

**REQUEST FOR PROPOSALS TO PERFORM THE ANNUAL AUDIT
OF THE
STATE OF NEW MEXICO,
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
AND YOUTH CONSERVATION CORPS
FINANCIAL STATEMENTS
FOR THE FISCAL YEAR ENDING JUNE 30, 2023**

I. Purpose of this Request for Proposals (RFP)

The State of New Mexico Energy, Minerals and Natural Resources Department (EMNRD), is requesting proposals from Independent Public Accountants (IPAs or Offerors) to perform the annual financial and compliance audit of EMNRD's financial statements for the fiscal year ending June 30, 2023, as well as the Youth Conservation Corps, which is administratively attached to EMNRD.

EMNRD has approximately 500 employees, about 185 of whom work in Santa Fe, with the remaining working in state parks, and Forestry Division and Oil Conservation District Offices throughout New Mexico. YCC has two full-time employees who are located in Santa Fe.

Pursuant to the Audit Act, NMSA 1978, Section 12-6-3(A):

The financial affairs of every agency shall be thoroughly examined and audited each year by the state auditor, personnel of his office designated by him or by independent auditors approved by him. The comprehensive annual financial report the state shall be thoroughly examined and audited each year by the state auditor, personnel of his office designated by him or by independent auditors approved by him. The audits shall be conducted in accordance with generally accepted auditing standards and rules issued by the state auditor.

Offerors who are interested in this RFP must complete and sign the Request for Proposals Acknowledgement of Receipt Form (attached) to have their organization placed on the procurement distribution list, convert it to pdf and return it to the Procurement Manager specified in Section IV below by close of business on the date indicated in Section V, Sequence of Events. The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt Form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror's organization name shall not appear on the distribution list.

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.

II. Scope of Work

Pursuant to Section 2.2.2.8(B) New Mexico Administrative Code (NMAC), EMNRD is seeking a contract for audit services for EMNRD and YCC in accordance with the Procurement Code, NMSA 1978, Sections 13-1-28 through 199, General Services Department (GSD) Rule 1.4.1 NMAC, Procurement Code Regulations and Department of Finance and Administration Rule 2.40.2 NMAC, Governing the Approval of Contracts for the Purchase of Professional Services.

The audit shall cover EMNRD's and YCC's entire operations and shall be comprised of a financial and compliance audit of the statements and schedules at the individual fund level. The scope of the audit includes government-wide financial statements, fund financial statements, budget comparison statements, notes to the financial statements, component unit fund financial statements and related combining statements, and combining financial statements.

All financial statements and notes presented in the annual audit shall be in conformity with accounting principles generally accepted in the United States of America.

EMNRD is seeking the following audit services:

- a. financial audit;
- b. federal single audit;
- c. financial statement preparation;
- d. internal controls;
- e. audit of cash receipts and cash control of at least five field offices or state parks that EMNRD selects;
- f. financial and compliance audit of at least three concessionaires located within state parks that EMNRD selects;
- g. compliance audit for each major federal program and report on internal control over compliance required by OMB Circular A-133; and
- h. YCC financial and compliance audit and statement preparation.

Potential Offerors may view EMNRD's and YCC's Fiscal Year 2022 audit to learn about EMNRD and YCC, including their histories, organizational structure, financial statements, programmatic information, federal funds received, bond series and statements of net assets by visiting the New Mexico State Auditor website at the following link: www.saonm.org.

The successful IPA shall deliver to the State Auditor a hard copy of the audit report for review by 5 p.m. Mountain Standard Time, November 1, 2023. The successful IPA shall also provide to EMNRD a copy of the report submitted to the State Auditor and then provide five copies of the final audit report to EMNRD after the State Auditor has officially released the audit report with a "release letter."

The successful IPA shall conduct a financial and compliance audit of EMNRD's and YCC's general purpose financial statements and the combining, individual fund, and account group financial statements for the period from July 1, 2022 through June 30, 2023. Such audit shall be conducted in accordance with Section 2.2.2.10 NMAC as specified below:

- (1) Generally Accepted Government Auditing Standards;
- (2) Codification of Statements on Auditing Standards (SAS);
- (3) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations (June 2003 revision);
- (4) American Institute of Certified Public Accountants (AICPA) Audit Guide, Government Auditing Standards and Circular A-133 Audits;
- (5) AICPA Audit and Accounting Guide, State and Local Governments; and
- (6) 2.2.2 NMAC, Requirements for Contracting and Conducting Audits of Agencies.

