be included on multiple teams.

### B. NUMBER OF COPIES

#### ELECTRONIC SUBMISSION ONLY Responses

**Proposals in response to this RFP must be emailed to the Procurement Manager per Section I.D.** The Offeror need only submit one single electronic copy of each portion of its proposal as outlined below. *EXCEPTION: Single electronic files that exceed 20mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 20mb limit.* Separate the proposals as described below into separate electronic files for submission.

Proposals must be submitted in the manner outlined below.

**Technical Proposals** – One 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 20mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 20mb limit.*

**Confidential Information:** If Offeror’s proposal contains confidential information, as defined in Section I.F.6 and detailed in Section II.C.8, Offeror **must** submit **two separate ELECTRONIC technical files:**

- One ELECTRONIC version of the requisite proposals identified in Section III.B.1.a above as **unredacted** (def. Section I.F.38) versions for evaluation purposes; and
- One **redacted** (def. Section I.F.27) ELECTRONIC for the public file, 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;

The ELECTRONIC proposal submission **must be emailed** to the Procurement Manager by the submission deadline in Section II.B.6.

*It is the Offeror's responsibility to ensure all documents are completely uploaded and submitted electronically by the deadline set forth in this RFP. 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 email by the deadline, will be deemed late. In accordance with statute and rule, **NO LATE OFFER CAN BE ACCEPTED.***

Any proposal that does not adhere to the requirements of this Section and **Section III.C.1 Proposal Content and Organization** may be deemed non-responsive and rejected on that basis.

## **C. PROPOSAL FORMAT**

All proposals must be submitted as follows:

Length of the proposal **for the Response to Qualifications** shall be limited to a maximum of 30 numbered pages of text no smaller than 10 point, and graphics. The resumes and supplied References are excluded from the 30-page maximum count limit.

Within each section of the proposal, Offerors shall address the items in the order in which they appear in this RFP. All forms provided in this RFP should be thoroughly completed and included in the appropriate section of the proposal.

The proposal summary may be included by potential Offerors to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

Organization of files/envelopes for electronic copy proposals:

### **1. Proposal Content and Organization**

All pages shall be numbered. Content that spans facing pages shall be counted as two pages and shall be numbered as such. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

#### **Technical Proposal:**

- A. Table of Contents
- B. Proposal Summary (Optional)
- C. Technical Qualifications-Section IV.B.1-4
  1. Organizational Experience
  2. Capacity and Capability
  3. Past Record of Performance
  4. Experience with Engineering Projects in New Mexico

- D. Business Qualifications-Section IV.C.1-5
  - 1. Signed Letter of Transmittal (APPENDIX B)
  - 2. Response to Contract Terms and Conditions-Section II.C.15(APPENDIX C)
  - 3. Signed Campaign Contribution Form (APPENDIX D)
  - 4. NM Employees Health Coverage Form (APPENDIX E)
  - 5. Consultant Data Sheet (APPENDIX F)
- E. Other Supporting Material (if applicable)

## **IV. RESPONSE TO QUALIFICATIONS**

### **A. DETAILED SCOPE OF WORK**

The Division shall assign work on an “as needed” basis under Task Orders. While the Division anticipates the need to assign multiple Task Orders, the Division cannot and does not predict or guarantee the number or frequency of Task Order assignments that successful Offeror(s) may be asked to complete. Tasks are generally set forth below. A written Task Order shall delineate specific tasks to be performed.

On an “as-needed” basis, successful Offeror(s) shall develop and submit, for the Division’s approval, a timetable and budget to perform the work specified in the Task Order. Successful Offeror(s) shall be responsible for all efforts necessary to successfully provide engineering services for a particular Division task, including any materials, facilities, services, equipment, administration, and any other needed instruments.

Professional services requested include geotechnical engineering, civil engineering, structural engineering, mechanical engineering (including instrumentation and controls), electrical engineering (including instrumentation, controls, and technology), environmental engineering, plumbing engineering, surveying, and water/wastewater engineering for the complete range of design and construction phases, including:

- assessment and report phase, including data gathering and mapping;
- environmental documentation, including hazardous materials investigation, soil characterization, geotechnical reports, hydrology, hydrogeology, and biological analysis and recommendations;
- preliminary design phase, including alternatives evaluation and engineering cost estimates;
- final design phase, including documentation for bidding and construction;
- bidding and negotiations phase, including development of addenda;
- construction phase, including review of shop drawings and submittals, construction observation, reports, and change orders;
- operational phase, including assistance with startup, commissioning, and troubleshooting; and
- permitting, including communicating with regulatory authorities and providing supporting documentation.

