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# **Best Value Procurement Guide**

## **Part 1 – Developing Request for RFPs**

**Issued by:**

**General Services Department  
State Purchasing Division  
State of New Mexico**

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## I. INTRODUCTION

This Guide to competitive requests for proposals has been prepared by the State Purchasing Division (SPD) of the General Services Department (GSD) of the State of New Mexico (State) and is intended solely as reference material for state agencies and local public bodies within New Mexico. This Guide does not supersede local, state, or federal laws.

Best value procurement is the preferred method for considering evaluation factors in addition to cost/price for use by any State agency for selecting a firm or contractor to provide services, goods, or tangible personal property. The Guide has been organized into two primary sections that relate to providing instructions and requirements to potential offerors as well as identifying the required content of *RFPs*. The Guide includes examples of required documents to be used to ensure attention is given to all the required steps and processes. These document samples can be tailored to specific procurements without requiring new document creation.

In addition to a Quick Reference Glossary of terms, Section II, definitions are also provided in the Sample RFP template, Exhibit A. Throughout the Guide, formal procurement terms are in *italics*. These definitions reflect statute or other legal resources use and pertain only to this Guide. The statutory language should be used to interpret any ambiguity.

Please direct any questions, comments about this Guide, or requests for assistance with any aspect of the Best Value Procurement process to SPD, (505) 827-0472.

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## II. QUICK REFERENCE GLOSSARY

- *Best Value Procurement*: Procurement method implemented by issuing *Request for Proposals (RFP)* where evaluation factors in addition to cost/price are considered in the selection of a firm or *contractor* and encompasses the total benefits a State entity expects from the acquisition.
  - *Code of Conduct*: Governmental Conduct Act. NMSA 1978, §10-16-1, et seq.
  - *Competitive Qualifications-Based Selection (QBS)*: Procurement method using an *RFP* but, because price is not an evaluation factor for selection of a firm or *contractor*, does not qualify as *Best Value Procurement*.
  - *Confidentiality Agreement*: Written covenant governing how *procurement* activities should be carried out by the evaluation committee. See also, *Non-Disclosure Agreement*.
  - *Confidential information*: “Any information which is available to an employee because of the employee’s status as an employee within a *state agency* or a *local public body* which is not a matter of public knowledge or available to the public on request.” NMSA 1978, §13-1-39
  - *Conflict of Interest*: A situation in which a person has a duty to more than one person or organization, but cannot do justice to the actually or potentially adverse interests of both parties. Black’s Law Dictionary 363 (10<sup>th</sup> Ed.) 2014
  - *Construction*: “Building, altering, repairing, installing or demolishing in the ordinary course of business any:
    - (1) road, highway, bridge, parking area or related project;
    - (2) building, stadium or other structure;
    - (3) airport, subway or similar facility;
    - (4) park, trail, athletic field, golf course or similar facility;
    - (5) dam, reservoir, canal, ditch or similar facility;
    - (6) sewage or water treatment facility power generating plant, pump station, natural gas compressing station or similar facility;
    - (7) sewage, water, gas or other pipeline;
    - (8) transmission line;
    - (9) radio, television or other tower;
    - (10) water, oil or other storage tank;
    - (11) shaft, tunnel or other mining appurtenance;
    - (12) electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners;
    - (13) air conditioning conduit, heating or other similar mechanical work; or
    - (14) similar work, structures or installations.Shall also include:
    - (1) leveling or clearing land;
    - (2) excavating earth;
    - (3) drilling wells of any type, including seismographic shot holes or core drilling; and
    - (4) similar work, structures or installations.” NMSA 1978, §13-1-40
- *Contract*: “Any agreement for the *procurement of tangible personal property, services or construction*.” NMSA 1978, §13-1-41
- *Contractor*: “Any business having a *contract with a state agency or local public body*.” NMSA 1978, §13-1-43

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- *Design/Build*: Type of project in which the *contract* includes design and *construction services*. NMSA 1978, §13-1-119.1
- *Goods*: Tangible and consumable personal property having a physical existence, i.e., durable, commercial off-the-shelf products such as vehicles, computers, and equipment; products of economic output.
- *Invitation for Bids*: All documents, including those attached or incorporated by reference, used for soliciting sealed bids.
- *Local Public Body*: “Every political subdivision of the state that expends public money from whatever source derived, including but not limited to counties, county institutions, bureaus or commissions; incorporated cities, towns or villages, drainage, conservancy, irrigation or other districts; charitable institutions for which an appropriation is made by the legislature; and every office or officer of any of the above.” NMSA 1978, §6-6-1
- *Low-Bid Procurement*: Procurement process for selecting a firm or *contractor* based exclusively on price obtained by verbal or written quotes or issuing an official *Invitation for Bids*. Also referred to as *Low* or *Lowest-Priced Procurement*.
- *Non-Disclosure Agreement*: see *Confidentiality Agreement*.
- *Nonresponsive*: Proposal or bid that does not conform to requirements set forth in the *Request for Proposals* or *Invitation for Bids* and is not evaluated by the evaluation committee.
- *Procurement*:
  - “A. purchasing, renting, leasing, lease purchasing or otherwise acquiring items of *tangible personal property, services or construction*; and
  - B. all procurement functions, including but not limited to preparation of specifications, solicitation of sources, qualification or disqualification of sources, preparation and award of *contract* and contract administration.” NMSA 1978, §13-1-74
- *Procurement Manager*: Individual responsible for purchasing or otherwise acquiring items of *tangible personal property, services, or construction* or for managing and coordinating procurement agents, buyers, or purchasing agents; the primary point of contact for a firm or *contractor*.
- *Professional Services*: “Services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, *construction* managers and other persons or businesses providing similar *professional services*, which may be designated as such by a determination issued by the state purchasing agent or a central purchasing office.” NMSA 1978, §13-1-76
- *Qualifications-Based Selection (QBS)*: *Procurement* process for selecting architects, engineers, landscape architects, surveyors, and *construction* management professionals on the basis of qualifications and subsequent negotiations as to price rather than price being an evaluation factor.
- *Request for Proposals (RFP)*: “All documents, including those attached to or incorporated by reference, used for soliciting proposals.” NMSA 1978, §13-1-81. “Material respects of a request for a proposal include, but are not limited to, price, quality, quantity or delivery requirements.” NMSA 1978, §13-1-85

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- *Resident Preference*: “Business with a valid resident business or contractor certificate issued by the NM Taxation & Revenue Department.” NMSA 1978, §13-1-22(A)
- *Responsible Bidder*: “Bidder who submits a *responsive bid* and 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, construction* or items of *tangible personal property* described in the *Invitation for Bids*.” NMSA 1978, §13-1-82
- *Responsible Offeror*: “Offeror who submits a responsive proposal and 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.” NMSA 1978, §13-1-83
- *Responsive Bid*: “Bid which conforms in all material respects to the requirements set forth in the *Invitation for Bids*. Material aspects of a bid include, but are not limited to, price, quality, quantity or delivery requirements.” NMSA 1978, §13-1-84
- *Responsive Offer*: “Offer which conforms in all material respects to the requirements set forth in the *Request for Proposals*. Material respects of a proposal include, but are not limited to, price quality, quantity or delivery requirements.” NMSA 1978, §13-1-85
- *Scope of Work*: Specific details of work to be performed in completion of a project under a *contract*.
- *Services*: “Furnishing labor, time or effort by a *contractor* not involving the delivery of a specific end product other than reports and other materials which are merely incidental to the required performance; includes the furnishing insurance but does not include *construction* or the *services* of employees of a *state agency* or a *local public body*.” NMSA 1978, §13-1-87
- *State Agency*: “Any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state; includes the purchasing division of the general services department and the state purchasing agent but does not include local public bodies.” NMSA 1978, §13-1-90
- *Subcontractor*: “Individual who takes a portion of a *contract* from the principal *contractor* or another *subcontractor*.” Black’s Law Dictionary 1651 (10<sup>th</sup> Ed.) 2014
- *Tangible Personal Property*: “Tangible property other than real property having a physical existence, including but not limited to supplies, equipment, materials and printed materials.” NMSA 1978, §13-1-93
- *Vendor*: Entity providing a *service* or *tangible personal property* to a *state agency*.
- *Veterans Preference*: Business with a valid resident veteran business certificate issued by the NM Taxation & Revenue Department. See NMSA 1978, §13-1-22(A). See also, State Purchasing Division (SPD) Policy Memo FY13-001: Application of Veterans Preference, attached as Exhibit H to Policy Memo.

### III. OVERVIEW OF *BEST VALUE PROCUREMENT*

Purposes of the Procurement Code:

- A. to provide fair and equitable treatment of all persons involved in public *procurement*;
  - B. to maximize the purchasing value of public funds; and
  - C. to provide safeguards for maintaining a *procurement* system of quality and integrity.
- NMSA 1978, §13-1-9(C)

Most purchases by government for *services* and *tangible personal property* are done on the basis of lowest price. The best *contractors* for a large *construction* project, work in the specialized field of information technology (IT), or a complex *professional services* purchase should be more than minimally qualified in their respective fields. Entering into a *contract* for these *services* based on price alone would not be the best use of fiscally-constrained tax dollars. For many projects, price is only one factor to consider, and *Best Value Procurement* should be used in those instances.