The annual audit report must be received in the Office of the State Auditor no later than November 1, 2023 (2.2.2.9A.1 NMAC). EMNRD, along with the successful IPA, shall identify a schedule of audit deliverables and agree to milestones for the audit to ensure that EMNRD's books and records are ready and available for audit and the auditor delivers services on time. The 60-day audit deadline shall be based on a schedule of deliverables and milestones; however, the deadline cannot extend beyond November 1, 2023.

III. Proposed Contents

Proposals must, at a minimum, contain the following information:

A. Letter of Transmittal that:

- identifies the name, title, telephone numbers, and email address of the person authorized to negotiate the contract on behalf of the Offeror;
- identifies the names, titles, telephone numbers, and email addresses of persons to be contacted for clarification.

- explicitly indicate acceptance of the terms and conditions of the RFP and its evaluation factors;
- that acknowledgements receipt of any and all amendments to this RPF; and
- is signed by the person authorized to contractually obligate the Offeror.

B. Capability of firm

Resources include the number of firm team members and total audit hours available, independence, information systems audit, quality control reviews, copy of the most recent external quality control review report and references.

C. Work requirements and technical approach:

Knowledge of audit objectives, technical plan, start and end dates, plans for use of internal staff, plans for conducting subsequent years audits.

D. Technical experience

Government audit experience of on-site manager and the name of the on-site manager, team audit experience with agencies similar to EMNRD and their names, Governmental Accounting Standards Board 34, 37 and 87 experience, and continuing education.

E. Rates

Offeror's hourly composite rate, total estimated hours to complete the audit, and the total cost the offeror shall charge EMNRD to perform the audit. Offerors shall include all out-of-pocket audit-related expenses, including travel, in the composite rate. The cost proposal must be provided in the following format, for each year of the multi-year bid:

	<u>Hours</u>	<u>Cost</u>
Financial statement audit	_____	\$
Federal single audit	_____	\$
Financial statement preparation	_____	\$
GASB 34 & 37 compliance	_____	\$
Other (specifically identify)	_____	\$
Sub-total		\$
Gross Receipt Tax		\$
Total Compensation		\$

F. Copy of quality control review report:

Pursuant to Section 2.2.2.14(B)(6) NMAC, Offerors shall provide the most recent external quality control review report with their proposals.

G. Offerors shall complete, sign, and submit with their proposal response the Campaign Contribution Disclosure Form (attached) and disclose whether the Offeror, family member or a representative of the Offeror have made a campaign contribution to an applicable public official during the two years prior to the RFP. The Offeror shall complete the non-disclosure statement or make separate disclosures for all campaign contributions given by (1) the Offeror, (2) a family member, or (3) a representative of the Offeror.

H. If applicable, in order to receive resident/native business or resident/native veteran business preference points, Offerors MUST submit with their proposal a copy of a valid resident business certificate or valid veteran business certificate (see Section XI, New Mexico/Native American Resident Preferences, for additional information).

IV. Procurement Manager

EMNRD has designated a Procurement Manager who is responsible for the conduct of this procurement, whose name, address and email is listed below:

Matthew Lovato
EMNRD, Administrative Services Division
1220 S. St Francis Drive
Santa Fe, New Mexico
Email matthew.lovato@emnrd.nm.gov

Any inquiries or requests regarding this procurement shall be submitted only to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other EMNRD employees do not have the authority to respond on behalf of EMNRD.

V. Sequence of Events

The Procurement Manager will make every effort to adhere to the following schedule. In the event of unforeseen difficulties, the Procurement Manager will email a revised sequence of events to those Offerors who have submitted the Acknowledgement of Receipt Form (attached).