## **B. TECHNICAL QUALIFICATIONS**

### **1. Organizational Experience**

Offerors shall provide a description of relevant corporate experience with state government and private sector. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise, and knowledge as a provider of the engineering services listed above.

### **2. Capacity and Capability**

Describe the Offeror's capacity to handle a large number of projects at the same time, including number of staff in each discipline and level of education and experience. Information about subcontractors should also be included.

Offeror shall describe computer drafting and graphics capabilities, including capability with computer aided design and geographical information systems.

### **3. Past Record of Performance**

Describe five relevant projects in the disciplines for which the Offeror is proposing services.

### **4. Experience with Engineering Projects in New Mexico**

Provide a list of relevant projects successfully completed in New Mexico, including entity name, project name, location, and date completed.

## **C. BUSINESS QUALIFICATIONS**

### **1. Letter of Transmittal Form (APPENDIX B)**

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX B. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to respond to ALL items, as indicated in Section II.C.30 and APPENDIX B, and to return a signed, unaltered form will result in Offeror's disqualification.**

### **2. Response to Contract Terms and Conditions-Section II.C.15 (APPENDIX C)**

- a. If your firm has no response to the Terms and Conditions, please include a statement in your proposal stating so.



- b. If your firm has a response to Offeror's Additional Terms/Conditions - list them with responses to each.

### 3. Campaign Contribution Disclosure Form (APPENDIX D)

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 D). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

### 4. NM Employees Health Coverage Form (APPENDIX E)

### 5. Consultant Data Sheet (APPENDIX F)

## D. REFERENCES

### 1. Organizational References

Offeror must provide a list of a minimum of three external references from similar projects/programs performed for private, state, or large local government clients within the last three years.

Offeror shall include the following Business Reference information as part of its proposals:

- a. client name;
- b. project description;
- c. project dates (starting and ending);
- d. staff assigned to reference engagement that will be designated for work per this RFP; and
- e. client project manager name, phone number, fax number, and e-mail address.

Offeror is required to submit APPENDIX F, Organizational Reference Questionnaire ("Questionnaire"), to the business references it lists. **The business references must submit the Questionnaire directly to the designee identified in APPENDIX G. The business references must not return the completed Questionnaire to the Offeror.** It is the Offeror's responsibility to ensure the completed forms are submitted on or before the date indicated in Section II.A, Sequence of Events, for inclusion in the evaluation process.

Organizational References that are not received or are not complete, may adversely affect the Offeror's score in the evaluation process. Offerors are encouraged to specifically request that their Organizational References provide detailed comments.

## 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 by subcategory.

<b>Evaluation Factors</b> <i>(Correspond to Section IV.B and IV.C)</i>	<b>Points Available</b>
<b>B. Technical Qualifications</b>	
B.1. Organizational Experience	30
B.2. Capacity and Capability	30
B.3. Past Record of Performance	30
B.4. Experience with Engineering Projects in NM	10
<b>C. Business Qualifications</b>	
C.1. Signed Letter of Transmittal	Pass/Fail
C.2. Response to Contract Terms and Conditions	Pass/Fail
C.3. Signed Campaign Contribution Form	Pass/Fail
C.4. NM Employees Health Coverage Form	Pass/Fail
C.5. Consultant Data Sheet	Pass/Fail
<b>D. References</b>	
D.1. Organizational References	5
<b>TOTAL POINTS AVAILABLE</b>	<b>105</b>

Table 1: Evaluation Point Summary

### B. EVALUATION FACTORS (See Table 1)

#### 1. B.1 Organizational Experience

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.

#### 2. B.2 Capacity and Capability

Points will be awarded based the Offeror's capacity to handle a variable number of projects at the same time. The Evaluation Committee will also weigh the relevancy and extent of personnel education, experience, and certifications/licenses.

**3. B.3 Past Record of Performance**

Points will be awarded based the Offeror’s demonstration of five relevant projects in the disciplines for which the Offeror is proposing services. In addition, points will be awarded based on Offeror’s candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

**4. B.4 Experience with Engineering Projects in New Mexico**

Points will be awarded based the Offeror’s demonstration of successful completion of projects similar to the scope of work detailed above.

**5. C.1 Letter of Transmittal**

Pass/Fail only. No points assigned.

**6. C.2 Response to Contract Terms and Conditions**

Pass/Fail only. No points assigned.

**7. C.3 Campaign Contribution Disclosure Form**

Pass/Fail only. No points assigned.

**8. C.4 NM Employees Health Coverage Form**

Pass/Fail only. No points assigned.

**9. C.5 Consultant Data Sheet**

Pass/Fail only. No points assigned.