Consider using *Best Value Procurement* for larger, higher priced *procurements*, including major *construction*, manufacturing, and complex *professional services* valued at more than \$60,000,<sup>1</sup> where risk of late or substandard work is expected to outweigh the cost of avoidance. Always enter into a *contract* with a firm that has demonstrated it will complete a project on time, meet specifications, and provide a superior end-product with reduced risk.

Purchases of small dollar, commercial off-the-shelf, non-fabricated *tangible personal property* alone, without a *services* component, generally lend themselves better to *Low-Bid Procurement* methods.<sup>2</sup> Follow the requirements for “Competitive Sealed Proposals” in New Mexico State Statutes and the New Mexico Administrative Code.<sup>3</sup> In contrast, “Competitive Sealed Bids,” or *Low-Bid Procurement*, focus on identifying the lowest responsive and *responsible bidders* for a project.

Always make *procurement* decisions based on the greatest public interest, regardless of the type of *services*, *tangible personal property*, *goods* being procured, or the type of *procurement* method used. Figure 1 below illustrates the types of *procurement* best served by *Best Value Procurement* versus *Low-Bid Procurement*. The importance of non-price factors impact procurement decisions.

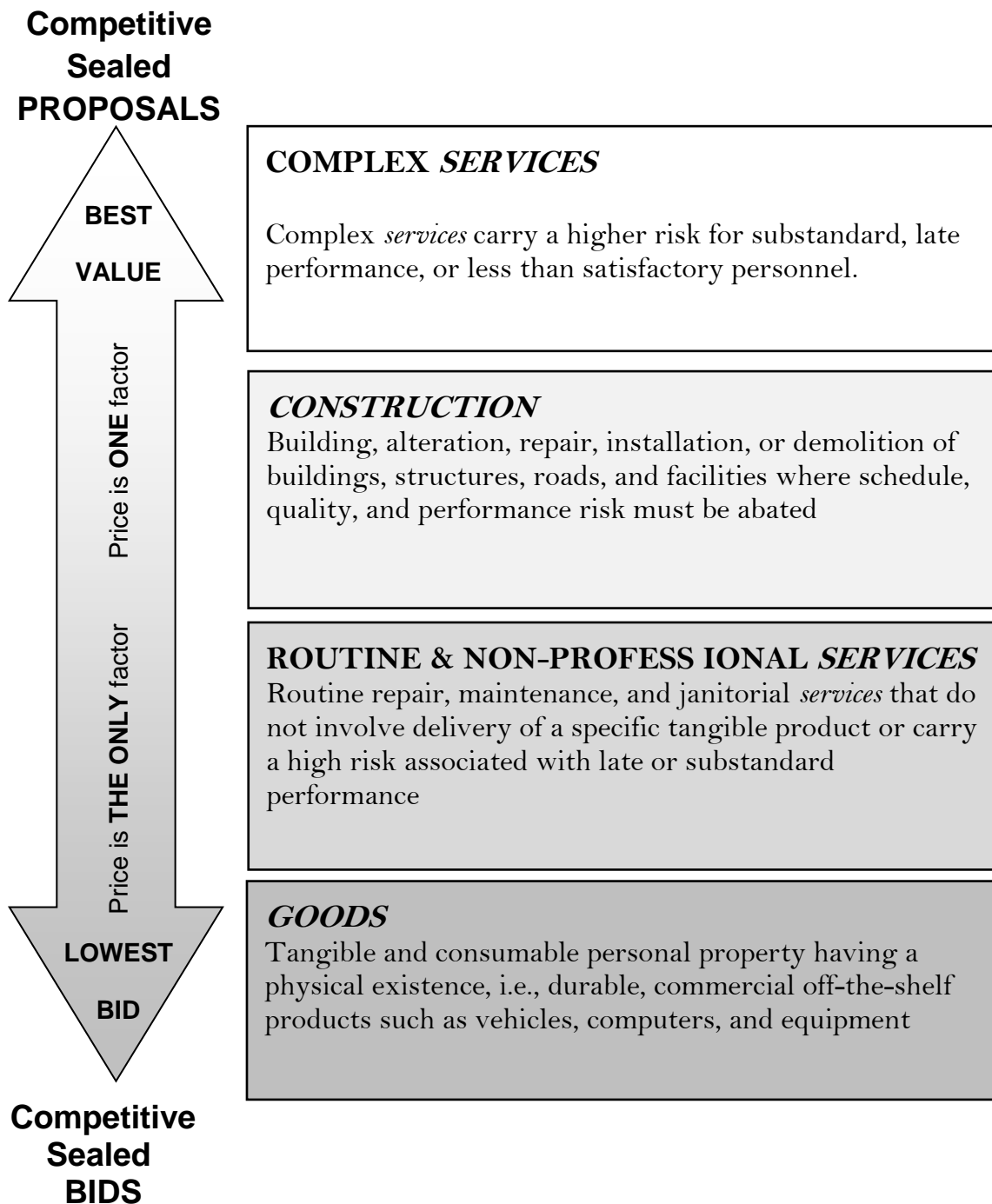
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<sup>1</sup>Small purchases threshold, NMSA 1978, §13-1-125

<sup>2</sup>Competitive sealed proposals, conditions of use. NMSA 1978, §13-1-111

<sup>3</sup>State of New Mexico Procurement Code, NMSA 1978, §13-1-28 through 199; Use of Competitive Sealed Proposals for *Construction* and Facility Maintenance, *Services* and Repairs, Rule 1.4.8, NMAC. Certain types of *procurements* and entities are exempt from the Procurement Code, NMSA 1978, §13-1-98. Exempt entities must adopt and follow their own established *procurement* processes and codes

Figure 1: Recommended Use—*Best Value Procurement vs. Low-Bid Procurement*





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*Best Value Procurement* facilitates selecting *contractors* based on qualifications and criteria where price is one of several factors. *State agencies* and local governments realize advantages when using this type of procurement:

- Allows discussions, clarifications, and negotiations with potential *contractors* (*responsible offerors*);
- Provides for tailoring specific projects, i.e., those that may require a combination of *tangible personal property*, *professional services*, and *construction*, including *design/build*, or those that involve phasing;
- Establishes an open, standardized, and competitive environment for *responsible offerors*;
- Reduces schedule and quality risks for major projects;
- Delineates clearly *procurement* priorities by identifying in the *contract* formation phase of the acquisition the relative weighting of evaluation criteria for an award;
- Allows a *state agency* to place a premium on selecting *contractors* with lower likelihood of claims/disputes and higher likelihood of *contractor* responsiveness;
- Increases accountability for delivery of *services*, *tangible personal property*, *construction*, and products;
- Increases likelihood of a collaborative relationship between the *contractor* and the *state agency* during performance after the award;
- Provides that a *contractor's* performance risk (cost, schedule, quality) is evaluated/appraised on realistic expectations consistent with *state agency* goals;
- Minimizes risk of poor-quality workmanship and “corner-cutting” sometimes associated with a “low bid” mentality; and
- Reassures potential offerors that a sensible investment in time, resources, and opportunity costs to distinguish their firms from others provides a reasonable likelihood of yielding a profitable *contract* award versus simply undercutting a competitor's price.

Once the *procurement* officer makes a written determination that *Best Value Procurement* is preferred for a specific purchase, the *state agency* must determine it has adequate resources to carry out the process properly. The *state agency* must also consider the viability and

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legality of the project. Finally, life-cycle of the product should be a prominent factor in making *procurement* decisions.

Some *state agencies* might conclude they have inadequate personnel, expertise, or time to fully execute a complex *Best Value Procurement RFP*. By law, the *state agency* must comply at all times with all state regulations regarding *procurement*, including the State Use Act.<sup>4</sup> Be familiar with applicable Procurement Code requirements and speak with a buyer at SPD prior to initiating an unfamiliar or complex *procurement* process. In addition, SPD provides *procurement* documents, training, and additional resources through its website: <http://www.generalservices.state.nm.us/statepurchasing/>.

Although the preferred procurement method, *Best Value Procurement* is not always used. Some *procurement* decisions are appropriately based solely on price. In addition, some projects are exempt from either *Best-Value Procurement* or the Procurement Code regulations.<sup>5</sup> Examples of exemptions:

- Municipalities with home rule charters and purchasing ordinances;
- *Contracts* with professional entertainers;
- *Contracts* for museum artworks;
- *Contracts* for a *QBS procurement* that use a specific process for obtaining the *professional services* of architects, engineers, landscape architects, surveyors, and *construction* management professionals; and
- *Contracts* for the purchase of research consultant *services* by institutions of higher learning.

Only after the State Purchasing Agent or the *Procurement* officer provides a written determination that *Best Value Procurement* is in the best interest of the procuring entity may that method be used. Include such written determination in the *procurement* file. SPD ultimately ensures compliance with the New Mexico Procurement Code, but all parties involved in the public *procurement* process have a fiduciary responsibility to uphold standards to ensure that taxpayer dollars yield best-value outcomes for the general public (see Figure 2, below).