Action	Responsible Party	Due Dates
1. Issue RFP	EMNRD	February 24, 2023
2. Acknowledgement of Receipt Form	Potential Offerors	March 6, 2023
3. Deadline to submit written questions	Potential Offerors	March 13, 2023
4. Response to written questions	Procurement Manager	March 10, 2023
5. Submission of proposal	Potential Offerors	March 29, 2023
6. Proposal evaluation and selection of finalist	Evaluation Committee	April 3, 2023
7. Notification/recommendation to State Auditor's Office	EMNRD	April 14, 2023
8. Contract award	State Auditor and GSD, Contracts Review Bureau	May 1, 2023
9. Protest deadline	EMNRD	May 16, 2023

VI. Submission of Proposals

All proposals must be submitted electronically via email in pdf format by close of business on the date specified in the Schedule of Events to the Procurement Manager listed in Section IV. The Offeror is responsible for confirming receipt of the proposal with the Procurement Manager by the proposal due date. EMNRD shall make absolutely exceptions for proposals not received at the above location by close of business on the specified date.

VII. Proposal Evaluations

EMNRD shall evaluate all competitive sealed proposals based on the "Audit Contract Proposal Evaluation Form" attached to this RFP.

VIII. Evaluation Process

The evaluation process will follow the steps listed below:

1. Four Evaluation Team members will document contents of competitive sealed proposals after the submittal deadline.
2. The Evaluation Team will review proposals for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
3. The Procurement Manager may contact Offerors for clarification of the proposal.

4. The Evaluation Team will evaluate responsive proposals based on the criteria in the Audit Contract Proposal Evaluation Form and will select a responsive Offeror with the highest total weighted scores as finalist Offeror. The Evaluation Team will select the finalist Offeror whose proposal is most advantageous to EMNRD, for award. Please note, however, that a deficiency in any one factor may be grounds for rejection regardless of overall score.

IX. Contract Terms and Award

EMNRD may award a contract in accordance with the general terms of the standard State of New Mexico Audit Contract sample (attached) and in accordance with this RFP's requirements. Prospective Offerors must be willing to sign the standard contract form or their proposal will be considered unresponsive. Any contract awarded as a result of this RFP shall not be binding until approved by the GSD, Contracts Review Bureau and the New Mexico State Auditor's Office.

EMNRD is requesting a multi-year proposal to provide services, not to exceed a term of three years including renewals. The term of the contract shall be for one-year, with the option to extend for two successive one-year terms at the same price, terms and conditions as the stated in the original proposal.

X. Protest Period

Pursuant to NMSA 1978, Section 13-1-172 and applicable procurement regulations, Offerors who are not selected for funding have the right to timely protest the procurement. Protests must be written and must include: the name and address of the protestor and the name of the procurement being protested; a statement of the grounds for protest including appropriate supporting exhibits.

The protest must be received by close of business on the date specified in Section V, Sequence of Events. Protests must be delivered to Stephanie Martinez, EMNRD Chief Procurement Officer, 1220 S. St. Francis Drive, Santa Fe, New Mexico 87505, email stephanie.martinez@emnrd.nm.gov. Offerors who protest are responsible for confirming receipt of the protest with Ms. Martinez by the date specified in Section V, Sequence of Events.

X. New Mexico Employee Health Coverage

If Offeror has, or grows to, six or more employees who work, or are expected to work, an average of at least 20 hours per week over a six month period during the term of any Agreement which may result from this RFP, Offeror agrees, by submitting a proposal, to have in place, and agrees to maintain for the 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 Offeror and the state exceeds \$250,000.

Offeror 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 subjects to review and audit by a representative of the state.

Offeror agrees to advise all employees of the availability of state publicly-finance health care coverage programs.

XI. New Mexico/Native American Resident Preferences

To ensure adequate consideration and application of NMSA 1978, Section 13-1-21, Offerors must submit a copy of their valid New Mexico/Native American Resident Preference Certificate or its valid New Mexico/Native American Resident Veteran Preference with its proposal. Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue
<http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx>.

In accordance with §13-1-21(H) NMSA 1978, an agency shall not award any combination of New Mexico/Native American Resident Preferences.

XII. Notices

Award of contract is contingent upon sufficient appropriations and authorization being made by the Legislature of the State of New Mexico.