**10. D.1 Organizational References**

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (APPENDIX G). 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 three of the total points for this category. Lack of a response will receive zero 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 the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the Agency reserves the right to consider all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

## **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 will be selected as finalist Offerors, based upon the proposals submitted. In accordance with NMSA 1978, § 13-1-117, 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

Engineering Services  
22-52100-22-00001

### ACKNOWLEDGEMENT OF RECEIPT FORM

This Acknowledgement of Receipt Form should be signed and submitted no later than 3:00 p.m. on February 22, 2022. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

In acknowledgement of receipt of this Request for Proposal, the undersigned agrees that they have received a complete copy of the RFP, beginning with the title page, and ending with APPENDIX G.

The name and address below will be used for all correspondence related to the Request for Proposal.

ORGANIZATION: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_ PHONE NO.: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

**Submit Acknowledgement of Receipt Form to:**

To: Colleen Baker

E-mail: Colleen.Baker@state.nm.us

Subject Line: Engineering Services – RFP #22-52100-22-00001

## **APPENDIX B**

### **LETTER OF TRANSMITTAL FORM**

## **APPENDIX B**

### **Letter of Transmittal Form**

**ITEMS #1 to #4 EACH MUST BE COMPLETED IN FULL (pursuant to Section II.C.30).  
FAILURE TO RESPOND TO ALL FOUR (4) ITEMS WILL RESULT IN THE  
DISQUALIFICATION OF OFFEROR'S PROPOSAL! DO NOT LEAVE ANY ITEM BLANK!**  
(NA, None, Does not apply, etc. are acceptable responses.)

RFP#: 22-52100-22-00001

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

<b>Offeror Name</b>	
<b>Mailing Address</b>	
<b>Telephone</b>	
<b>FED ID#</b>	
<b>NM CRS#</b>	

**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*
<b>Name</b>			
<b>Title</b>			
<b>E-mail</b>			
<b>Telephone</b>			

\* 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. Use of subcontractors (Select one):**

- No subcontractors will be used in the performance of any resultant contract, OR  
 The following subcontractors will be used in the performance of any resultant contract:

\_\_\_\_\_  
 (Attach extra sheets, as needed)

**4. Describe any relationship with any entity (such as a State Agency, reseller, etc. that is not a subcontractors listed in #3 above), if any, which will be used in the performance of any resultant contract. (NA, None, Does not apply, etc. are acceptable responses to this item.)**

\_\_\_\_\_  
 (Attach extra sheets, as needed)

**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 all amendments to this RFP, if any.

\_\_\_\_\_, 20\_\_\_\_\_  
 Authorized Signature and Date (*Must be signed by the individual identified in item #2.A, above.*)



**APPENDIX C**  
**DRAFT CONTRACT**

**STATE OF NEW MEXICO,**  
**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT**  
**PROFESSIONAL SERVICES AGREEMENT (AGREEMENT)**

THIS AGREEMENT is made and entered into by and between the State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD) and (insert Contractor Name) (Contractor), and is effective as of the date set forth below upon which it is executed by the General Services Department, State Purchasing Division (GSD/SPD) Contracts Review Bureau).

IT IS AGREED BETWEEN THE PARTIES:

**1. Scope of Work.**

Contractor shall perform the following work:

**(Insert Scope of Work here.)**

**2. Compensation.**

Option 1: Work Product.

A. EMNRD shall pay Contractor for services satisfactorily performed pursuant to the Scope of Work and as specified below. This amount shall not exceed \_\_\_\_\_ (\$ \_\_\_\_\_), which amount includes travel and New Mexico gross receipts taxes pursuant to Paragraphs C and D of this Compensation Section (if travel is negotiated. Travel payment language also does not apply when paying on a deliverables basis unless the travel is set out as a separate item. If travel is not paid, remove reference to travel.). 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. Delete this instruction.)

In no event shall Contractor be paid for services provided or travel expenses exceeding the total compensation amount without this Agreement being amended in writing prior to those services or expenses exceeding the total compensation amount being provided.

(—OR—)

**Option 2: Lump Sum Amount Upon Completion of All Work.**

A. Upon satisfactory completion of services, EMNRD shall pay Contractor for services satisfactorily performed pursuant to the Scope of Work in an amount not to exceed \_\_\_\_\_ (\$ \_\_\_\_\_), which amount includes New Mexico gross receipts taxes.