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<sup>4</sup>State Use Act, NMSA 1978, §13-1C-1 through §13-1C-7

<sup>5</sup>Exemptions from the Procurement Code, NMSA 1978, §13-1-98

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**Figure 2: Oversight roles and responsibilities of participants involved in the procurement process**

PARTICIPANT	EMPLOYER	ROLE IN THE PROCUREMENT PROCESS
Procurement Officer (or State Purchasing Agent)	State Purchasing Division	This individual provides the necessary resources to carry out the functions outlined in the New Mexico Procurement Code for all applicable public transactions. In some situations, the <i>procurement</i> officer will execute many of the <i>procurement</i> functions on behalf of a <i>state agency</i> . The <i>procurement</i> officer is a non-voting participant in the <i>procurement</i> process and guides the proper application of the <i>procurement</i> law, rule, and guidelines.
Procurement Manager	Any <i>state agency</i>	This individual oversees the <i>procurement</i> processes within the respective <i>state agency</i> . The <i>procurement</i> manager is the liaison between the <i>state agency</i> and the <i>procurement</i> officer at SPD. To ensure impartiality, <i>procurement</i> managers are non-voting participants in the <i>procurement</i> process.
Project/Program Manager	Any <i>state agency</i>	This individual has expertise in the specific <i>services</i> or <i>goods</i> being procured and usually will manage the <i>contract's</i> full implementation once the <i>contract</i> terms have been finalized. Because of the project/program manager's expertise, he should provide input during the drafting of the <i>scope of work</i> and, in some cases, participate as a member of the evaluation committee.
Evaluation Committee	Various	A group usually made up of three to five individuals from various backgrounds recruited for a specific <i>procurement</i> by the <i>procurement</i> manager and the project/program manager. This group evaluates the <i>responsive proposals</i> and ultimately recommends a successful <i>responsible offeror</i> to the source selection authority to carry out the <i>scope of work</i> outlined in a <i>contract</i> (see "Selecting the Evaluation Committee" – Best Value Procurement Guide Part 2, Section V).
General Counsel	Any <i>state agency</i>	This individual, prior to <i>state agencies</i> finalizing an award, reviews all documents, <i>contracts</i> , and amendments to ensure legal sufficiency of the <i>procurement</i> .
Subject Matter Expert (SME)	Various	The evaluation committee may request as part of its evaluation the advice, recommendations, or expertise of non-voting SMEs. For <i>construction</i> projects, architects and engineers with expertise in the type of project being undertaken can provide invaluable consultative services as part of the evaluation process.

### IV. DEVELOPING *REQUEST FOR PROPOSALS*

#### **Best Practices: Developing *Request for Proposals* (RFP)**

1. Be thorough when drafting the *RFP*. The more detail provided to prospective *responsible offerors* in the *RFP*, the less risk for “contingency” pricing.
2. Use language that does not restrict competition, such as a requirement to use patent-protected tangible or intellectual property in carrying out the project. These resources might not be accessible to all potential *responsible offerors* and requiring them would be exclusionary in nature. Similarly, do not use past experience requirements that might exclude qualified *responsible offerors* from submitting a proposal.
3. Involve several people, including potential managers of the proposed project, to review the *RFP* for accuracy and clarity prior to finalizing the document.

Once the *procurement* officer approves a *Best Value Procurement*, the *procurement manager* shall develop an *RFP* for the project. Although *state agencies* may reserve the right to request information outside of the *RFP* process, the *RFP* is the primary document in which evaluation criteria is outlined and information requested. If information regarding important evaluation criteria is not included in the *RFP*, it cannot be used later to evaluate the proposals.

Greater specificity within the technical requirements of the *RFP* will limit proposals to narrow technical parameters and reduce the evaluation committee’s need to differentiate on qualifications rather than price. Conversely, the evaluation committee is likely to find that *RFPs* with very broad technical requirements will yield a selection of proposals with a higher degree of variation in qualifications and price. In a best-value scenario, price would likely be a less consequential factor in the overall evaluation scheme. Relative weighting of price to other evaluation criteria should be directly tied to the *state agency’s* confidence in the technical specifications of the project.

*RFPs* vary substantially. Those for routine *services* and for some *professional services* can be short and straightforward. *RFPs* for complex *professional services* are more extensive and will incorporate technical specifications. This is also true for the *QBS procurement* process for the selection of architects, engineers, landscape architects, and surveys, which does not utilize price or cost as a factor to be considered in evaluation criteria. Large *construction* projects are highly technical and might include additional requirements, such as statements of qualifications, bonding, and safety records. In all cases, however, the *RFP* must contain the following basic elements:

**A. Background and Need for the Project:** Answers the question “WHY?”

Include one or two paragraphs that describe why the project is important to or required by the *state agency*, the need(s) it will address and, once completed, how and by whom it will be used.

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### **B. Project Description:** Answers the questions “WHO, WHAT, WHERE, WHEN?”

If the project is a *professional service*, include one or two paragraphs that describe the deliverables required, such as reports, data, or drawings; the required format(s) of the deliverables; the deadline(s) for various phases and final completion of the project. The project description must also include any technical specifications or professional standards required for the project. If any planning or background documents exist, reference them here as exhibits or attachments to the *RFP*, or make them available on a website or at an office address.

If the project is *construction* or facility maintenance, include one or two paragraphs that describe the location, size, and type of facilities involved and deadlines for various phases and final completion of the project. The project description must also describe any required technical specifications or professional standards. If any planning, design, engineering, or background documents exist, reference them here as exhibits or attachments to the *RFP*, or make them available on a website or at an office address.

### **C. Budget Information:** Determine project budgets by reviewing past background studies and planning documents. Disclose specific budget parameters for all project types.

### **D. Procurement Process Information**

1. Questions about the RFP: *State agencies* typically allow potential offerors to ask questions about the *RFP*, particularly if the *RFP* does not include a pre-proposal conference. Provide instructions to potential offerors that responses will be provided only to questions submitted in writing and only to clarify information already included in the *RFP*. Written questions must be received not later than the *RFP* specified receipt date, typically at least 3 days prior to the proposal due date, and should be sent via email to the *procurement* manager or staff person or posted in a field-fillable document on the *state agency's* website. All questions and responses must be made public to all offerors.
2. Amendments to the RFP: Instruct potential offerors on requesting copies of *RFP* amendments, if issued. The simplest method for amending the *RFP* is to post the amendment on the *state agency's* website. If this method is used, provide the *state agency's* website address in this section. Alternatively, offerors can register with the *state agency* by providing their contact information to the *procurement* manager or staff person who will distribute the *RFP* amendments when issued to all potential offerors. As a general rule, if amendment content to *RFPs* is expected to affect price or technical content, issue the amendment no later than one (1) week before the due date for proposal submissions.

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3. **Proposal Submissions**: Provide the required date, time, and physical address for submitting proposals as well as instructions for separating technical and cost proposals. Each proposal (technical proposal and cost proposal) must be submitted in separate, sealed packages, with the number and name of the *RFP* referenced on each envelope. Confirm that proposals received after the deadline will be considered *nonresponsive* and will not be opened or evaluated.
  4. **Pre-Proposal Conference**: If a pre-proposal conference is planned, provide the time, date, and physical location of the conference as well as whether attendance is mandatory.
  5. **Interviews**: Inform offerors that the *state agency* may or may not conduct interviews with one or more of the *responsible offerors* prior to entering into *contract* negotiations.
  6. **Nonresponsive Proposals**: State specifically that proposals not meeting the requirements set forth in the *RFP* may be deemed *nonresponsive* and, therefore, not eligible for further consideration. A proposal submitted after the deadline stated in the *RFP* would be deemed *nonresponsive*.
- E. Definitions**: Providing definitions is optional but helpful when working with complex terms that could have various meanings in different contexts.
- F. Proposal Format**

1. **Page Limit and Formatting**: Describe any page limits and formatting requirements. Typically, simple *professional services* projects may be limited to ten pages, not including key project staff resumes and other attachments. IT and *construction* projects may be longer, twenty to thirty pages, not including key project staff resumes and other attachments.

*RFPs* may also require potential offerors to use 10 or 12-point type and one inch margins to ensure readability.

*RFPs* usually require that the offeror submit several copies of each proposal so that each member of the evaluation committee can receive a copy to evaluate simultaneously. Provide instructions if an electronic copy of a proposal is required.

State statute grants the *procurement* officer the right to waive technical irregularities that do not alter the price, quality, or quantity of the *services*, items of *tangible personal property*, or *construction* bid or offered as long as the irregularities are insignificant mistakes that can be corrected without prejudice to

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other *responsible bidders* (see NMSA 1978, §13-1-132, and Rule 1.4.1.42 NMAC: Mistakes in Proposals). Formatting irregularities can be a disqualifying transgression that result in a determination that the proposal is *nonresponsive*.

2. **Proposal Content:** Instruct offerors to include a submittal or cover letter to reference the *RFP* number and title, name, contact information, and signature of the principal, president, general *contractor*, or team leader. Offerors should identify a timeframe for duration the price proposal will remain in effect and include a statement verifying that all information provided in the proposal is true and correct, acknowledge all *RFP* amendments, and indicate a willingness to be bound by general contract terms and conditions contained in the sample *contract*.