Offerors must factor in Gross Receipts Tax (GRT) costs as part of their responses. Any response that does not clearly indicate GRT as included in the cost section may be deemed non-responsive and ejected.

EMNRD reserves the right to conduct discussions with responsible Offerors who submit acceptable or potential acceptable proposals but may accept proposals without such discussions. If such discussions are held, EMNRD may establish a common date for the submission of the best and final offers.

This RFP may be canceled or any and all proposals may be rejected in whole or in part whenever EMNRD determines such action is in the best interest or the best interests of the State of New Mexico. In no event shall EMNRD pay any costs incurred by Offerors in preparation of submission of a proposal.

The Procurement Code, NMSA 1798, Sections 13-1-28 through 13-1-199, as amended,

imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose penalties for bribes, gratuities, and kickbacks.

SAMPLE AUDIT CONTRACT

Attachment 1

Sample Audit Contract

Contract No.

STATE OF NEW MEXICO

AUDIT CONTRACT

(State Agencies with DFA Approval)

hereinafter referred to as the "Agency," and

hereinafter referred to as the "Contractor," agree:

As required by the Audit Rule, NMAC Section 2.2.2.1 et seq., Contractor agrees to, and shall, inform the Agency of any restriction placed on Contractor by the Office of the State Auditor pursuant to NMAC Section 2.2.2.8, and whether the Contractor is eligible to enter into this Contract despite the restriction.

1. SCOPE OF WORK (Include in Paragraph 26 any expansion of scope)

- A. The Contractor shall conduct a financial and compliance audit of the Agency for Fiscal Year 2019 in accordance with auditing standards generally accepted in the United States of America, Government Auditing Standards, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, the Audit Act and the Audit Rule (NMAC Section 2.2.2.1 et seq.).

2. DELIVERY AND REPRODUCTION

- A. In order to meet the delivery terms of this Contract, the Contractor shall deliver the following documents to the State Auditor no later than sixty days after the Financial Control Division of the Department of Finance and Administration (FCD of DFA) provides the State Auditor with notice that the Agency's books and records are ready and available for audit, and in any event no later than the deadline set forth for the Agency in NMAC Section 2.2.2.9:

1. an organized, bound and paginated hard copy of the Agency's audit report for review;
2. a copy of the signed management representation letter provided to the IPA by the Agency as required by AU-C580; and

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3. a copy of the completed State Auditor Report Review Guide available at www.osanm.org;
- B. In accordance with FCD requirements, the Agency, with the help of the Contractor, shall identify a schedule of audit deliverables and agreed-to milestones for the audit to ensure that the Agency's books and records are ready and available for audit and the Contractor delivers services on time. The deadline of sixty days shall be based on the schedule of audit deliverables and agreed upon milestones; however, the deadline shall not extend beyond the deadline set forth for the Agency in NMAC Section 2.2.2.9. This requirement does not prevent the Contractor from performing interim audit work prior to receipt of the DFA notice of agency preparedness.
- C. Reports postmarked by the Agency's due date will be considered received by the due date for purposes of NMAC Section 2.2.2.9. Unfinished or excessively deficient reports will not satisfy this requirement; such reports will be rejected and returned to the Contractor and the State Auditor may take action in accordance with NMAC Section 2.2.2.13. If the State Auditor does not receive copies of the management representation letter, and the completed Report Review Guide with the audit report or prior to submittal of the audit report, the State Auditor will not consider the report submitted to the State Auditor.
- D. As soon as the Contractor becomes aware that circumstances exist that will make the Agency's audit report late, the Contractor shall immediately provide written notification of the situation to the State Auditor. The notification shall include an explanation regarding why the audit report will be late, when the IPA expects to submit the report and a concurring signature by the Agency.
- E. Pursuant to NMAC Section 2.2.2.10, the Contractor shall prepare a written and dated engagement letter that identifies the specific responsibilities of the Contractor and the Agency.
- F. After its review of the audit report pursuant to NMAC Section 2.2.2.13, the State Auditor shall authorize the Contractor to print and submit the final audit report. Within five business days after the date of the authorization to print and submit the final audit report, the Contractor shall provide the State Auditor an electronic version of the audit report, in PDF format, and the electronic copy of the Excel version of the Summary of Findings Form, Vendor Schedule, Fund Balances, and any GASB 77 data (if applicable). After the State Auditor officially releases the audit report by issuance of a release letter, the Contractor shall deliver 5 copies of the audit report to the Agency. The Agency or IPA shall ensure that every member of the Agency's governing authority shall receive a copy of the report.
- G. The Agency, upon delivery of its audit report, shall submit to the Federal Audit Clearinghouse (FAC) the completed data collection form and the reporting package described in Section 200.512 of Uniform Guidance for Federal Awards. The submission is required to be made within 30 calendar days of receipt of the auditor's report, or nine months after the end of the audit period.