**Option 3: Time and Materials. Travel may or may not be paid, depending on negotiation between EMNRD and Contractor.**

A. EMNRD shall pay to Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work rendered at the rate of \$\_\_\_\_\_ per hour, such compensation not to exceed \$\_\_\_\_\_, which amount includes travel and New Mexico gross receipts taxes, pursuant to Paragraphs C and D of this Compensation Section. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying EMNRD when the services provided under this Agreement reach the total compensation amount. In no event will Contractor be paid for services provided exceeding the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

B. **(For single-year contract, may need to tweak the first sentence.)** Payment in FYXX, FYXX, and FYXX is subject to availability of funds pursuant to Section 5, Appropriations, set forth below and to any negotiations between the parties from year to year pursuant to Section 1, Scope of Work, and to approval by GSD/SPD. 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 WILL NOT BE PAID.

C. **(To be negotiated at EMNRD's discretion. Travel payment language does not apply when choosing to pay Contractor on a lump sum basis. Travel payment language also does not apply when paying on a deliverables basis unless the travel is set out as a separate item.)** EMNRD shall pay such travel expenses as may be incurred in, and that are necessary for, the performance of this Agreement at the rates established in the New Mexico Per Diem and Mileage Act, NMSA 1978, §§ 10-8-1 et seq., as implemented by the current Department of Finance and Administration rule and the current EMNRD travel policy.

D. Contractor is responsible for paying New Mexico Gross Receipts taxes levied on amounts payable under this Agreement.

E. Contractor 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, Contractor 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 Contractor that payment is requested for services received, EMNRD shall provide Contractor a letter of exception explaining the defect or objection to the invoice, services, or expenses, and outlining steps Contractor 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 Contractor 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.

### **3. Term.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE GSD/SPD Contracts Review Bureau. This Agreement shall terminate on **(DATE)** unless terminated pursuant to Section 4, Termination, or Section 5, Appropriations. In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150.

#### 4. Termination.

##### A. EMNRD.

1) EMNRD may terminate this Agreement for convenience or cause by giving written notice to Contractor at least 30 days prior to the intended date of termination, except that EMNRD may terminate this Agreement immediately by giving written notice to Contractor if (i) Contractor becomes unable to perform the services contracted for as determined in the sole discretion of EMNRD; (ii) during the term of this Agreement, Contractor is suspended or debarred by the State Purchasing Agent; (iii) this Agreement is terminated pursuant to Section 5, Appropriation, of this Agreement; or (iv) this Agreement is terminated pursuant to Section 12, Conflict of Interest; Governmental Conduct Act. (May need to revise Section number to track actual contract contents.)

2) Except as otherwise expressly allowed or provided by this Agreement, EMNRD's sole liability upon termination shall be to pay for acceptable work performed prior to Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. This provision is not exclusive and does not waive EMNRD's other legal rights and remedies caused by Contractor's default/breach of this Agreement.

##### B. Contractor.

1) Contractor may terminate this Agreement only based upon EMNRD's uncured, material breach of this Agreement.

2) Contractor shall give EMNRD written notice of termination at least 30 days prior to the intended date of termination, which notice shall (i) identify EMNRD's alleged material breaches of this Agreement upon which the termination is based and (ii) state what EMNRD must do to cure such material breaches. Contractor's notice of termination shall only be effective if (i) EMNRD does not cure all material breaches within the 30 day notice period or (ii) in the case of material breaches that cannot be cured within 30 days, EMNRD does not, within the 30 day notice period, notify Contractor of EMNRD's intent to cure and begin with due diligence to cure the material breach.

C. Termination Management. Immediately upon receipt by either EMNRD or Contractor of notice of termination of this Agreement, Contractor shall:

1) not incur any further obligations for salaries, services, or any other expenditure of funds under this Agreement without EMNRD's written approval;

2) comply with all directives EMNRD issues in the notice of termination as to the performance of work under this Agreement; and

3) take such action as EMNRD shall direct for the protection, preservation, retention, or transfer of all property titled to EMNRD and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by Contractor with contract funds shall become property of EMNRD upon termination and shall be submitted to EMNRD as soon as practicable. (If federal funding is involved, include the following clause. If not, delete it.) Otherwise, all property procured under this Agreement shall be used and disposed of in accordance with (insert name of federal funding entity) regulations.

4) Contractor shall submit an invoice for work performed prior to Contractor's receipt or issuance of a notice of termination no later than 30 days after receiving or sending a notice of termination.

**5. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico and (insert name of federal funding entity) for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature and (insert name of federal funding entity), this Agreement shall terminate immediately upon written notice being given by EMNRD to Contractor. EMNRD's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final. If EMNRD proposes an amendment to the Agreement to unilaterally reduce funding, Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within 30 days of receipt of the proposed amendment.