Technical proposals consist of responses to technical evaluation criteria:

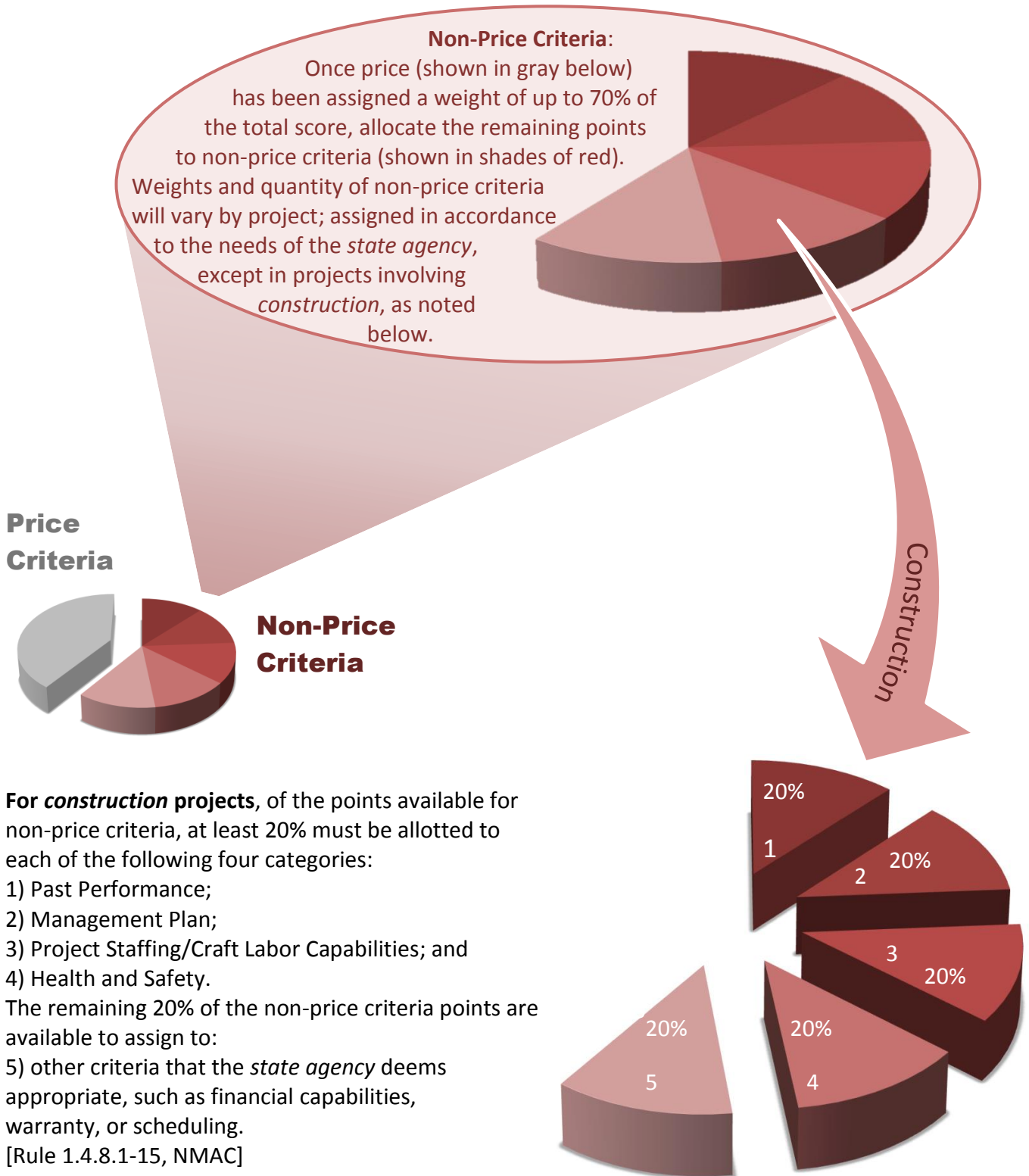
- a) past performance or qualifications;
- b) experience relevant to the project;
- c) project staffing or project team;
- d) management plan or approach to the project;
- e) health and safety record (for *construction* and facility maintenance projects);
- f) *resident preference*.

Price proposals consist of a response to price evaluation criteria.

- G. **Evaluation Criteria:** In an actual *RFP*, provide the total number of points assigned to each criterion. For more details on assigning value to interviews, see the Managing the *Procurement* Process section.

The New Mexico Administrative Code has specific requirements for *construction* and facility maintenance, service, and repair projects. Criteria for these projects must include past performance, management plan, project staffing/craft labor capabilities, and health and safety. Price can be assigned up to 70% of the total points; each of these four criteria must be assigned at least 20% of the total remaining points (see Figure 3). A *state agency* can identify additional evaluation factors and assign points for those factors as appropriate for the type of *procurement* being done.

**Figure 3: Scoring breakdown of non-price criteria**





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1. Past Performance or Qualifications (X Points): In the Past Performance or Qualifications section, instruct the offeror to summarize the qualifications of the firm, company or project team. This section should address the field(s) in which the team works; general credentials of the team members; the number of years it has operated or the team has worked together; size in terms of staffing and/or revenue; and overarching performance metrics, such as customer satisfaction rates (assessed through surveys, focus groups, etc.), on-time and on-budget completion rate, or any special awards and distinctions.

Provide instructions for the offeror to respond to any required minimum requirements for the firm or team qualifications.

2. Experience Relevant to the Project (X Points): Experience relevant to the project can be a factor under Past Performance or Qualifications but is also useful as a stand-alone evaluation criterion. The *RFP* can require the offeror to provide a reasonable number of examples of similar projects completed in the recent past but should not be worded to be unnecessarily restrictive and limit competition. The *RFP* must provide for full and open competition.

Instruct the offeror to include one to two paragraphs on each project, together with the client names and addresses, budgets, and timeframe of the projects. The *RFP* may request up to three references for the projects included. In addition, the *RFP* can ask for information detailing whether the staff members assigned to successful previous projects mentioned in the proposal will be the same people assigned to the current proposed project under the Project Staffing or Project Team section.

Provide instructions on any minimum requirements for the type of experience the state agency will consider; that information must be included in this section of the *RFP*. All requirements should be reasonable within the current context of the field in which the project will be carried out and not unfairly restrict qualified offerors from competing. Below are examples of justifiable requirements that impact competition in the *construction* field:

- Restrictions on technical specifications of past projects:  
Must have experience constructing at least one Bio-Safety Level II or III labs in the last five years (restrictive by specialty project where technical specifications are required)
- Restrictions on geographical past experience:  
Must have experience working on projects in rural New Mexico (restrictive by geographic challenges but not specific geography)
- Restrictive by interval of time:  
Must have constructed at least three projects over \$10m in the last five years (restrictive by project size/scope during a reasonable interval of time).

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3. Project Staffing or Project Team (X Points): Instruct offeror to provide one paragraph to include the team member's name, title, and qualifications for each member of the project team. This section should also include an organizational chart depicting how the team functions or works together for a particular project. The *RFP* should require resumés for key members of the project team to be provided as attachments to the proposal. Some *RFPs* may also request a matrix with the project team members on one axis and relevant project experience or areas of expertise on the other axis.

Provide instructions in this section on any minimum requirements that must be included for the type of firm or team the *state agency* will consider (e.g., the team must include at least one engineer licensed in the State of New Mexico).

4. Management Plan or Approach to the Project (X Points): Instruct offeror to describe in this section how it proposes to organize, manage, and administer the project to meet the project requirements, including but not limited to budget, phasing, completion date, quality, and safety. A project schedule must be included in this section. If the project is atypical, this section provides an opportunity for the offeror to suggest innovative solutions or approaches.
5. Health and Safety Record (for Construction and Facility Maintenance projects) (X Points): Several metrics in the *construction* industry can be helpful in predicting future safety performance and assessing an offeror's commitment to the safety of a future project. Typical of safety components found in a *construction RFP* (Rule 1.4.8.12.(D)(3)(c)(ix), NMAC):
- Experience Modification Rate (EMR): The insurance industry uses this multiplier for workers' compensation claims records.
  - Recordable Incidents Rate (IR Rate): The Occupational Safety and Health Administration (OSHA) calculates this rate as the number of recordable incidents multiplied by 200,000 divided by the total number of employee hours worked in a year. Severity of the incidents is not accounted for in this measure.
  - Total Lost Workday Incident Rates: Calculate this rate by the number of lost-time injuries and illnesses x 200,000 ÷ total hours worked.
  - Safety Plan: The evaluation committee should have the expertise and time to evaluate the nuances of submitted plans if requesting a site specific Safety Plan as part of a *construction* proposal. Safety Plans should not be evaluated on a pass/fail rule.
  - Sample questions:
    - Is the firm free of serious or willful violations of federal or state safety laws as determined by a final non-appealable decision of a court or government? If no, explain.
    - Has the firm had any federal or state safety fines or jobsite fatalities in the last three years? If yes, explain.

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When determining points above the minimum 20% of non-price criteria to allot to the Health and Safety Record category, a *state agency* and evaluation committee must consider whether the project will involve occupied facilities, new *construction* on a vacant lot, or highly technical work that could represent additional hazards.

6. ***Preference***: Include in this section the number of points to be allotted for a *resident preference*, how those points can be obtained, and how they will be factored into the scoring of the proposals. A *state agency* must include a *veterans preference* in accordance with state statutes, which can be awarded to offerors who have met the requirements.<sup>6</sup>
  
7. ***Price (X Points)***: Provide requirements for the relative value of price in relation to non-price criteria.
  
- H. **General Requirements**: Provide the general legal terms and conditions relevant to *procurement* and subsequent *contract*, if awarded. State clearly the legal basis for the *procurement*, whether the State of New Mexico Procurement Code or the procurement code of the *state agency*.<sup>7</sup> Use Exhibit A, Sample RFP Template, Section C, as a guide for state agencies to develop their own general requirements.
  