3. COMPENSATION

- A. The total amount payable by the Agency to the Contractor under this Contract shall not exceed \$000,000.00 including applicable gross receipts tax.
- B. Contractor agrees not to, and shall not, perform any services in furtherance of this Contract prior to approval by the State Auditor. Contractor acknowledges and agrees that it will not be entitled to payment or compensation for any services performed by Contractor pursuant to this Contract prior to approval by the State Auditor.
- C. Total Compensation will consist of the following:

SERVICES	AMOUNTS
(1) Financial statement audit	\$
(2) Federal single audit	\$
(3) Financial statement preparation	\$
(4) Other nonaudit services, such as depreciation schedule updates	\$
(5) Other (i.e., foundations or other component units, specifically identified)	\$

Gross Receipts Tax = \$

Total Compensation = \$ _____ including applicable gross receipts tax

- D. The Agency shall pay the Contractor the New Mexico gross receipts tax levied on the amounts payable under this Contract and invoiced by the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below.
- E. The State Auditor may authorize progress payments to the Contractor by the Agency; provided that the authorization is based upon evidence of the percentage of audit work completed as of the date of the request for partial payment. Progress payments up to 70% do not require State Auditor approval, provided that the Agency certifies receipt of services. The Agency must monitor audit progress and make progress payments only up to the percentage that the audit is completed prior to making such payment. Progress payments of 70% or more but less than or equal to 90% require State Auditor approval after being approved by the Agency. If requested by the State Auditor, the Agency shall provide a copy of the approved progress billings. The State Auditor may allow only the first 50% of progress payments to be made without State Auditor approval if the Contractor's previous audits were submitted after the due date. Final payment

for services rendered by the Contractor shall not be made until a determination and written finding is made by the State Auditor in the release letter that the audit has been made in a competent manner in accordance with the provisions of this Contract and applicable rules of the State Auditor.

4. TERM. THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE STATE AUDITOR AND THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION. Unless terminated pursuant to Paragraphs 5 or 19, this Contract shall terminate one calendar year after the date on which it is signed by the Department of Finance and Administration.

5. TERMINATION, BREACH AND REMEDIES

A. This Contract may be terminated:

1. By either party without cause, upon written notice delivered to the other party and the State Auditor at least ten (10) days prior to the intended date of termination.
2. By either party, immediately upon written notice delivered to the other party and the State Auditor, if a material breach of any of the terms of this Contract occurs. Unjustified failure to deliver the report in accordance with Paragraph 2 shall constitute a material breach of this Contract.
3. By the Agency pursuant to Paragraph 19, immediately upon written notice to the Contractor and the State Auditor.
4. By the State Auditor, immediately upon written notice to the Contractor and the Agency after determining that the audit has been unduly delayed, or for any other reason.

B. By termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. If the Agency or the State Auditor terminates this Contract, the Contractor shall be entitled to compensation for work performed prior to termination in the amount of earned, but not yet paid, progress payments, if any, that the State Auditor has authorized to the extent required by Paragraph 3(E). If the Contractor terminates this Contract for any reason other than Agency's breach of this Contract, the Contractor shall repay to the Agency the full amount of any progress payments for work performed under the terms of this Contract.