**6. Status of Contractor.**

Contractor and its subcontractors, agents, and employees are independent contractors performing professional services for EMNRD and are not employees of the State of New Mexico. Contractor 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. Contractor acknowledges that all sums received hereunder are reportable by Contractor for tax purposes, including without limitation, self-employment and business income tax. Contractor has no authority to bind and shall not bind the State of New Mexico unless expressly authorized in writing by the State of New Mexico, and then only within the strict limits of that authority.

**7. Assignment.**

Contractor 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.**

Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of EMNRD. No such subcontract shall relieve Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment by EMNRD.

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

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

B. Contractor 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 Contractor 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, § 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 arising from or under this Agreement.

**10. Confidentiality.**

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

**11. Product of Service -- Copyright.**

All materials developed or acquired by Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to EMNRD no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of Contractor.

**12. Conflict of Interest; Governmental Conduct Act.**

A. Contractor represents and warrants that Contractor presently has no interest and, during this Agreement's term, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. Contractor further represents and warrants that Contractor has complied with, and, during this Agreement's term, shall continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, NMSA 1978, §§ 10-16-1 through 10-16-18. Without in anyway limiting the generality of the foregoing, Contractor specifically represents and warrants that:

1) in accordance with NMSA 1978, § 10-16-4.3, Contractor does not employ, has not employed, and will not employ during the term of this Agreement any EMNRD employee while such employee was or is employed by EMNRD and participating directly or indirectly in EMNRD's contracting process;

2) this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) Contractor is not a public officer or employee of the State of New Mexico (State); (ii) Contractor is not a member of the family of a public officer or employee of the State; (iii) Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, § 10-16-8(A), (i) Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in EMNRD's making this Agreement;

4) this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) Contractor is not a legislator; (ii) Contractor is not a member of a legislator's family; (iii) Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-9(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

5) in accordance with NMSA 1978, § 10-16-13, Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

6) in accordance with NMSA 1978, § 10-16-3(D) and § 10-16-13, Contractor has not contributed, and during this Agreement's term shall not contribute, anything of value to a public officer or employee of EMNRD.

C. Contractor's representations and warranties in Paragraphs A and B of this Section 12 are material representations of fact upon which EMNRD relied when EMNRD and Contractor entered this Agreement. Contractor shall provide immediate written notice to EMNRD if, at any time during this Agreement's term, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Section 12 were erroneous on this Agreement's effective date or have become erroneous by reason of new or changed circumstances occurring after this Agreement's effective date. If EMNRD later determines that Contractor's representations and warranties in Paragraphs A and B of this Section 12 were erroneous on this Agreement's effective date, or have become erroneous by reason of new or changed circumstances occurring after this Agreement's effective date, in addition to other remedies available to EMNRD and notwithstanding anything in this Agreement to the contrary, EMNRD may immediately terminate this Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Section 12.

**13. Amendment.**

This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto and all other required signatories.

**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, covenant, or understanding of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**15. Penalties for Violation of Law.**

The Procurement Code, NMSA 1978, §§ 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.**

Contractor 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, Contractor 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 Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor 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, § 38-3-1(G). By execution of this Agreement, Contractor acknowledges and agrees to the exclusive jurisdiction of the courts of the State of New Mexico over all lawsuits arising under or out of this Agreement's terms.

**18. Records and Financial Audit.**

Contractor shall maintain 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 for a period of six years from the date of final payment under this Agreement. EMNRD shall have the right to audit time and expenditure records both before and after payment, and Contractor agrees to include in all subcontracts hereunder the same right of inspection and audit against all subcontractors. Payment under this Agreement shall not foreclose EMNRD's right to recover excessive or illegal payments. In EMNRD's, GSD/SPD's, or the State Auditor's, (or insert name of federal funding entity)'s sole discretion, 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 of this Agreement for which exception is under consideration by the federal funding agency or any authorized representative) and shall continue until all potential litigation, appeals, claims, or exceptions have expired or been resolved.

**19. Indemnification.**

Contractor shall defend, indemnify, and hold harmless EMNRD, its officers, employees, agents, and representatives, and the State of New Mexico 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 the performance of this Agreement, including any action, proceeding, claim, demand, cost, damage, attorney's fee, or other liability or expense caused by the negligent act or failure to act of Contractor or its officers, employees, servants, subcontractors, consultants, or agents, or caused by the actions of any client of Contractor resulting in injury or damage to persons or property during the time when Contractor, Contractor's officers, agents, employees, servants, consultants, or subcontractors thereof has or is

performing services pursuant to this Agreement. In the event that any action, proceeding, claim, demand, cost, damage, attorney's fee, or other liability or expense which may arise out of the performance of this Agreement is brought against Contractor or its officers, employees, servants, subcontractors, consultants, or agents, Contractor shall, as soon as practicable but no later than two days after it receives notice thereof, notify EMNRD's legal counsel, and the Risk Management Division of the New Mexico General Services Department by certified mail. Nothing in this Agreement shall be deemed to be a waiver by the State of New Mexico of the provisions of the Tort Claims Act, NMSA 1978, §§ 41-4-1 *et seq.*