- I. **Appendices**: Instruct offeror to provide in an Appendix items such as additional certificates, reports, forms, or information required as part of the *procurement*. Examples include: Acknowledgement of Receipt form, Campaign Contribution Disclosure form, New Mexico Employees Health Coverage form, Letter of Transmittal form, Resident Veterans Certification, Reference Questionnaire, and *Conflict of Interest Affidavit*.

J. **Additional Requirements for Construction Projects**:

Security and Bonds	<i>Subcontractor</i> Listing Form
General <i>Contractor's</i> Statement of Qualifications	<i>Subcontractor's</i> Statement of Qualifications
Resident Business Certificate	Resident <i>Contractor's</i> Certificate
Notarized Declaration of Surety	Copy of Firm's Written Safety Plan
Letter(s) from Insurance Carriers	Written Assurance Program
Affirmative Action Policy	Management Plan
Projects Currently Under <i>Contract</i> >\$1m	Affidavit of Non-Violation of Labor Codes

<sup>6</sup> Application of preferences and Resident business, resident veteran business, resident contractor and resident veteran contractor certification, NMSA 1978, §§13-1-21, 22, respectively, and Resident contractor defined; application of preference, NMSA 1978, §13-4-2

<sup>7</sup> Application (Competitive Sealed Proposal Procedures for Construction and Facility Maintenance, Service and Repairs, Rule 1.4.8.8 (C), NMAC

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**THIS PAGE: ONE SIDED**

Exhibit A: Sample RFP Template

**STATE PURCHASING DIVISION  
OF THE  
GENERAL SERVICES DEPARTMENT  
AND  
<Insert State agency Name>  
REQUEST FOR PROPOSALS (RFP)**

**<Insert RFP Name>**



**RFP#**

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<Insert RFP Number>

<Insert Release Date>

<Insert Due Date>

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## I. INTRODUCTION

### A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the purchase of <Insert what you are buying and what it is to do>

### B. BACKGROUND INFORMATION

<Insert Background information that led up to the reason your State agency is doing this procurement.>

### C. SCOPE OF PROCUREMENT

<Insert scope of procurement; what you are looking to purchase and why>

### D. PROCUREMENT MANAGER

1. <State agency name> 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: <State agency Persons name>, Procurement Manager  
Address: <State agency Name and address>  
Telephone:  
Fax:  
Email:

2. All deliveries of responses via express carrier must be addressed as follows:

Name: <Procurement Manager c/o SPD Assigned Buyer>

Reference RFP Name: <Name and number of RFP>

Address: State Purchasing Division  
1100 St. Francis Dr. Room 2016  
Santa Fe, New Mexico 87505

3. 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.

### E. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations: <Make sure these fit your RFP and add, change or delete anything that applies>

Agreement Administrator: the State Purchasing Division of the General Service Department

Authorized Purchaser: an individual authorized by a Participating Entity to place orders against this contract

Business Hours: 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given

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Close of Business: 5:00 PM Mountain Standard or Daylight Time, whichever is in use on the date given  
Contract: a written agreement for the procurement of items of tangible personal property, services, or professional services

Contractor: the successful Offeror who enters into a Price Agreement with SPD

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

Determination: the written documentation of a decision of a procurement manager, including findings of fact required to support a decision. A determination becomes part of the procurement file.

Evaluation Committee: a body appointed by the Procurement Manager to perform the evaluation of Offerors' proposals

Evaluation Committee Report: a report prepared by the Procurement Manager and the Evaluation Committee for contract award that will contain written determinations resulting from the procurement.

Finalist: an Offeror and/or Offerors who meet 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

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

IT: Information Technology

LPB: local public body

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 will result in the rejection of the Offeror's proposal as nonresponsive.

Multiple Source Award: an award of an indefinite quantity contract for one or more similar services to more than one Offeror

Offeror: any person, corporation, or partnership who chooses to submit a proposal

Price Agreement: a definite quantity contract or indefinite quantity contract that requires the contractor to furnish services to the Procuring State agency

Procurement Manager: the person or designee authorized to manage or administer a procurement requiring the evaluation of competitive sealed proposals

Procuring State agency: any governmental state agency procuring services or goods from the Statewide Price Agreement

Project: a temporary process undertaken to achieve 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 completed and project acceptance is given by the project executive sponsor.

Project Manager: means a Procuring State agency employee assigned by the Procuring State agency to oversee the contract work.

Request for Proposals or RFP: all documents, including those attached or incorporated by reference, used for soliciting proposals

Responsible Offeror: an Offeror submitting a responsive proposal and who has furnished, when required, information and data to prove that its financial resources, production or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the services described in the proposal.

Responsive Offer or Responsive Proposal: an offer or proposal that conforms in all material respects to the requirements set forth in a request for proposals. Material respects of a request for proposals include but are not limited to price, quality, quantity, or delivery requirements.

Solicited and Awarded: an Invitation to Bid or RFP was made available to the general public, through any means.



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SPA: Statewide Price Agreement entered into by SPD for agencies to use to enter into contracts

SPD: State Purchasing Division of the New Mexico General Services Department.

Staff: a full-time, part-time, or an independently contracted employee with the Offerors' company

State (the State): the State of New Mexico

State agency: the State Purchasing Division of the General Services Department

State Entity: any state entity that is eligible under the procurement code to use the Statewide Price Agreement

State Purchasing Agent: the purchasing agent for the State or a designated representative

WSCA: Western States Contracting Alliance.

## F. PROCUREMENT LIBRARY

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection or by contacting the Procurement Manager and scheduling an appointment. The library contains information listed below:

Procurement Regulations and Request for Proposal – RFP instructions:

<http://www.generalservices.state.nm.us/statepurchasing/>.

<Add info here if you are posting additional documents to your website>

## II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule, description, and conditions governing the procurement.

### A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates Sample Time Frames
1. Issue RFP	SPD	T-0
2. Distribution List	SPD	T-10
3. Pre-Proposal Conference	SPD	T-10
4. Deadline to submit Questions	Potential Offerors	T-12
5. Response to Written Questions	Procurement Manager	T-14
5. Submission of Proposal	Potential Offerors	T-21
6. Proposal Evaluation	Evaluation Committee	T-21 to T-28
7. Selection of Finalists	Evaluation Committee	T-30
8. Oral Presentation	Finalist Offerors	T-31

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9. Best and Final Offers	Finalist Offerors	T-34
10. Finalize Price Agreements	SPD/Finalist Offerors	T-35 to T-39
11. Price Agreement Awards	SPD/ Finalist Offerors	T-39
12. Protest Deadline	SPD	+15 days

## B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A, above.

### 1. Issuance of RFP

This RFP is being issued on behalf of the New Mexico State < Insert State agency Name > on <Insert Date>.

### 2. Distribution List Response Due

Potential Offerors should hand deliver, return by facsimile, registered or certified mail the Acknowledgement of Receipt of Request for Proposals form that accompanies this document, APPENDIX A, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Manager by 3:00 pm MST or MDT on <Enter date>.

The procurement distribution list will be used for the distributing written responses to questions. Failure to return the Acknowledgement of Receipt of Request for Proposals 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.

### 3. Pre-Proposal Conference

A pre-proposal conference will be held as indicated in the sequence of events beginning at <Enter time> Mountain Standard Time/Daylight Time in the <Enter Location and address>. Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Procurement Manager (see Section I, Paragraph D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All written questions will be addressed in writing on the date listed in the Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attended the pre-proposal conference.

Attendance at the pre-proposal conference is highly recommended but not always a prerequisite for submission of a proposal. Some may be mandatory.

### 4. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager with the intent to clarify the RFP until <Insert time> Mountain Standard Time/Daylight Time as indicated in the

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sequence of events. All written questions must be addressed to the Procurement Manager as declared in Section I, Paragraph D.

## 5. **Response to Written Questions**

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offeror's that provide Acknowledgement of Receipt forms described in II.B.2 before the deadline. Additional copies will be posted to: <http://www.generalservices.state.nm.us/statepurchasing/>

## 6. **Submission of Proposal**

All offeror proposals must be received for review and evaluation by the procurement manager or designee no later than 3:00 pm mountain standard time/daylight time on **<Insert date>**. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section I, Paragraph D2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the **< Enter Name of RFP and Number >**. Proposals submitted by facsimile, or other electronic means, will not be accepted.

A public log will be kept of the names of all offeror organizations that submitted proposals. Pursuant to Section 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 awarded pursuant to the Request for Proposals has been fully executed.

## 7. **Proposal Evaluation**

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in the Sequence of Events, depending on 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. Proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

## 8. **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 thereafter as possible. A schedule for the oral presentation and demonstration will be determined at this time.

## 9. **Oral Presentations**

Finalist Offerors may be required to make an oral presentation at a location to be determined as per schedule Section II, A. Sequence of Events, or as soon thereafter as possible. Whether or not oral presentations will be held is at the discretion of the Evaluation Committee and SPD.

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## 10. Best and Final Offers

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by as per schedule Section II, A. Sequence of Events, or as soon thereafter as possible. Best and final offers may also be clarified and amended at finalist Offerors' oral presentation

## 11. Finalize Statewide Price Agreements

The SPA will be finalized with the most advantageous Offerors as per schedule Section II, A. Sequence of Events, or as soon thereafter as possible. This date is subject to change at the discretion of the State Purchasing Division. In the event that mutually agreeable terms cannot be reached within the time specified, the State Purchasing Division reserves the right to finalize a SPA with the next most advantageous Offerors without undertaking a new procurement process.

## 12. Price Agreement Awards

After review of the Evaluation Committee Report and the signed SPA, SPD will award the SPA as per the schedule in Section II, A. Sequence of Events, or as soon thereafter as possible. This date is subject to change at the discretion of the State Purchasing Division. The contract shall be awarded to the Offerors whose proposals are most advantageous to the State of New Mexico and <Enter Department Name>, taking into consideration the weighted evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate Department and State approval.

## 13. Protest Deadline

Any protest by an Offeror must be timely and in conformance with Section 13-1-172 NMSA 1978, and applicable procurement regulations. The fifteen (15) calendar day protest period shall begin on the day following the award of SPAs and will end at 5:00 pm Mountain Standard Time/Daylight Time 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 must specify the ruling requested from the State Purchasing Agent. The protest must be delivered to:

Lawrence O. Maxwell, State Purchasing Agent  
State Purchasing Division  
1100 St. Francis Dr., Room 2016  
Santa Fe, NM 87505

If this is an RFP your State agency is doing, you must list your GC.

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 the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

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## 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 demonstrate proposed equipment and/or system shall be borne solely by the Offeror.

## 3. **Prime Contractor Responsibility**

Any SPA that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of any contract with a state agency that may derive from this RFP. The state agency hiring a *vendor* from the SPA will make payments only to the prime contractor.

## 4. **Subcontractors**

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the SPA whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the state agency hiring from the SPA 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 identified clearly as such in the transmittal letter. The State agency personnel will not merge, collate, or assemble proposal materials.

## 6. **Offerors 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.

## 7. **Proposal Offer Firm**

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

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

The proposals will be kept confidential until negotiations are completed by SPD. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

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Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978, §57-3A-1 through §57-3A-7. 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 data for which an Offeror has made a written request for confidentiality, SPD shall examine the Offeror's 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 confidential data.

## **9. No Obligation**

This procurement in no manner obligates the State or any of its agencies to the use of Offeror 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 SPD determines such action to be in the best interest of the State.

## **11. Sufficient Appropriation**

Any SPA or contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be effected 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 concerns must be provided promptly in writing to the attention of the Procurement Manager.

## **13. Governing Law**

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

## **14. Basis for Proposal**

Only information supplied, in writing, by the State agency through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals. Current and updated information regarding this procurement is available on the SPD website at <http://www.generalservices.state.nm.us/statepurchasing/>.

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

The contract between a State agency using the contract and the associated contractor will follow the format specified by the State agency and contain the terms and conditions set forth in "State of New Mexico." The contracting state agency reserves the right, however, to negotiate with an Offeror provisions in addition to those contained in this RFP. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the resultant Contract.

Should an Offeror object to any of the terms and conditions in APPENDIX C, Statewide Price Agreement Terms and Conditions, 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 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.

### **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.

### **17. Contract Deviations**

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the State agency and the Offeror selected from the SPA 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 well as mandatory requirements, provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and that 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 representatives are not, in the opinion of the State agency, meeting its needs adequately.

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## **21. Notice**

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

## **22. State Agency Rights**

The State 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 written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or state agency contracts deriving from this procurement from SPD and the Contract Lead. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or removal from the SPA.

## **24. Ownership of Proposals**

All documents submitted in response to the RFP shall become property of the State.

## **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 SPD.

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

## **26. Electronic mail address required**

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

## **27. Use of Electronic Versions of this RFP**

This RFP is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the SPA, the version maintained by the SPA shall govern. Refer to:

<http://www.generalservices.state.nm.us/statepurchasing/>.

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

1. For all contracts solicited and awarded on or after January 1, 2008: If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to:



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(a) 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, 2008, if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

(b) 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, 2009, if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or

(c) 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 <http://insurenwemexico.state.nm.us/>.

4. 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 LPBs if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000.

### **29. Campaign Contribution Disclosure Form**

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

### **30. Pay Equity Reporting Requirements**

If the Offeror has ten (10) or more employees OR eight (8) or more employees in the same job classification, Offeror must complete and submit the required reporting form (PE10-249) if they are awarded a contract.

For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Offeror must also agree to complete and submit the required form annually within thirty (30) calendar days of the annual bid or proposal submittal anniversary date and, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract.

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Should Offeror not meet the size requirement for reporting at contract award but subsequently grows so that they meet or exceed the size requirement for reporting, Offeror must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.

Offeror must also agree to levy these reporting requirements 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. Offeror must further agree that, should one or more subcontractors not meet the size requirement for reporting at contract award but subsequently grow such that they meet or exceed the size requirement for reporting, Offeror will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor's meeting or exceeding the size requirement.

## **31. Disclosure Regarding Responsibility**

Any prospective Responsible Bidder/Offeror (hereafter Offeror) and/or any of its Principals who seek to enter into a contract greater than twenty thousand dollars (\$20,000.00) with any State agency or LPB for professional services, tangible personal property, services, or construction agrees to disclose whether they, or any principal of their company:

1. are presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, State agency or LPB;
2. have, within a three-year period preceding this offer, been convicted of or had civil judgment rendered against them for: 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; violation of federal or state antitrust statutes related to the submission of offers; or 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. are presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with, commission of any of the offenses enumerated in paragraph 2 of this disclosure.
4. have, 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
  - a) Taxes are considered delinquent if both of the following criteria apply:
    - i. 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.
    - ii. 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

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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. 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. The Offeror shall provide immediate written notice to the Procurement Manager or Buyer if, at any time prior to contract award, the Offeror learns that its disclosure was erroneous when submitting or became erroneous by reason of changed circumstances. A disclosure that any of the items in this requirement exist will not necessarily result in withholding an award under this solicitation. However, the disclosure will be considered in the determination of the Offeror's responsibility. Failure of the Offeror to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
6. Nothing contained in the foregoing shall be construed to require establishing a system of records in order to render in good faith the disclosure required by this document. The knowledge and information of an Offeror is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings. 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. 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 Procurement Manager or Buyer. If it is later determined that the Offeror knowingly rendered an erroneous disclosure, in addition to other remedies available to the government, the SPA or Central Purchasing Officer may terminate the involved contract for cause. Still further, the SPA 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. Conflict of Interest**

The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance or services required under the Agreement. The Offeror certifies that the requirements of the Governmental Conduct Act, NMSA 1978, §10-16-1 through §10-16-18, regarding contracting with a public officer or state employee or former state employee have been followed.

## **III. RESPONSE FORMAT AND ORGANIZATION**

### **A. NUMBER OF RESPONSES**

Potential Offerors shall submit only one proposal for this RFP.

### **B. NUMBER OF COPIES**

Offerors shall deliver one (1) original and <#> identical copies (<#> total) of their proposals (Binder 1), one (1) original and <#> identical copies of cost proposal (Binder 2) and <#> electronic version of the

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proposal containing both Binders and all Confidential Information separated on the electronic version (must mirror the hard copy submitted) to the location specified in Section I, Paragraph D on or before the closing date and time for receipt of proposals.

## C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Typewritten on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

### 1. Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Binder 1:

- a) Signed Letter of Transmittal
- c) Table of Contents
- d) Proposal Summary (Optional)
- e) Response to Specifications with the exception of cost
- f) Response to SPA Terms and Conditions
- g) Offeror's Additional Terms and Conditions

Binder 2:

- g) Completed Cost Response Form
- h) Campaign Contribution Form
- i) Signed Employee Health Coverage Form
- j) Signed Affidavit pursuant to Governmental Conduct Act (If applies)
- k) Resident Vendor or Resident Veteran Certificate (If applies)
- l) Resident Veterans Preference Certification (If applies)
- m) Conflict of Interest Affidavit (If applies)
- n) Other Supporting Material (Optional)

Within each section of the proposal, Offerors should address the items in the order in which they appear in this RFP. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates, or expenses must appear only in Binder 2 on the Cost Response form. Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

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.

Offerors may attach other material they believe may improve the quality of their responses. However, these materials should be included in Binder 2.

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## 2. Letter of Transmittal

The Offeror's proposal must be accompanied by the Letter of Transmittal form located in APPENDIX F. The form must be completed and must be signed by the person authorized to obligate the company. The letter of transmittal MUST:

- a) Identify the submitting organization;
- b) Identify the name, title, telephone number, and e-mail address of the person authorized by the organization to contractually obligate the organization;
- c) Identify the name, title, telephone number, and e-mail address of the person authorized to negotiate the contract on behalf of the organization;
- d) Identify the names, titles, telephone numbers, and e-mail addresses of persons to be contacted for clarification;
- e) Identify if sub-contractors will be used in the performance of the contract award;
- f) Describe any relationship with any entity that will be used in the performance of this awarded contract;
- g) Identify the following with a check mark and signature where required:
  - i. Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II, Paragraph C.1;
  - ii. Acknowledge acceptance of Section V of this RFP;
  - iii. Acknowledge receipt of any and all amendments to this RFP;
  - iv. Be signed by the person authorized to contractually obligate the organization.

## IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise specified. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

**A. TECHNICAL SPECIFICATIONS** This section is used by the State agency to define what they require of the offerors. Some suggestions below:

### 1. Organizational Experience

Offerors **must**:

- (a) 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 <what you are asking for>. All <what you are asking for> provided to private sector will also be considered;
- (b) indicate how many <what you are asking for> have been installed in the last two years and what percentage of business revenue is derived from <what you are asking for> engagements;
- (c) describe at least two project successes and failures of an <what you are asking for> engagement. Include how each experience improved the Offeror's services.

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## 2. Organizational References

*Vendors* should provide a minimum of three (3) references from similar projects performed for private State and/or large local government clients within the last three years. *Vendors* are required to submit APPENDIX G, Reference Questionnaire, for the business references they list. The business references must submit the Reference Questionnaire directly to the designee described in Section I, Paragraph D. It is the vendor's responsibility to ensure that the completed forms are received by or before the proposal submission deadline for inclusion in the evaluation process. Business references that are not received in time or are incomplete may adversely affect the vendor's score in the evaluation process. The Evaluation Committee may contact any or all business references for validation of information submitted.

- 2.1 Client name;
- 2.2 Project description;
- 2.3 Project dates (starting and ending);
- 2.4 Technical environment; (i.e., software applications, Internet capabilities, data communications, network, hardware);
- 2.5 Staff assigned to reference engagement that will be designated for work per the RFP;
- 2.6 Client project manager name, telephone number, fax number, and e-mail address.

## 3. Oral Presentation

If selected as a finalist, Offerors **must** agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the State agency. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications. **A statement of concurrence must be submitted in the Offerors' proposal.**

## B. BUSINESS SPECIFICATIONS

### 1. Cost

Offerors must complete Cost Response form in APPENDIX D. Cost will be measured by **<insert your criteria>**. All charges listed on APPENDIX D must be justified and evidence of need documented in the proposal.

### 2. Resident Business or Resident Veteran's Preference

To be awarded the points, Offerors must include a copy of their preference certificates in this section. In addition for Resident Veterans Preference, the certification form must accompany any RFP and any business wishing to receive the preference must complete and sign the form.

### 3. Financial Stability

Offerors **must** submit copies of the most recent years' independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission **must** include the audit opinion, the balance sheet, statements of income, retained earnings, cash flows, and the notes to the financial statements.

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If independently audited financial statements do not exist for the Offeror, the Offeror **must** state the reason and, instead, submit sufficient information (e.g., D & B report) to enable the Evaluation Committee to assess the financial stability of the Offeror.

## 4. Performance Bond

Offerors must have the ability secure a Performance Bond in favor of the State agency to insure the Contractor's performance under the contract. Each engagement will be different, but the option must be available to the Agencies at contract time. **A statement of concurrence must be submitted in the Offeror's proposal.**

## 5. Letter of Transmittal Form

The Offerors' proposals **must** be accompanied by the Letter of Transmittal form, APPENDIX F. The form **must** be completed and signed by the person authorized to obligate the company.

## 6. Campaign Contribution Disclosure Form

The Offeror **must** complete unaltered Campaign Contribution Disclosure Form and submit a signed copy with its proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B)

## 7. Employee Health Coverage Form

The Offeror **must** agree with the terms as indicated in APPENDIX E. The unaltered form **must** be completed and signed by the person authorized to obligate the company.

## 8. Pay Equity Reporting

The Offeror **must** agree with the requirements of reporting as defined in Section II. C. 30. Report is due at the time of contract award. **A statement of concurrence with this requirement must be included in Offeror's submitted proposal.**

## 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 sub-category. **The table below is just a sample make sure yours matches your requirements.**

Factor	Points Available
A Technical Specifications	Points must be assigned and defined for all factors
A(1) Organizational Experience	
A(2) Organizational References	
A(3) Oral Presentations	
B Business Specifications	
B(1) Cost	

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B(2)	Financial Stability	Pass/Fail
B(3)	Performance Bond	Pass/Fail
B(4)	Letter Of Transmittal	Pass/Fail
B(5)	Campaign Contribution Disclosure Form	Pass/Fail
B(6)	Employee Health Coverage Form	Pass/Fail
B(7)	Pay Equity Reporting	Pass/Fail
<b>TOTAL</b>		<b>1,000 points</b>
Resident Preference		

Table 1: Evaluation Point Summary

## B. EVALUATION FACTORS

### 1. A (1) Organizational Experience (See Table 1)

Points will be awarded based on the thoroughness and clarity of the response, the breadth and depth of the engagements cited, and the perceived validity of the response.

### 2. A (2) Organizational References (See Table 1)

Points will be awarded based upon an evaluation of the responses to a series of questions asked of the references concerning the quality of the Offeror’s services, the timeliness of services, responsiveness to problems and complaints, and the level of satisfaction with the Offeror’s overall performance.

### 3. A (3) Oral Presentation (See Table 1)

Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. (If no Oral Presentations are required Offerors will receive the total points)

### 4. B (1) Cost (See Table 1)

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

$$\frac{\text{Lowest Responsive Offer Bid}}{\text{This Offeror’s Bid}} \times \text{Award Points}$$

### 5. Resident Business or Resident Veterans Preference

Percent of preference will be determined by Offerors that submit the correct documentation. Once the RFP is totally scored, the proper percent of preference will apply to those Offerors that qualify. For example, an RFP has a total value of 1000 points. Five proposals are received; one from a resident business, one from a resident veterans business with an 8% preference and three non-resident businesses. The two preference businesses would receive 50 points for the resident preference and 80 points for the resident veterans preference would be added to their already evaluated score, making it possible for the highest score total 1080.



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6. **B (2) Financial Stability (See Table 1)**  
Pass/Fail only. No points assigned.
7. **B (3) Performance Bond (See Table 1)**  
Pass/Fail only. No points assigned.
8. **B (4) Letter of Transmittal (See Table 1)**  
Pass/Fail only. No points assigned.
9. **B (5) Campaign Contribution Disclosure Form (See Table 1)**  
Pass/Fail only. No points assigned.
10. **B (6) Employee Health Coverage Form (See Table 1)**  
Pass/Fail only. No points assigned.
11. **B (7) Pay Equity Reporting (See Table 1)**  
Pass/Fail only. No points assigned.

### **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, Paragraph B. 6.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section II, Paragraph C. 18.
4. Responsive proposals will be evaluated on the factors in Section V, which have been assigned a point value. Responsible Offerors with the highest scores will be selected as finalist Offerors based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the State, taking into consideration the evaluation factors in Section V, will be recommended for SPA to the State, as specified in Section II, Paragraph B.8. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

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## APPENDIX A – Acknowledgement of Receipt Form

REQUEST FOR PROPOSAL

<Insert Name of RFP>

<Insert #>

### ACKNOWLEDGEMENT OF RECEIPT FORM

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

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than <insert time and date>. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the 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 Proposal.

<Insert PM name>, Procurement Manager

<Insert RFP Name and Number>

State Purchasing Division  
1100 St. Francis Dr. Room 2016  
Santa Fe, NM 87505

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Fax: <Insert PM fax number>

E-mail: <Insert PM email address>

## APPENDIX B - Campaign Contribution Disclosure Form

Pursuant to NMSA 1978, §13-1-191.1 (2006), any person 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 shall void an executed contract or cancel a solicitation or proposed award for a proposed contract 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.

THIS FORM 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 either 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,

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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.

“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.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who 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 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.

## DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Name of Applicable Public Official: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_

(Attach extra pages if necessary)

\_\_\_\_\_  
Signature Date  
\_\_\_\_\_  
Title (position)

—OR—

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

\_\_\_\_\_  
Signature Date  
\_\_\_\_\_  
Title (Position)

**APPENDIX C – Sample Contract**

Sample Contract must be attached here.

(Please refer to State Purchasing Division website for options)

**APPENDIX D – Cost Response Form**

**Sample Below**

Description	Type	Quantity	Cost per Item

Based on above requirements and any professional services needed for configuration, installation and training

**Year 1 Cost:**                    \$\_\_\_\_\_

**Year 2-3 Annual Cost**    \$\_\_\_\_\_

**Year 4 and Beyond**

**Annual Cost:**                \$\_\_\_\_\_

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## APPENDIX E - 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 (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to:

(a) 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, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

(b) 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, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or

(c) 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 <http://insurenemexico.state.nm.us/>.

4. 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, \$500,000 or \$1,000,000.

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

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## APPENDIX F - Letter of Transmittal form

**RFP#:** \_\_\_\_\_

**Offeror Name:** \_\_\_\_\_

Items #1 to #7 EACH MUST BE COMPLETED IN FULL Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

1. **Identity (Name) and Mailing Address** of the submitting organization:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2: For the person authorized by the organization to contractually obligate the organization:

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

3. For the person authorized to negotiate the contract on behalf of the organization:

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

4. For the person to be contacted for clarifications:

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

5. Use of Sub-Contractors (Select one)



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No sub-contractors will be used in the performance of this contract OR

The following sub-contractors will be used in the performance of this contract:

---

(Attach extra sheets, as needed)

6. Please describe any relationship with any entity with which will be used in the performance of this contract.

---

(Attach extra sheets, as needed)

7.  On behalf of the submitting organization named in item #1, above, I accept the Conditions

Governing the Procurement as required in Section II, Paragraph C.1.

I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

I acknowledge receipt of any and all amendments to this RFP.

---

\_\_\_\_\_, 2012

Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

## APPENDIX G – Reference Questionnaire

### REFERENCE QUESTIONNAIRE

The State of New Mexico, as a part of the RFP process, requires proposing vendors to submit a minimum of three (3) business references as required within this document. The purpose of these references is to document the experience relevant to the scope of work and provide assistance in the evaluation process.

The proposing vendor is required to send the following reference form to each business reference listed. The business reference, in turn, is requested to submit the Reference Form directly to the **<Insert where you want references to come>** by the RFP submission deadline for inclusion in the evaluation process. The form and information provided will become a part of the submitted proposal. The business reference may be contacted for validation of **<Insert the information you plan to obtain from references>**

**RFP # <Insert #> REFERENCE QUESTIONNAIRE**

**FOR:**

---

(Name of company requesting reference)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the State of New Mexico, **<Insert your State agency Name>** via facsimile or e-mail at:

Name: **<Insert your PM Name>**, Procurement Manager  
Address: **<Insert your address>**  
Telephone: **<Insert your PM phone>**  
Fax: **<Insert your fax>**  
Email: **<Insert PM email>**

no later than **<Insert date>**, and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the State of New Mexico Procurement Manager listed above. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

# Best Value Procurement Guide – Part 1

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## CONFIDENTIAL INFORMATION WHEN COMPLETED

<b>Company providing reference:</b>	
<b>Contact name and title/position</b>	
<b>Contact telephone number</b>	
<b>Contact e-mail address</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)

COMMENTS:

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

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

COMMENTS:

## Best Value Procurement Guide – Part 1

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6. Who were the vendor's principal representatives involved in your project and how would you rate them individually? Would you 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 you with the products developed by the vendor?  
\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

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

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

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

# Best Value Procurement Guide – Part 1

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## APPENDIX H – Resident Veterans Certification

\_\_\_\_\_ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

**Please check one box only**

- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under NMSA 1978 §13-1-21 or §13-1-22, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

"I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

\_\_\_\_\_  
(Signature of Business Representative)\*      \_\_\_\_\_  
(Date)

\*Must be an authorized signatory for the Business. The representations made in checking the boxes constitute a material representation by the business that is subject to protest and may result in denial of an award or non-award of the procurement involved if the statements are proven to be incorrect.





# Best Value Procurement Guide – Part 1

## Exhibit C: Sample Application for Resident Certification

ASD - 22238  
INT - 06/12



### STATE OF NEW MEXICO

Taxation and Revenue Department



### APPLICATION FOR RESIDENT BUSINESS CERTIFICATION

SECTION I		General Information	
Name of Business		Doing Business As (DBA)	
Mailing Address - City, State, Zip Code			
Physical Address - City, State, Zip Code			
Name of Business Owner or Officer	Phone Number of Business Owner or Officer	E-mail of Business Owner or Officer	
Name of Business Contact	Phone Number of Business Contact	E-mail of Business Contact	
NM(CRS) Number:		FEIN/SSN:	
SECTION II		Resident Business Status Information	
<p><b>Please choose the relevant business status category below and place a checkmark next to all statements that apply to the applicant's business under the relevant category. If any statement under the relevant category is not appropriate to or does not otherwise describe the applicant's business, it may not qualify for certification.</b></p>			
<b>Existing Business</b>			
<input type="checkbox"/> The business has been in existence for at least three years; <b>and</b> <input type="checkbox"/> The business is licensed to do business in New Mexico; <b>and</b> <input type="checkbox"/> The business has paid property taxes or rent on real property in New Mexico in <i>each</i> of the preceding three years; <b>and</b> <input type="checkbox"/> The business has paid at least one other tax administered by the State of New Mexico in <i>each</i> of the preceding three years.			
<b>New Business</b>			
<input type="checkbox"/> The business did not exist as a business in any form and has been in existence for less than three years; <b>and</b> <input type="checkbox"/> The business is currently licensed to do business in New Mexico; <b>and</b> <input type="checkbox"/> The owner or majority of owners of the business have paid property taxes or rent on real property in New Mexico in <i>each</i> of the preceding three years; <b>and</b> <input type="checkbox"/> The owner or majority of owners have paid at least one other tax administered by the State of New Mexico in <i>each</i> of the preceding three years; <b>and</b> <input type="checkbox"/> This business has not applied for a Resident Business Certificate or Resident Contractor Certificate during the preceding three years.			
<b>Relocated Business</b>			
<input type="checkbox"/> The business moved at least eighty (80%) percent of its total domestic personnel from another state to New Mexico in the past five years; <b>and</b> <input type="checkbox"/> The business is licensed to do business in New Mexico; <b>and</b> <input type="checkbox"/> Eighty (80%) percent or more of the total personnel of the business in the prior year were residents of New Mexico; <b>and</b> <input type="checkbox"/> The business has leased real property in New Mexico for ten years; <b>or</b> The business has purchased real property in New Mexico valued in excess of \$100,000.			



# Best Value Procurement Guide – Part 1

## Exhibit C

Previously Certified Business or Purchased, Reorganized, Name Changed Business					
<input type="checkbox"/> The business is licensed to do business in New Mexico; <b>and</b> <input type="checkbox"/> After January 1, 2012, but less than three years ago, the business obtained and was eligible for resident business certification. However, the business has since: (1) changed its name; (2) reorganized into one or more different legal entities; or (3) been purchased by or merged with another legal entity, but now operates in New Mexico as substantially the same commercial enterprise;					
<b>OR</b>					
After January 1, 2012, but less than three years ago, the business applied and was eligible for resident business certification. However, before the Department was able to issue certification, the business: (1) changed its name; (2) reorganized into one or more different legal entities; or (3) was purchased by or merged with another legal entity, but now operates in New Mexico as substantially the same commercial enterprise.					
SECTION III		Affidavit			
AFFIDAVIT FROM CERTIFIED PUBLIC ACCOUNTANT					
STATE OF _____	I hereby swear, <u>under oath</u> that it is my professional opinion that the applicant meets the required criteria set forth in NMSA 1978, Section 13-1-22 (B) (2012) for Resident Business Certification and that ALL information provided and ALL checked marked statements in the foregoing application are true and complete to the best of my knowledge.				
COUNTY OF _____					
Name	CPA License #	State	Date		
Signature					
NOTARY					
Subscribed and sworn to before me this _____ day of _____, 20_____.					
(NOTARY SEAL)					
Notary Public _____		My Commission Expires _____			
I am authorized to sign this application on behalf of the applicant and attest to the truthfulness of the information provided herein.					
Signature of Applicant			Date		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 10px;"> <b>Send completed application along with \$35.00 to:</b> </td> <td style="padding: 10px;"> <b>Taxation and Revenue Department                      PO Box 5374                      Santa Fe, NM 87502-5374                      (505) 827-0951</b> </td> </tr> </table>				<b>Send completed application along with \$35.00 to:</b>	<b>Taxation and Revenue Department                      PO Box 5374                      Santa Fe, NM 87502-5374                      (505) 827-0951</b>
<b>Send completed application along with \$35.00 to:</b>	<b>Taxation and Revenue Department                      PO Box 5374                      Santa Fe, NM 87502-5374                      (505) 827-0951</b>				

**Exhibit C: Sample Application for Resident Certification**

# Best Value Procurement Guide – Part 1

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## **APPROVALS AND PENALTIES**

TRD will examine the application and affidavit. If necessary, TRD may seek additional information to ensure the business' eligibility. If TRD determines that the business is eligible, it will issue a certificate to the business. If TRD determines that the business is not eligible, it will issue notification within 30 days. If such notification is not provided by the Department, the application is deemed approved.

A certificate is valid for three years from the date of issuance; provided that if there is a change of ownership of more than 50%, the applicant must reapply. A business must also reapply if it has changed its name, reorganized into one or more different legal entities or was purchased by or merged with another legal entity, but now operates in New Mexico as substantially the same commercial enterprise. In such a case, the certification of the business in its previous form will apply three years from the date of the previous certification, but only to the extent the business was eligible for certification in its previous form.

If an application is denied, the business has 15 days from the date of the denial to file an objection with TRD, submitting evidence to support the objection. TRD must review the evidence and issue a response to the objection within 15 days of the filing of the objection.

If following a hearing and an opportunity to be heard, TRD finds that a business provided false information to TRD in order to obtain a certificate or that a business used a certificate to obtain a preference and the business did not perform the percentage of the contract specified in the bid or proposal, the business:

1. Is not eligible to receive a certificate or preference for a period of five years from the date on which TRD became aware of the submission of the false information or the failure to perform the contract as specified in the bid or proposal; and
2. Is subject to an administrative penalty of up to \$50,000 for each violation.

## **REVOCATIONS**

TRD will contemplate revoking an issued certificate if information is revealed that the holder's situation has changed and/or the business does not qualify as a resident business. If TRD contemplates revocation, it will issue a Notice of Contemplated Action to the business. The business will be provided with an opportunity to request an administrative hearing on the matter.

## **APPLICATION AND FEE SUBMISSION**

Submit the application along with \$35 application fee to:

New Mexico Taxation and Revenue Department  
Santa Fe District Office  
PO Box 5374  
Santa Fe, NM 87502-5374

For questions concerning the application process please call (505) 827-0951.