C. Pursuant to NMAC Section 2.2.2.8, the State Auditor may disqualify the Contractor from eligibility to contract for audit services with the State of New Mexico if the Contractor knowingly makes false statements, false assurances or false disclosures under this Contract. The State Auditor on behalf of the Agency or the Agency may bring a civil action for damages or any other relief against a Contractor for a material breach of this Contract.

D. THE REMEDIES HEREIN ARE NOT EXCLUSIVE, AND NOTHING IN THIS SECTION 5 WAIVES OTHER LEGAL RIGHTS AND REMEDIES OF THE PARTIES.

6. STATUS OF CONTRACTOR

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The 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 Agency as a result of this Contract. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed under this Contract unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract.

8. SUBCONTRACTING

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Agency and the State Auditor. An agreement between the Contractor and a subcontractor to subcontract any portion of the services under this Contract shall be completed on a form prescribed by the State Auditor. The agreement shall be an amendment to this Contract and shall specify the portion of the audit services to be performed by the subcontractor, how the responsibility for the audit will be shared between the Contractor and the subcontractor, the party responsible for signing the audit report and the method by which the subcontractor will be paid. Pursuant to NMAC Section 2.2.2.8, the Contractor may subcontract only with independent public accounting firms that are on the State Auditor's List of Approved Firms, and that are not otherwise restricted by the Office from entering into such a contract.

9. RECORDS

The Contractor shall maintain detailed time records that indicate the date, time, and nature of services rendered during the term of this Contract. The Contractor shall retain the records for a period of at least five (5) years after the date of final payment under this contract. The records shall be subject to inspection by the Agency and the State Auditor. The Agency and the State Auditor shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the Agency or the State Auditor on behalf of the Agency to recover excessive or illegal payments.

10. RELEASE

The Contractor, upon receiving final payment of the amounts due under the Contract, releases the State Auditor, the Agency, their respective officers and employees and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Contract. This paragraph does not release the Contractor from any liabilities, claims or obligations whatsoever arising from or under this Contract.

11. CONFIDENTIALITY

All information provided to or developed by the Contractor from any source whatsoever in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor, except in accordance with this Contract or applicable standards, without the prior written approval of the Agency and the State Auditor.

12. PRODUCT OF SERVICES; COPYRIGHT AND REPORT USE

Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. The Agency and the State Auditor may post an audited financial statement on their respective websites once it is publicly released by the State Auditor. The Contractor agrees that the FCD of DFA is free to use the audited financial statements in the statewide Comprehensive Annual Financial Report (CAFR) and that the Contractor's audit report may be relied upon during the audit of the statewide CAFR, if applicable. However DFA should not provide to any third party, other than the CAFR auditor, the draft audit report or its opinion letters or findings.

13. CONFLICT OF INTEREST

The Contractor represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. Each of the Contractor and the Agency certifies that it has followed the requirements of the Governmental Conduct Act, Section 10-16-1, et seq., NMSA 1978, regarding contracting with a public officer, state employee or former state employee, as required by the applicable professional standards.

14. INDEPENDENCE

The Contractor represents and warrants its personal, external and organizational independence from the Agency in accordance with the Government Auditing Standards 2011 Revision, issued by the Comptroller General of the United States, and NMAC Section 2.2.2.8. The Contractor shall immediately notify the State Auditor and the Agency in writing if any impairment to the Contractor's independence occurs or may occur during the period of this Contract.

15. AMENDMENT

This Contract shall not be altered, changed or amended except by prior written agreement of the parties and with the prior written approval of the State Auditor. Any amendments to this Contract shall comply with the Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978.

16. MERGER

This Contract supersedes all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract. Contractor and Agency shall enter into and execute an engagement letter pursuant to NMAC Section 2.2.2.10, consistent with Generally Accepted Auditing Standards (GAAS) and Government Auditing Standards (GAGAS). The engagement letter and any associated documentation included with or referenced in the engagement letter shall not be interpreted to amend this Contract. Conflicts between the engagement letter and this Contract are governed by this Contract, and shall be resolved accordingly.

17. APPLICABLE LAW

The laws of the State of New Mexico shall govern this Contract. By execution of this Contract, Contractor irrevocably consents to the exclusive personal jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising from or related to this Contract.