**20. New Mexico Employees Health Coverage.**

A. If Contractor has, or grows to, six or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six-month period during the term of the contract, Contractor certifies, by signing this Agreement, to have in place, and agree to maintain for this Agreement's term, health insurance for those employees and offer that health insurance to 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. Contractor agrees to maintain a record of the number of employees who have:

- 1) accepted health insurance;
- 2) declined health insurance due to other health insurance coverage already in place; or
- 3) declined health insurance for other reasons.

These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of state publicly financed health care coverage.

**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 effective waiver by a party of any of its rights shall be effective to waive any other rights.

**23. Notices.**

Except as otherwise specified herein, all notices hereunder shall be in writing (including notice by facsimile) and shall be given to the relevant party at its mailing address, or if set forth below, at its e-mail address, or facsimile number, or such other address or facsimile number as such party may hereafter specify by written notice to the other given by courier, by United States certified or registered mail, by facsimile, or



by e-mail or by other telecommunication device capable of creating a written record of such notice and its receipt.

To EMNRD:

[insert position title and address of project manager]

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

To Contractor:

[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 Contractor is other than a natural person, the individual(s) signing this Agreement on Contractor's behalf and Contractor represent and warrant that such individual has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding agreement.

**25. Acknowledgement. (Option: Include in PSA if acknowledgement required. If not using this section, delete it and renumber successive sections accordingly. Delete this instruction.)**

Contractor shall acknowledge EMNRD and (insert name of federal funding entity) as a co-sponsor and funding source in all news releases, programs, proceedings, and related publicity/publications for the Project.

**26. Attorneys' Fees and Costs.**

Contractor agrees that if Contractor is found by a court of competent jurisdiction to have breached this Agreement, or any amendment hereto, or to have committed any tortious act relating to this Agreement, EMNRD shall be entitled to recover from Contractor reasonable attorneys' fees and costs for pre-litigation research, investigation, and preparation, litigation brought to obtain such judicial determination, any appeal of such determination, and to collect any judgment.

**27. Minimum Wage Rate.**

If applicable, Contractor 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 of hiring for and performance of this Agreement.

**28. Compliance with Funding Source Conditions.**

Contractor shall comply with all applicable state and federal statutes and rules or regulations imposed as a consequence of funding pursuant to this Agreement. Contractor is responsible for obtaining a copy of any federal funding award that provides funding for this Agreement.

(Are you using federal funds for this Agreement? Depending on the funding source, you may be required to include the following. If not, delete this instruction and the inapplicable clauses.)

Contractor shall also comply with the following clauses in the performance of this Agreement:

A. Compliance with use of Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) - Contractor 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.

B. Compliance with Trafficking Victims Protection Act of 2000 - Contractor, Contractor'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.

C. Compliance with NMSA 1978, § 66-7-374, Texting While Driving - Contractor and Contractor'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.

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

E. In the event this Agreement is funded with federal monies and Contractor 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, Contractor 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).

F. Contractor 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 regularity authority other than Executive Order 12549.

G. If the value of this Agreement exceeds \$100,000, Contractor 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.

H. If this Agreement is valued at more than \$150,000, Contractor 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.

**29. Insurance.** (Type of insurance required varies with nature of work performed. Will always require Workers' Compensation. Delete this instruction.)

A. Contractor certifies that, by signing this Agreement, it will establish and maintain during this Agreement's term, the following policy or policies of insurance providing:

1) Workers' Compensation protection that complies with the requirements of the New Mexico Workers' Compensation Act, NMSA 1978, §§ 52-1-1 *et seq.*, if applicable. Employer's liability: \$100,000.00. If Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, EMNRD may terminate this Agreement.

2) Comprehensive general liability protection (including endorsements providing broad form property damage, personal injury coverage, and contractual assumption of liability for all liability Contractor has assumed under this Agreement or any amendment thereto), pursuant to NMSA 1978, § 41-4-19, as may be amended from time to time. Limits shall not be less than the following:

- a. bodily injury: \$1,000,000.00 per person/\$1,000,000.00 per occurrence;
  - b. property damage or combined single limit coverage: \$1,000,000.00;
  - c. automobile liability (including non-owned automobile coverage): \$1,000,000.00;
- and

d. umbrella: \$1,000,000.00.

Such policy or policies shall name the State of New Mexico and EMNRD as additional insured and shall specifically state the coverage provide under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

B. Contractor shall provide EMNRD with a copy of the insurance certificate no later than 10 days after this Agreement’s effective date. At EMNRD’s request, Contractor shall also provide EMNRD with a copy of the insurance policy, or relevant portions thereof. Contractor shall notify EMNRD 30 days before cancellation or expiration of any required Workers' Compensation or (include the references to the types of insurance you are asking for).

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the GSD/SPD Contracts Review Bureau below.

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

By: \_\_\_\_\_  
Cabinet Secretary or Designee

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Legal Counsel - Certifying legal sufficiency

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chief Financial Officer

Date: \_\_\_\_\_

**CONTRACTOR NAME**

By: \_\_\_\_\_  
Authorized Representative Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title

This Agreement has been approved by the GSD/SPD Contracts Review Bureau

By: \_\_\_\_\_ Date: \_\_\_\_\_  
GSD/SPD Contracts Review Bureau

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

**STATE OF NEW MEXICO  
TAXATION AND REVENUE  
DEPARTMENT**

I.D. No.: \_\_\_\_\_  
(must be 11 digits long)

By: \_\_\_\_\_

Date: \_\_\_\_\_

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

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## APPENDIX D

### CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, *et seq.*, NMSA 1978 and NMSA 1978, § 13-1-191.1 (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”** 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:** \_\_\_\_\_  
**(Completed by State Agency or Local Public Body)**

**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)

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(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 E

### NEW MEXICO EMPLOYEES HEALTH COVERAGE

#### New Mexico Employees Health Coverage Form

1. For all contracts solicited and awarded on or after January 1, 2008: If the Offeror has, or grows to, six or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six 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 and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
2. 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.
3. 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://www.bewellnm.com>

By signing below, Offeror agrees to be bound by the terms stated in this form

Signature of Offeror: \_\_\_\_\_

Date: \_\_\_\_\_

# Appendix F

## CONSULTANT DATA SHEET

Date: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact: \_\_\_\_\_ Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

\*\*\*\*\* PLACE A "☑" BESIDE THE BLANKS TO INDICATE AREAS OF EXPERTISE \*\*\*\*\*

\*

**PROJECT COST RANGE CAPABILITIES**

- | NEW<br>CONSTRUCTION                  | REMODEL/<br>RENOVATE     |
|--------------------------------------|--------------------------|
| 50K – 100K <input type="checkbox"/>  | <input type="checkbox"/> |
| 100K – 400K <input type="checkbox"/> | <input type="checkbox"/> |
| 400K – 1M <input type="checkbox"/>   | <input type="checkbox"/> |

**PREFERRED REGION**

- Albuquerque Metro Area
- Santa Fe and surrounding areas
- Las Cruces and surrounding areas
- Farmington and surrounding areas
  
- Statewide

**DISCIPLINES**

- |  |                          |                          |
|--|--------------------------|--------------------------|
| <input type="checkbox"/> Architectural                       | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Mechanical                          | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Electrical                          | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Civil                               | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Structural                          | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Landscape                           | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Acoustical                          | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Interiors                           | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Surveying                           | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Const. Mgt.                         | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Proj. Estimating                    | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Proj. Scheduling                    | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Constructability Rev.               | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Value Engineering                   | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Specifications                      | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Const. Admin.                       | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> JOC Design Services                 | <input type="checkbox"/> | <input type="checkbox"/> |
| <br>   |                          |                          |
| <input type="checkbox"/> Preconstruction Services            | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> A/V Services                        | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Materials Testing                   | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> JOC Estimating Services             | <input type="checkbox"/> | <input type="checkbox"/> |
| <br>   |                          |                          |
| <input type="checkbox"/> Geotechnical &<br>Materials Testing | <input type="checkbox"/> | <input type="checkbox"/> |

DISCIPLINES	IN-HOUSE	CONSULT.
<input type="checkbox"/> Underground Utility Locators	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Vibration Study	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Archeological Services	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Commissioning Agent	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Geologist	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Environmental Impact Studies and Environmental Assessments.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Energy Management Consultants	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> LEED Independent 3rd Party Building Commissioning Engineers	<input type="checkbox"/>	<input type="checkbox"/>