18. AGENCY BOOKS AND RECORDS

The Agency is responsible for maintaining control of all books and records at all times and the Contractor shall not remove any books and records from the Agency's possession for any reason.

19. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the legislature or the Agency's governing body for the performance of this Contract. If sufficient appropriations and authorization are not made by the legislature or the Agency's governing body, this Contract shall terminate upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. This section of the Contract does not supersede the Agency's requirement to have an annual audit pursuant to Section 12-6-3(A) NMSA 1978.

20. PENALTIES FOR VIOLATION OF LAW

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

21. EQUAL OPPORTUNITY COMPLIANCE

The Contractor shall abide by all federal and state laws, 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, rules, regulations and orders, the Contractor assures that no person in the United States shall, on the grounds of race, age, religion, color, national origin, ancestry, sex, 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 Contract. If the Contractor is found not to be in compliance with these requirements during the life of this Contract, the Contractor shall take appropriate steps to correct these deficiencies.

22. WORKING PAPERS

- A. The Contractor shall retain its working papers of the Agency's audit conducted pursuant to this Contract for a period of at least five (5) years after the date shown on the opinion letter of the audit report, or longer if requested by the federal cognizant agency for audit, oversight agency for audit, pass through-entity or the State Auditor. The State Auditor shall have access to the working papers at the State Auditor's discretion. When requested by the State Auditor, the Contractor shall deliver the original or clear, legible copies of all working papers to the requesting entity.
- B. The Contractor should follow the guidance of AU-C 210 A.27 to A.31 and AU-C 510 .A3 to .A11 in communications with the predecessor auditor and to obtain information from the predecessor auditor's audit documentation.

23. DESIGNATED ON-SITE STAFF

The Contractor's on-site individual auditor responsible for supervision of work and completion of the audit is Javier Machuca. The Contractor shall notify the Agency and the State Auditor in writing of any changes in staff assigned to perform the audit.

24. INVALID TERM OR CONDITION

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected.

25. EMPLOYEE PAY EQUITY REPORTING

- A. If it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification at any time during the term of this Contract, the Contractor shall complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If the Contractor has (250) or more employees the Contractor shall complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that are extended beyond one (1) calendar year, the Contractor shall also complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. If the Contractor does not meet the size requirement for reporting a contract award but subsequently grows such that they meet or exceed the size requirement for reporting, the Contractor shall provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. The Contractor shall also impose this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. If one or more subcontractor does not meet the size requirement for reporting a contract award but subsequently grows such that they meet or exceed the size requirement for reporting, the Contractor shall submit the required report for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. The Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. The Contractor acknowledges that this subcontractor requirement applies even though Contractor itself may not meet the size requirement for reporting and be required to report itself.
- B. If this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

26. OTHER PROVISIONS

SIGNATURE PAGE

This Contract is made effective as of the date of the signature of the New Mexico General Services Department.

AGENCY

CONTRACTOR

PRINTED NAME: _____ PRINTED NAME: _____

SIGNATURE: _____ SIGNATURE: _____

TITLE: _____ TITLE: _____

DATE: _____ DATE: _____

STATE AGENCY

AGENCY CFO

BY: _____ BY: _____

TITLE: GENERAL COUNSEL TITLE: CHIEF FINANCIAL OFFICER

DATE: _____ DATE: _____

This Contract has been approved by:

New Mexico General Services Department

CONTRACTS REVIEW BUREAU

BY: _____ DATE: _____

DATE: _____

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

ID No. _____

By: _____

Date: _____

State Auditor Contract No. 19 - 521

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Attachment 2

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, any prospective contractor seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract 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 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a 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 or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

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 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 or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a 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.

Note: A prospective contractor shall make **separate** disclosures of all campaign contributions given by (1) the prospective contractor, or (2) a family member or (3) representative of the prospective contractor, or shall complete the non-disclosure statement, as applicable.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By:			
Relation to Prospective Contractor:			
Name of Applicable Public Official:		Governor _____	
Contribution(s) Date(s)	Contribution Amount(s):	Nature of Contribution(s):	Purpose of Contribution(s):
	\$		
	\$		
	\$		
	\$		
	\$		

(Attach extra pages if necessary)

Signature: _____

Date: _____

Title/Position: _____

--OR--

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

Signature: _____

Date: _____

Title/Position: _____

AUDIT CONTRACT PROPOSAL EVALUATION FORM

Attachment 3

New Mexico Energy, Minerals and Natural Resources Department Audit Contract Proposal Evaluation Form FY23 RFP – Financial Audit

Agency Contact: Matthew Lovato

Phone Number: (505) 476-3321

Audit Firm Name: _____

Date Completed: _____

Evaluation Criteria	Points Possible	Points Awarded
Section I. Capability of Firm		
A. The firm has the resources to perform the type and size of audit required. Number of firm team members _____. Total audit hours available	0 - 5	
B. External Quality Control Review (Peer Review)	0 - 10	
1. Peer Review Results: Obtain most recent copy of the external quality control review report, including letter of comments.		
2. Opinion Received:		
Unqualified _____ Qualified _____		
If report is less than modified (adverse) STOP HERE, FIRM DOES NOT QUALIFY.		
3. Results of reference checks and agency's prior experience with firm (check should include timeliness, planning, technical expertise, etc.)	0 - 10	
C. Organization and completeness of proposal or bid for audit services.	0 - 5	
Section I Total	30	
Section II. Work Requirements and Audit Approach		
A. Auditor knowledge of agency needs and product to be delivered.	0 - 5	
B. Proposal or bid contains a sound technical plan and realistic estimate of time to complete the audit.	0 - 5	
Start Date _____ End Date _____		
C. Plans for using agency staff.	0 - 3	
D. If the proposal or bid is for a multi-year contract, approach for planning and conducting the work efforts of subsequent years.	0 - 2	
Section II Total	15	
Section III. Technical Expertise		
A. Government audit experience of audit firm.	0 - 20	
Name of on-site manager: _____		
B. Audit team experience:	0 - 15	
Specialization in your type of government (e.g. state agencies, schools, hospitals, counties, cities, etc.) including component units (housing authorities, charter schools, foundations)		

Evaluation Criteria	Points Possible	Points Awarded
C. Attendance at continuing professional education seminars or meetings on auditing, accounting, and regulations directly related to state and local government audits and the agency.	0 – 5	
Section III Total	40	
Section IV. Resident Business/Resident Veteran Business	0 – 10	
5 points for resident business _____		
10 points for resident veteran business _____ (annual revenues of up to \$3 million dollars)		
Pursuant to NMSA 1978, Section 13-1-21. H, EMNRD shall not award a business both a resident business preference and a resident veteran business preference.		
Section IV Total	10	
Section V. Evaluation of Audit Fees		
Note: If you have a multi-year proposal, add the total of each year together to arrive at one total for the combined three-year period (example: 3 yr. proposal, each year's fee is \$5,000. The combined total is \$15,000, which would be used in the calculations below.		
Complete the Calculation	5	
Insert the lowest cost proposal (from all proposals received and divide it by the cost of the proposal the agency is recommending) and multiply it by 5.		
Cost of lowest proposal \$ _____ + Cost of proposal agency is recommending \$ _____ X 5 = Total Points Awarded _____		
MAX SCORE	100	
FINAL SCORE		

Evaluated by:

Name & Title _____ Date _____

Name & Title _____ Date _____

Name & Title _____ Date _____

Name & Title _____ Date _____

**REQUEST FOR PROPSAL
ACKNOWLEDGEMENT OF RECEIPT FORM**

Attachment 4

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Attachment 4.

The acknowledgement of receipt must be signed and returned to the Procurement Manager no later than close of business on the date specified above in Section V, Sequence of Events. Only potential Offerors who elect to return this form completed with the intention of submitting a proposal will receive copies of all Offeror written questions and EMNRD's written responses to those questions as well as RFP amendments if any are issued.

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

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

Firm does/does not (circle one) intend to respond to this Request for Proposals.

Matthew Lovato
EMNRD, Administrative Services Division,
1220 South St. Francis Drive
Santa Fe, New Mexico 87505 Telephone
(505) 476-3321
Fax: (505) 476-1803