**EXPERIENCE EMPHASIS:**

<input type="checkbox"/> Fine Arts	<input type="checkbox"/> IT/Data Center Design
<input type="checkbox"/> Auditorium/Theatre	<input type="checkbox"/> Arena/Sports Facilities
<input type="checkbox"/> Labs	<input type="checkbox"/> Med. Patient Care
<input type="checkbox"/> Correctional Facilities	<input type="checkbox"/> Medical Related
<input type="checkbox"/> Juvenile Facilities	<input type="checkbox"/> Educational Structures
<input type="checkbox"/> Office Facilities	<input type="checkbox"/> Food Service
<input type="checkbox"/> Libraries	<input type="checkbox"/> Central Plant
<input type="checkbox"/> Museums	<input type="checkbox"/> Swimming Pools
<input type="checkbox"/> Outdoor Recreation	<input type="checkbox"/> Activity Centers
<input type="checkbox"/> Maintenance	<input type="checkbox"/> Surveying
<input type="checkbox"/> Elder Care Facilities	
<input type="checkbox"/> Materials Testing	<input type="checkbox"/> _____
<input type="checkbox"/> _____	<input type="checkbox"/> _____
<input type="checkbox"/> _____	<input type="checkbox"/> _____
<input type="checkbox"/> _____	<input type="checkbox"/> _____

**OTHER SERVICE SPECIALTIES:**

<input type="checkbox"/> Area Master Planning	<input type="checkbox"/> Facilities Programming
<input type="checkbox"/> Traffic Studies	<input type="checkbox"/> Signage/Graphics
<input type="checkbox"/> Historic Renovation/Preservation	<input type="checkbox"/> Roofing Consultant Services
<input type="checkbox"/> Infrastructure	<input type="checkbox"/> Right of Way
<input type="checkbox"/> Surveying	<input type="checkbox"/> Feasibility Studies
<input type="checkbox"/> Geotechnical	<input type="checkbox"/> Investigation/Reports
<input type="checkbox"/> Construction Materials Testing	<input type="checkbox"/> Project Cost Estimating
<input type="checkbox"/> Design & Planning Structured Parking Facilities	<input type="checkbox"/> Programming
<input type="checkbox"/> Environmental Engineering	<input type="checkbox"/> Disability/Special Needs
<input type="checkbox"/> Fire Protection	<input type="checkbox"/> Lighting
<input type="checkbox"/> Environmental Graphics & Signage	<input type="checkbox"/> Solar Energy
<input type="checkbox"/> Existing Building Retro-Commissioning and Optimization	<input type="checkbox"/> LEED Accredited A/E
<input type="checkbox"/> Energy/Water Auditing	<input type="checkbox"/> Phase I Environmental
<input type="checkbox"/> Energy	<input type="checkbox"/> Title Insurance/Reports
<input type="checkbox"/> Measurement /Verification /Conservation Water Consumption Savings	<input type="checkbox"/> Measurement & Verification of Consumption Savings
<input type="checkbox"/> Roof Infrared Imaging to Identify Water Leaks	<input type="checkbox"/> Mold Investigation
<input type="checkbox"/> Controls and Electronics Engineer	<input type="checkbox"/> Water and Waste Water Treatment Facility
<input type="checkbox"/> Forensic Investigation	<input type="checkbox"/> Security Systems
<input type="checkbox"/> Bridge Design	<input type="checkbox"/> Detention Security Systems
	<input type="checkbox"/> Highway Design

## **APPENDIX G**

### **ORGANIZATIONAL REFERENCE QUESTIONNAIRE**

The State of New Mexico, as a part of the RFP process, requires Offerors to list a minimum of three 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 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: Colleen Baker at Colleen.Baker@state.nm.us by March 18, 2022 at 5:00 p.m. MST 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.

**RFP # 22-52100-22-00001**  
**ORGANIZATIONAL REFERENCE QUESTIONNAIRE**  
**FOR:**

\_\_\_\_\_  
(Name of Offeror)

This form is being submitted to your company for completion as a reference for the organization listed above. This Questionnaire is to be submitted to the State of New Mexico, Energy, Minerals, and Natural Resources Department, State Parks Division via e-mail at:

Name: Colleen Baker  
Email: Colleen.Baker@state.nm.us

Forms must be submitted no later than March 18, 2022 at 5:00 p.m. MST, and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings.

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

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

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?

COMMENTS:

2. How would you rate this firm's knowledge and expertise?

\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?

\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?

\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, NA = Not applicable)

COMMENTS:

5. How would you rate the dynamics/interaction between vendor personnel and your staff?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

6. Who are/were the vendor's principal representatives involved in your project and how would you rate them individually? Would you, please, comment on the skills, knowledge, behaviors, or other factors on which you based the rating?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

COMMENTS:

7. How satisfied are/were you with the products developed by the vendor?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, NA = Not applicable)

COMMENTS:

8. With which aspect(s) of this vendor's services are/were you most satisfied?

COMMENTS:

9. With which aspect(s) of this vendor's services are/were you least satisfied?

COMMENTS:

10. Would you recommend this vendor's services to your organization again?

COMMENTS: