

New Mexico Public Schools Insurance Authority

REQUEST FOR PROPOSALS (RFP)

GENERAL LEGAL COUNSEL SERVICES



RFP#
342-2023-10

RFP Release Date:
March 28, 2023

Proposal Due Date:
April 20, 2023

ELECTRONIC-ONLY PROPOSAL SUBMISSION

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

28.	<i>New Mexico Employees Health Coverage</i>	15
29.	<i>Campaign Contribution Disclosure Form</i>	15
30.	<i>Letter of Transmittal</i>	15
31.	<i>Disclosure Regarding Responsibility</i>	16
32.	<i>New Mexico/Native American Resident Preferences</i>	18
III. RESPONSE FORMAT AND ORGANIZATION		19
A.	NUMBER OF RESPONSES	19
1.	<i>ELECTRONIC SUBMISSION ONLY</i>	19
B.	PROPOSAL FORMAT	20
1.	<i>Proposal Content and Organization</i>	20
IV. SPECIFICATIONS		22
A.	DETAILED SCOPE OF WORK	22
B.	TECHNICAL SPECIFICATIONS	23
1.	<i>Organizational Experience</i>	23
2.	<i>Organizational References</i>	23
3.	<i>Mandatory Specification</i>	24
4.	<i>Desirable Specification</i>	25
C.	BUSINESS SPECIFICATIONS	26
1.	<i>Financial Stability</i>	26
2.	<i>Performance Surety Bond</i>	26
3.	<i>Letter of Transmittal Form</i>	26
4.	<i>Campaign Contribution Disclosure Form</i>	26
5.	<i>Oral Presentation</i>	26
6.	<i>Cost</i>	27
7.	<i>New Mexico/Native American Resident Preferences</i>	27
V. EVALUATION		28
A.	EVALUATION POINT SUMMARY	28
B.	EVALUATION FACTORS	28
1.	<i>B.1. Organizational Experience (See Table 1)</i>	28
2.	<i>B.2. Organizational References (See Table 1)</i>	28
3.	<i>B.3. Mandatory Specifications (See Table 1)</i>	29
4.	<i>B.4. Desirable Specifications (See Table 1)</i>	29
5.	<i>C.1. Financial Stability (See Table 1)</i>	29
6.	<i>C.3. Letter of Transmittal (See Table 1)</i>	29
7.	<i>C.4. Campaign Contribution Disclosure Form (See Table 1)</i>	29
8.	<i>C.5. Oral Presentation (See Table 1)</i>	29
9.	<i>C.6. Cost (See Table 1)</i>	30
10.	<i>C.7. New Mexico/Native American Resident Preferences</i>	30
C.	EVALUATION PROCESS	30
APPENDIX A		32
ACKNOWLEDGEMENT OF RECEIPT FORM		32
APPENDIX B		34
CAMPAIGN CONTRIBUTION DISCLOSURE FORM		34
APPENDIX C		37
DRAFT CONTRACT		37
STATE OF NEW MEXICO		37

APPENDIX D.....	46
COST RESPONSE FORM	46
APPENDIX E	47
LETTER OF TRANSMITTAL FORM	47
APPENDIX F	49
ORGANIZATIONAL REFERENCE QUESTIONNAIRE	49
APPENDIX G.....	54
QUESTIONS BY THE PROCURING AGENCY	54
APPENDIX H.....	56
LIST OF NMPSIA MEMBERS.....	56

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 procurement of general legal counsel services for the New Mexico Public Schools Insurance Authority (NMPSIA).

B. BACKGROUND INFORMATION

The New Mexico Public Schools Insurance Authority (NMPSIA) is a public entity pool created pursuant to the Public Schools Insurance Authority Act (Sect. 22-29-1 et seq. NMSA 1978). It is charged with providing comprehensive core insurance programs for participating employers and public-school districts property/liability and workers' compensation insurance (Risk) and the full range of employee benefits coverages to participating public employees and dependents (Benefits).

The purpose of the Agency is to provide comprehensive core insurance programs for all participating public schools and to maximize cost containment opportunities for required insurance coverage. The "Risk-Related" program of the Agency was legislatively mandated on July 1, 1986, for all public K-12 schools [excluding Albuquerque Public Schools (APS)] and all Charter Schools. During each four (4) year contract period, members are prohibited from withdrawing from the Pool. In addition to the K-12 School Districts, there are post-secondary educational institutions, Non-Educational entities, and charter schools. The geographical area exposed to the Agency is statewide.

C. SCOPE OF PROCUREMENT

The Procuring Agency is issuing the RFP to procure general legal counsel services on an "as needed/if needed" basis to assist the Authority in meeting its obligations. Refer to the "Detailed Scope of Work" for an overview of the services being sought.

This procurement may result in a Multiple Source Award. The Procuring Agency reserves the right to divide the services in the Detailed Scope of Work and award multiple contracts to multiple Offerors if it is deemed advantageous to the Procuring Agency. For example, the Procuring Agency may select one Offeror for general legal counsel services and one Offeror for lobbying services. The Procuring Agency may select one offeror for all services.

The resulting contract will be a single award.

This procurement will result in a contractual agreement between two parties; the procurement may ONLY be used by those two parties exclusively.

The term will be four years.

D. PROCUREMENT MANAGER

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

Name: Charlette Probst
Telephone: (505) 469-9038
Email: NMPSIA.procurement@psia.nm.gov

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of the NMPSIA.
2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.12.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

E. PROPOSAL SUBMISSION

Submissions of all proposals must be accomplished via NMPSIA.procurement@psia.nm.gov. Refer to Section III.A.1 for instructions.

**Include RFP name and RFP#*

F. DEFINITION OF TERMINOLOGY

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

1. “**Agency**” means the State Purchasing Division of the General Services Department or that State Agency sponsoring this Procurement.
2. “**Award**” means the final execution of the contract document.
3. “**Business Hours**” means 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.
4. “**Close of Business**” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.

5. “**Confidential**” means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978. See also NMAC 1.4.1.45. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
6. “**Contract**” means any agreement for the procurement of items of tangible personal property, services or construction.
7. “**Contractor**” means any business having a contract with a state agency or local public body.
8. “**Determination**” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
9. “**Desirable**” – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.
10. “**Electronic Submission**” means a successful submittal of Offeror’s proposal to the NMPSIA.procurement@psia.nm.gov, in such cases where email submissions are accepted.
11. “**Electronic Version/Copy**” means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The electronic version/copy **MUST** be emailed
12. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
13. “**Evaluation Committee Report**” means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee’s recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.
14. “**Final Award**” means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.
15. “**Finalist**” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.
16. “**Hourly Rate**” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

17. **“IT”** means Information Technology.
18. **“Mandatory”** – the terms “must,” “shall” “will,” “is required,” or “are required,” identify a mandatory item or factor. Failure to meet a mandatory item or factor may result in the rejection of the Offeror’s proposal.
19. **“Minor Irregularities”** means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
20. **“NMPSIA”** means The New Mexico Public Schools Insurance Authority.
21. **“Offeror”** is any person, corporation, or partnership who chooses to submit a proposal.
22. **“Procurement Manager”** means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.
23. **“Project”** means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved, and project acceptance is given by the project executive sponsor.
24. **“Redacted”** means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7, NMSA 1978 and NMAC 1.4.1.45 and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out BUT NOT omitted or removed.
25. **“Request for Proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.
26. **“Responsible Offeror”** means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.
27. **“Responsive Offer”** or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.
28. **“SPD”** means State Purchasing Division of the New Mexico State General Services Department.
29. **“Staff”** means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

30. **“State (the State)”** means the State of New Mexico.
31. **“State Agency”** means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the Purchasing Division of the General Services Department and the State Purchasing Agent but does not include local public bodies.
32. **“State Purchasing Agent”** means the Director of the Purchasing Division of the General Services Department.
33. **“Statement of Concurrence”** means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (E.g. “We concur,” “Understands and Complies,” “Comply,” “Will Comply if Applicable,” etc.)
34. **“Unredacted”** means a version/copy of the proposal containing all complete information; including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.
35. **“Written”** means typewritten on standard 8 ½ x 11-inch paper. Larger paper is permissible for charts, spreadsheets, etc.

G. PROCUREMENT LIBRARY

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

Electronic version of RFP, Questions & Answers, RFP Amendments, etc. <https://nmpsia.com/>

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	NMPSIA	March 28, 2023
2. Acknowledgement of Receipt Form	Potential Offerors	April 3, 2023
3. Deadline to submit Written Questions	Potential Offerors	April 3, 2023
4. Response to Written Questions	NMPSIA	April 5, 2023
5. <i>Submission of Proposal</i>	<i>Potential Offerors</i>	<i>April 20, 2023</i>
6.* Proposal Evaluation	Evaluation Committee	TBD
7.* Selection of Finalists	Evaluation Committee	TBD
8.* Best and Final Offers	Finalist Offerors	TBD
9.* Oral Presentation(s)	Finalist Offerors	TBD
10.* Finalize Contractual Agreements	NMPSIA /Finalist Offerors	TBD
11.* Contract Awards	NMPSIA / Finalist Offerors	TBD
12.* Protest Deadline	NMPSIA	+15 days

* Dates indicated in Events 7 through 13 are estimates only and may be subject to change without necessitating an amendment to the RFP.

B. EXPLANATION OF EVENTS

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

1. Issue RFP

This RFP is being issued on behalf of the State of New Mexico NMPSIA on the date indicated in Section II.A, Sequence of Events.

2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the Procurement Manager, Charlette Probst, at NMPSIA.procurement@psia.nm.gov, to have their organization placed on the procurement Distribution List. The form must be returned by 3:00 pm MST/ MDT on the date indicated in Section II.A, Sequence of Events.

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

3. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 3:00 pm MST/MDT as indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Procurement Manager as declared in Section I.D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

4. Response to Written Questions

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

An electronic version of the Questions and Answers will be posted to: <https://nmpsia.com/>

5. Submission of Proposal

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

ALL PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS. **NO LATE PROPOSAL CAN BE ACCEPTED.**

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

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

Proposals must be addressed and delivered to the Procurement Manager at the address identified in Section I.E via email. Proposals submitted by facsimile, or other electronic means other than via NMPSIA.procurement@psia.nm.gov, will not be accepted.

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

6. Proposal Evaluation

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

7. Selection of Finalists

The Evaluation Committee will select, and the Procurement Manager will notify the finalist Offerors as per schedule Section II.A, Sequence of Events or as soon as possible thereafter. A schedule for Oral Presentation, if any, will be determined at this time.

8. 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 as possible. Best and final offers may also be clarified and amended at finalist Offeror's oral presentation.

9. Oral Presentations

Finalist Offerors, as selected per Section II.B.8 above, may be required to conduct an oral presentation at a venue to be determined as per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. If oral presentations are held, Finalist Offerors may be required to make their presentations through electronic means (GoToMeeting, Zoom, etc).

The Agency will provide Finalist Offerors with applicable details. Whether or not Oral Presentations will be held is at the discretion of the Evaluation Committee and NMPSIA.

10. Finalize Contractual Agreements

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), taking into consideration the evaluation factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

11. Contract Awards

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

12. Protest Deadline

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

New Mexico Public Schools Insurance Authority
410 Old Taos Highway
Santa Fe, New Mexico
505-469-9038

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

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

2. Incurring Cost

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

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the agency awarding any resultant contract, before any subcontractor is used during the term of this agreement.

5. Amended Proposals

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

6. Offeror's Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals via NMPSIA.procurement@psia.nm.gov. The Offeror must submit a written withdrawal request addressed to the Procurement Manager and signed by the Offeror's duly authorized representative.

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

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

a. *Proprietary and Confidential information is restricted to:*

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

b. *An additional but separate redacted version of Offeror's proposal, as outlined and identified in Sections III.A.1.a.i shall be submitted containing the blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.*

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

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

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

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

12. Legal Review

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

13. Governing Law

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

14. Basis for Proposal

Only information supplied in writing by the Procurement Manager via NMPSIA.procurement@psia.nm.gov, or contained in this RFP shall be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

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

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

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

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

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

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

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 Agency. See Section II.C.15 for requirements.

17. Contract Deviations

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

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.F. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that **all** of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

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

21. Notice of Penalties

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

22. Agency Rights

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

23. Right to Publish

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

24. Ownership of Electronic Proposals

All electronic documents submitted in response to the RFP shall become property of the State of New Mexico. If the RFP is cancelled, all electronic responses received via NMPSIA.procurement@psia.nm.gov shall be destroyed by the NMPSIA within three (3) business days of notification of the cancellation.

25. Confidentiality

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

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

26. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.4, Response to Written Questions).

27. Use of Electronic Versions of this RFP

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

28. New Mexico Employees Health Coverage

3

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <https://bewellnm.com>.
- D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

29. Campaign Contribution Disclosure Form

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

30. Letter of Transmittal

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

Provide the following information:

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

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

31. Disclosure Regarding Responsibility

- A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
 1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
 2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers;or

- c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
 3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
 4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Contractor shall provide immediate written notice to the State Purchasing Agent or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
- D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any

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

32. New Mexico/Native American Resident Preferences

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

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

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP. *Unless you have Confidential Information then you must submit a separate electronic redacted file.*

1. ELECTRONIC SUBMISSION ONLY

Proposals in response to this RFP must be submitted through NMPSIA’s procurement email address ONLY: (NMPSIA.procurement@psia.nm.gov), The Offeror need only submit one single electronic copy of each portion of its proposal (Technical and Cost) as outlined below. *EXCEPTION: Single electronic files that exceed 50mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 50mb limit.* Separate the proposals as described below into separate electronic files for submission.

Proposals must be submitted in the manner outlined below. Technical and Cost portions of Offerors proposal **must** be submitted in separate uploads as indicated below in this section, and **must** be prominently identified as “Technical Proposal,” or “Cost Proposal,” on the front page of each upload

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

i. **Confidential Information:** If Offeror’s proposal contains confidential information, as defined in Section I.F. and detailed in Section II.C.8, Offeror **must** submit **two (2) separate ELECTRONIC technical files :**

- One (1) ELECTRONIC version of the requisite proposals identified in Section III.B.1.a above as **unredacted** (def. Section I.F) versions for evaluation purposes; and
- One (1) **redacted** (def. Section I.F) ELECTRONIC for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror’s proposal. Redacted versions **must** be clearly marked as “REDACTED” or “CONFIDENTIAL” on the first page of the electronic file;

- b) **Cost Proposals** – One (1) ELECTRONIC upload of the proposal containing **ONLY** the Cost Proposal. All information for the cost proposal **must be combined into a single file/document for uploading**. *EXCEPTION: Single electronic files that exceed 50mb may*

be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 50mb limit

The ELECTRONIC proposal submission **must be fully uploaded** by the submission deadline in Section II.B.6.

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

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

B. PROPOSAL FORMAT

All proposals must be submitted as follows:

Organization of files/envelopes for electronic copy proposals:

1. Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material must 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.

Technical Proposal – DO NOT INCLUDE ANY COST INFORMATION IN THE TECHNICAL PROPOSAL.

- A. Signed Letter of Transmittal
- B. Signed Campaign Contribution Form
- C. Table of Contents
- D. Response to Contract Terms and Conditions (from Section II.C.15)
- E. Offeror's Additional Terms and Conditions (from Section II.C.16)
- F. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal/Binder 2**)
 1. Organizational Experience
 2. Organizational References
 3. Oral Presentation (if applicable)
 4. Mandatory Specification
 5. Desirable Specification

6. Financial Stability (Financial information considered confidential, as defined in Section I.E. and detailed in Section II.C.8, should be placed in the **Confidential Information** file, per Section III.A.1.a.i or Section II.B.2. as applicable)
 7. Performance Surety Bond (if applicable)
 8. New Mexico Preferences (if applicable)
- G. Other Supporting Material (if applicable)

Cost Proposal:

1. Completed Cost Response Form (APPENDIX D)

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in the Cost Proposal.**

A Proposal Summary may be included in Offeror's Technical Proposal, 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. **DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.**

IV. SPECIFICATIONS

A. DETAILED SCOPE OF WORK

NMPSIA seeks an experienced and qualified attorney(s) to perform general legal counsel services on behalf of NMPSIA. The bidder will be expected to provide general legal services including, but not limited to, the following functions:

- A. Provide legal advice ranging from benefits-related insurance matters, risk-related insurance matters, insurance policy interpretations, contractual matters involving NMPSIA, as well as provide services general in nature, to include personnel matters. Legal advice includes providing the Board, the Executive Director and Deputy Director with written and verbal opinions, memoranda and direction on legal issues pertaining to NMPSIA, as well as interpreting Federal and State statutes and regulations, and NMPSIA's Rules and Regulations, and ensuring regulatory compliance.
- B. Attend monthly committee and Board meetings at various locations around the state and ensure the committees and the Board are in compliance with the Open Meetings Act (OMA), Robert's Rules of Order, and the New Mexico Attorney General's Open Meetings Act Compliance Guide. Committee and Board meetings are typically held the first Wednesday and Thursday of each month. Committee meetings are held simultaneously on the same day, so attendance by one attorney (or associate) may be required at each committee. Typically, there are no committee or Board meetings in January or July. The Board may call special committee or Board meetings at any time. Attendance will also be required at other meetings relevant to NMPSIA's business, as requested.
- C. Oversee, from a legal perspective, the operation of NMPSIA's insurance programs and the activities of the contracted entities acting on behalf of NMPSIA, including litigation management.
- D. Draft and review contracts, amendments and extensions, and ensure compliance with the New Mexico State Procurement Code.
- E. Draft and review Property & Casualty Memorandums of Coverage (MOC), including insurance policies, and MOC revisions.
- F. Interact with the Third-Party Administrator(s) in making recommendations when a Reservation of Rights (ROR) letters is warranted and assist them in drafting the ROR.
- G. Issue coverage opinions and coverage determinations, and assistance in reviewing excess policies and how they complement the MOCs.
- H. Assist the Procuring Agency's third-party administrators, upon the Procuring Agency's approval, to prepare the defense for litigated cases, to negotiate settlements and to prepare for subrogation or contribution actions.

- I. Draft and review Rules and Regulations for NMPSIA, including scheduling and holding public hearings required by statute and the New Mexico State Records and Archives Commission of Public Records. Rules will be reviewed annually to ensure compliance with state and federal laws.
- J. Interact and lobby on legislative matters to include the drafting of bills, bill analysis, providing testimony and other functions related to the legislative process, as requested.
- K. Accept and accomplish assignments as directed by the NMPSIA Executive Director and/or Deputy Director.
- L. Accept and accomplish assignments as directed by the NMPSIA Board of Directors through official action, and/or in accordance with the Procuring Agency's statute, rules and regulations, and policies.
- M. Provide assistance with the review of, and response to, IPRA requests.
- N. Supervise the Third-Party Administrator(s) on all litigated and/or complex claims and assist both them and assigned legal counsel with both litigation management, strategy and overall direction.

B. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offeror **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 general legal counsel services. All general legal counsel services provided to private sector will also be considered;
- b) indicate how many public entity clients have been installed in the last five years;
- c) describe at least two project successes and failures of legal counsel services engagement. Include how each experience improved the Offeror's services.

2. Organizational References

Offeror must provide a list of a minimum of **three (3)** external references from similar projects/programs performed for private, state or large local government clients within the last **three (3) years**.

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

- a) Client name;
- b) Project description;
- c) Project dates (starting and ending);
- d) Technical environment (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);
- e) Staff assigned to reference engagement that will be designated for work per this RFP; and
- f) Client project manager name, telephone number, fax number and e-mail address.

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

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

3. Mandatory Specification

Offeror must explicitly agree to all of the Mandatory Specifications listed below. Deviations will result in disqualification of Offeror’s response.

- a. Offeror is qualified and licensed to provide services in the State of New Mexico as it relates to this RFP. **A statement of concurrence must be submitted in the Offeror’s proposal.**
- b. Offeror must provide answer all of the Procuring Agency’s questions listed in Appendix G;
- c. Offeror must have, or procure, a professional liability insurance policy if awarded a contract through this procurement. **A statement of concurrence must be submitted in the Offeror’s proposal.**
- d. Offeror must have, or implement, a Data Backup and Disaster Recovery plan. **A statement of concurrence must be submitted in the Offeror’s proposal.**
- e. Offeror must agree to attend all committee meetings, board meetings, and other meetings as required by the Procuring Agency. **A statement of concurrence must be submitted in the Offeror’s proposal.**

- f. Offeror must agree to the following indemnification language, which will be included in the awarded contract(s). **A statement of concurrence must be submitted in the Offeror's proposal.**
- g. The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the Agency by certified mail.

4. Desirable Specification

- a. Offeror has extensive experience practicing law in both state and federal courts. Provide examples;
- b. Offeror has familiarity with the benefits and risk insurance purchasing, interpretation of policies, and litigation. Provide examples;
- c. Offeror has experience in working with the New Mexico State Procurement Code and contracting process. Provide examples;
- d. Offeror has experience in working with public sector clients and/or boards. Provide examples;
- e. Offeror has experience in working with the New Mexico Open Meetings Act. Provide examples;
- f. Offeror has experience in working with the New Mexico Inspection of Public Records Act. Provide examples;
- g. Offeror has experience in working with statute, rule and regulation changes and public hearings. Provide examples; and
- h. Offeror has familiarity with employment law. Provide examples; and
- i. Offeror has familiarity with Employee Benefits Medical and Pharmacy Benefit Carriers practices. Provide examples

C. BUSINESS SPECIFICATIONS

1. 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, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, 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. Failure to respond with supporting documentation will result in Offerors disqualification.

Failure to respond with supporting documentation will result in Offerors disqualification.

2. Performance Surety Bond.

Surety Bond will not be required for this RFP.

3. Letter of Transmittal Form

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

4. Campaign Contribution Disclosure Form

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

5. Oral Presentation

If oral presentations are held, finalist Offeror(s) may be required to explain, demonstrate, detail, and/or clarify any aspect of its submitted proposal, to which the Evaluation Committee may ask questions and/or seek clarifications. Pursuant to Section II.B.9, Oral Presentations may held at the sole discretion of the Evaluation Committee.

6. Cost

Offerors must complete the Cost Response Form in APPENDIX D.

7. New Mexico/Native American Resident Preferences

To ensure application of § 13-1-21 NMSA 1978 (as amended), an Offeror **MUST** submit a copy, in this section, of its valid New Mexico/Native Resident Preference Certificate or its valid New Mexico/Native American Resident Veteran Preference Certificate, as issued by the New Mexico Taxation and Revenue Department.

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.

Evaluation Factors <i>(Correspond to section IV.B and IV C)</i>	Points Available
B. Technical Specifications	
B. 1. Organizational Experience	240
B. 2. Organizational References	60
B. 3. Mandatory Specification	Pass/Fail
3.B.3.A. Summary of Auditors Service	Pass/Fail
3.B.3.B. Primary	Pass/Fail
B. 4. Desirable Specification	300
C. Business Specifications	
C.1. Financial Stability	Pass/Fail
C.3. Letter Of Transmittal	Pass/Fail
C.4. Campaign Contribution Disclosure Form	Pass/Fail
C.5. Oral Presentations	100
C.6. Cost	300
TOTAL POINTS AVAILABLE	1,000
C.7. New Mexico / Native American Resident Preference	50
C.7. New Mexico / Native American Resident Veteran Preference Points per Section IV C.7	100

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

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

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror's experience, expertise and knowledge; and of personnel education, experience and certifications/licenses. In addition, points will be awarded based on Offeror's candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

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

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix F). Offeror will be evaluated on

references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will receive zero (0) points.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the Agency reserves the right to consider any and all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

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

Refer to section B. Technical Specifications, 3. Mandatory Specifications.

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

Refer to section B. Technical Specifications, 4. Desirable Specifications

5. C.1. Financial Stability (See Table 1)

Pass/Fail only. No points assigned.

6. C.3. Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

7. C.4. Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

8. C.5. 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. Prior to Oral Presentation,

Agency will provide the Offeror a presentation agenda. (If no Oral Presentations are held all Offerors will receive the maximum amount of total points for this Evaluation Factor).

9. C.6. Cost (See Table 1)

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

$$\frac{\text{Lowest Responsive Offeror's Cost (avg of 4 years)}}{\text{Each Offeror's Cost (avg of 4 years)}} \times \text{Available Award Points (300)}$$

10. C.7. New Mexico/Native American Resident Preferences

Percentages will be determined based upon the point-based system outlined in § 13-1-21 NMSA 1978 (as amended).

A. New Mexico Resident Business Preference / Native American Resident Preference

If an Offeror has provided a copy of its New Mexico Resident Preference Certificate or Native American Resident Preference Certificate, the points awarded will be calculated as 8% of the total points available in this RFP.

B. New Mexico/Native American Resident Veteran Preference

If an Offeror has provided a copy of its New Mexico Resident Veteran Preference Certificate or Native American Resident Veteran Preference Certificate the points awarded will be calculated as 10% of the total points available in this RFP.

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. In accordance with 13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the State taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.12). Please note, however, that a

serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

APPENDIX A
REQUEST FOR PROPOSAL
GENERAL LEGAL COUNSEL SERVICES
RFP#342-2023-10
ACKNOWLEDGEMENT OF RECEIPT FORM

This Acknowledgement of Receipt Form should be signed and submitted no later than 3:00 pm MST/MDT on April 3, 2023. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

In acknowledgement of receipt of this Request for Proposal, the undersigned agrees that he or she has received a complete copy of the RFP, beginning with the title page, and ending with APPENDIX F.

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

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:

To: Charlette Probst, Procurement Manager

E-mail: NMPSIA.procurement@psia.nm.gov

Subject Line: GENERAL LEGAL COUNSEL SERVICES RFP#342-2023-10

APPENDIX B
CAMPAIGN CONTRIBUTION DISCLOSURE FORM
RFP#342-2023-10

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

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

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

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

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

The following definitions apply:

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

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

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

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

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

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

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

Name(s) of Applicable Public Official(s) if any: _____
(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s)

(Attach extra pages if necessary)

Signature

Date

Title (position)

Name of Company

--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)

Name of Company

APPENDIX C
DRAFT CONTRACT

STATE OF NEW MEXICO

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

PROFESSIONAL SERVICES CONTRACT # _____

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **Public Schools Insurance Authority (NMPSIA)**, hereinafter referred to as the “Authority,” and **NAME OF CONTRACTOR**, hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Authority.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the following work:

2. Compensation.

A. The Authority shall pay to the Contractor in full payment for services satisfactorily performed at the rate of _____ dollars (\$_____) per hour (OR BASED UPON DELIVERABLES, MILESTONES, BUDGET, ETC.), such compensation not to exceed (AMOUNT), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling (AMOUNT) shall be paid by the Authority to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Authority when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the Authority. All invoices MUST BE received by the Authority no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

(—OR—)

(CHOICE – MULTI-YEAR)

A. The Authority shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of _____ dollars (\$ _____) in FYXX (USE FISCAL YEAR NUMBER TO DESCRIBE YEAR; DO NOT USE FY1, FY2, ETC.). The New Mexico gross receipts tax levied on the amounts payable under this Agreement in FYXX totaling (AMOUNT) shall be paid by the Authority to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FYXX.**

(REPEAT LANGUAGE FOR EACH FISCAL YEAR COVERED BY THE AGREEMENT -- USE FISCAL YEAR NUMBER TO DESCRIBE EACH YEAR; DO NOT USE FY1, FY2, ETC.).

B. Payment in FYXX, FYXX, FYXX, and FYXX is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the Authority. All invoices MUST BE received by the Authority no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date **WILL NOT BE PAID.**

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Authority finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Authority that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the Authority shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

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

4. Termination.

A. Grounds. The Authority may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Authority's uncured, material breach of this Agreement.

B. Notice; Authority Opportunity to Cure.

1. Except as otherwise provided in Paragraph (4)(B)(3), the Authority shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Authority written notice of termination at one hundred and eighty (180) days prior to the intended date of termination, which notice shall (i) identify all the Authority's material breaches of this Agreement upon which the termination is based and (ii) state what the Authority must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Authority does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Authority does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Authority; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Authority's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AUTHORITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

D. Termination Management. Immediately upon receipt by either the Authority or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Authority; 2) comply with all directives issued by the Authority in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Authority shall direct for the protection, preservation, retention or transfer of all property titled to the Authority and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Authority upon termination and shall be submitted to the Authority as soon as practicable.

5. Appropriations.

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

6. Status of Contractor.

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

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Authority.

8. Subcontracting.

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

9. Release.

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

10. Confidentiality.

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

11. Product of Service -- Copyright.

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

12. Conflict of Interest; Governmental Conduct Act.

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

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

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

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

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

4) this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

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

6) in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Authority.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Authority relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Authority if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Authority and

notwithstanding anything in the Agreement to the contrary, the Authority may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

B. If the Authority proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

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

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Authority.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Authority, the General Services Department/State Purchasing Division and the State Auditor. The Authority shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Authority to recover excessive or illegal payments

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Authority and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Authority and the Risk Management Division of the New Mexico General Services Department by certified mail.

21. New Mexico Employees Health Coverage.

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

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

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

22. Invalid Term or Condition.

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

23. Enforcement of Agreement.

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

24. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the Authority:

[insert name, address and email].

To the Contractor:

[insert name, address and email].

25. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Authority below.

New Mexico Public Schools Insurance Authority

By: _____
Al Park,, Board President

Date: _____

(CONTRACTOR)

By: _____
Contractor

Date: _____

ACKNOWLEDGMENT FOR CORPORATION

State of New Mexico)
) ss
County of Santa Fe)

SUBSCRIBED AND SWORN to before me this ____ day of _____, by,
(NAME), (CONTRACTOR).

Notary Public

My Commission Expires

APPENDIX D

COST RESPONSE FORM

Description	Type	Quantity	Cost per Item

All amounts provided must include all labor, materials, equipment, transportation, configuration, installation, training and profit to provide the goods and/or services described in Section IV.A, (as amended by any current RFP amendments for the period specified).

Option Year 1: (xx/xx/xxxx thru xx/xx/xxxx) Price:\$ _____

Option Year 2: (xx/xx/xxxx thru xx/xx/xxxx) Price:\$ _____

Option Year 3: (xx/xx/xxxx thru xx/xx/xxxx) Price:\$ _____

Option Year 4: (xx/xx/xxxx thru xx/xx/xxxx) Price:\$ _____

APPENDIX E

LETTER OF TRANSMITTAL FORM

APPENDIX E

Letter of Transmittal Form

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

RFP#: 342-2023-10

1. Identify the following information for the submitting organization:

Offeror Name	
Mailing Address	
Telephone	
FED ID#	
NM CRS#	

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

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

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

3. Use of subcontractors (Select one):

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

 (Attach extra sheets, as needed)

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

 (Attach extra sheets, as needed)

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

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

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

APPENDIX F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The State of New Mexico, as a part of the RFP process, requires Offerors to list a minimum of three (3) organizational references in their proposals. The purpose of these references is to document Offeror's experience relevant to the Section IV.A, Detailed Scope of Work in an effort to evaluate Offeror's ability to provide goods and/or services, performance under similar contracts, and ability to provide knowledgeable and experienced staffing.

Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.2. The business reference, if it chooses to respond, is required to submit its response to the Organizational Reference Questionnaire directly to: Charlette Probst, Procurement Manager, at NMPSIA.procurement@psia.nm.gov by the due date for the Request for Proposals for inclusion in the evaluation process. The Questionnaire and information provided will become a part of the submitted proposal. Businesses/Organizations providing references may be contacted for validation of content provided therein.

RFP # 342-2023-10
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

(Name of Offeror)

This form is being submitted to your company for completion as a reference for the organization listed above. This Questionnaire is to be submitted to the State of New Mexico, NMPSIA via e-mail at:

Name: Charlette Probst, Procurement Manager
Email: NMPSIA.procurement@psia.nm.gov

Forms must be submitted no later than the due date of the Request for Proposals, and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings.

For questions or concerns regarding this form, please contact the State of New Mexico **Procurement Manager** at 505-469-9038 or NMPSIA.procurement@psia.nm.gov. When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

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

QUESTIONS:

1. In what capacity have you worked with 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:

1. 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, N/A = Not applicable)

COMMENTS:

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

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

COMMENTS:

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

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

Name: _____ Rating: _____

Name: _____ Rating: _____

Name: _____ Rating: _____

Name: _____ Rating: _____

COMMENTS:

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

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

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

COMMENTS:

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

COMMENTS:

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

COMMENTS:

Appendix G

Questions by the Procuring Agency

1. What is your firm's experience related to employee benefits insurance? Must include a narrative outlining your employee benefits insurance related experience.
2. Have you provided guidance on employee benefits insurance related issues? If so, attach any written legal opinions prepared for handling a benefits or eligibility dispute.
3. Does your firm have experience related to risk insurance, risk litigation, and/or risk mitigation? If so, include a narrative outlining this experience.
4. Has your firm provided guidance on, or litigated, risk insurance related claims? If so, provide examples of such cases and/or written legal opinions.
5. Does your firm have experience in advising and working with public sector boards? If so, provide a sample of a written opinion your firm provided in response to a Board question.
6. Has your firm successfully argued for a client under the Tort Claims Act?
7. What resources are available to NMPSIA if your firm is awarded a contract through this procurement (i.e. the name and experience of the attorney who would be the primary contact for NMPSIA, secondary, etc.)?
8. Does your firm have a perpetuity plan in the event of changes in key personnel?
9. What experience does your firm have in the drafting and/or review of contracts?
10. Is your firm familiar with New Mexico Workers' Compensation statutes and/or rules and regulations?
11. Does your firm have experience in reviewing and interpreting insurance policies and/or documents? If so, explain.
12. Have any provisions in a contract your firm wrote ever been overturned? Does your firm have familiarity with the New Mexico Commission of Public Records, the New Mexico Inspection of Public Records Act (IPRA), the New Mexico Open Meetings Act, and the New Mexico Attorney General Open Meetings Act Compliance Guide? If so, explain.
13. Does your firm have experience in Administrative Law and holding public hearings on administrative rule changes?

14. Does your firm have experience with regard to the Affordable Care Act?
15. Does your firm have experience in the area of interpreting eligibility rules for health insurance enrollment and interpreting summary plan descriptions in order to provide written legal opinions for the purpose of interpretation and handling disputes?
16. Does your firm have experience with HIPAA compliance?
17. Does your firm have experience with Employment Law?
18. Does your firm have experience with the New Mexico Legislature and the legislative process? If so, provide a sample of a bill analysis or detailed recommendations your firm prepared on proposed legislation.
19. Does your firm have experience working with the Office of the Superintendent of Insurance? If so, please provide any examples.
20. Is your firm a registered lobbyist? If so, for whom?
21. Does your firm currently provide legal services for any of the participating members listed in Appendix H? If so, identify the member(s).
22. How will your firm ensure NMPSIA's interests are protected in the event your business with another client(s) will be affected by NMPSIA's action?
23. What additional services does your firm propose to perform for NMPSIA under an awarded contract (if awarded), which has not been addressed in this RFP?

Appendix H

List of NMPSIA Members

Districts:

1. Alamogordo Public Schools
2. Animas Public Schools
3. Artesia Public Schools
4. Aztec Municipal Schools
5. Belen Consolidated Schools
6. Bernalillo Public Schools
7. Bloomfield School District
8. Capitan Municipal Schools
9. Carlsbad Municipal Schools
10. Carrizozo Municipal Schools
11. Central Consolidated School District #22
12. Chama Valley Independent Schools
13. Cimarron Municipal Schools
14. Clayton Municipal Schools
15. Cloudcroft Municipal Schools
16. Clovis Municipal Schools
17. Cobre Consolidated Schools
18. Corona Public Schools
19. Cuba Independent Schools
20. Deming Public Schools
21. Des Moines Municipal Schools
22. Dexter Consolidated Schools
23. Dora Consolidated Schools
24. Elida Municipal Schools
25. Espanola Public Schools
26. Estancia Municipal Schools
27. Eunice Public Schools
28. Farmington Municipal Schools
29. Floyd Municipal Schools
30. Fort Sumner Municipal Schools
31. Gadsden Independent Schools
32. Gallup-McKinley County Public Schools
33. Grady Municipal Schools
34. Grants Cibola County Schools
35. Hagerman Municipal Schools
36. Hatch Valley Public Schools
37. Hobbs Municipal Schools
38. Hondo Valley Public Schools

39. House Municipal Schools
40. Jal Public Schools
41. Jemez Mountain Public Schools
42. Jemez Valley Municipal Schools
43. Lake Arthur Municipal Schools
44. Las Cruces Public Schools
45. Las Vegas City Public Schools
46. Logan Municipal Schools
47. Lordsburg Municipal Schools
48. Los Alamos Public Schools
49. Los Lunas Public Schools
50. Loving Municipal Schools
51. Lovington Municipal Schools
52. Magdalena Municipal Schools
53. Maxwell Municipal Schools
54. Melrose Municipal Schools
55. Mesa Vista Consolidated Schools
56. Mora Independent Schools
57. Moriarty Municipal Schools
58. Mosquero Municipal Schools
59. Mountainair Public Schools
60. Pecos Independent Schools
61. Penasco Independent Schools
62. Pojoaque Valley Public Schools
63. Portales Municipal Schools
64. Quemado Independent Schools
65. Questa Independent Schools
66. Raton Public Schools
67. Reserve Independent Schools
68. Rio Rancho Public Schools
69. Roswell Independent Schools
70. Roy Municipal Schools
71. Ruidoso Municipal Schools
72. San Jon Municipal Schools
73. Santa Fe Public Schools
74. Santa Rosa Consolidated Schools
75. Silver Consolidated Schools
76. Socorro Consolidated Schools
77. Springer Municipal Schools
78. Taos Municipal Schools
79. Tatum Municipal Schools
80. Texico Municipal Schools
81. Truth or Consequences Municipal Schools
82. Tucumcari Public Schools
83. Tularosa Municipal Schools
84. Vaughn Municipal Schools

85. Wagon Mound Public Schools
86. West Las Vegas Public Schools
87. Zuni Public Schools

Charters:

1. 21st Century Charter School dba 21st Century Public Academy
2. ABQ Charter Academy
3. Academy for Technology and the Classics
4. Ace Leadership High School
5. ACES Leadership Charter School
6. Albuquerque Bilingual Academy
7. Albuquerque Collegiate Charter School
8. Albuquerque Institute of Math and Science (High Tech High, Albuquerque)
9. Albuquerque School of Excellence
10. Albuquerque Talent Development Academy
11. Aldo Leopold High School
12. Alice King Community School
13. Alma D' Arte Charter H.S.
14. Altura Preparatory School
15. Amy Biehl Charter School
16. Anansi Charter School
17. Cesar Chavez Community School
18. Christine Duncan Heritage Academy
19. Cien Aguas International School
20. Coral Community Charter
21. Corrales International Charter School
22. Cottonwood Classic Prep School
23. Cottonwood Valley Charter School
24. DATA Charter High School
25. Deming Cesar Chavez HS
26. Dream Dine' Charter School
27. Dzil Dit Looi School of Empowerment, Action & Perseverance
28. East Mountain Charter School
29. El Camino Real Academy
30. Estancia Valley Classical Academy
31. Explore Academy
32. Explore Academy-Las Cruces
33. Gilbert Sena DBA CEPI #2
34. Gordon Bernell Charter School
35. Health Leadership
36. Horizon Academy West
37. Hozho Academy
38. J. Paul Taylor Academy
39. Jefferson Montessori Academy
40. La Academia de Esperanza

41. La Academia de Idiomas Y Cultura dba La Academia Dolores Huerta
42. La Tierra Montessori School of the Arts & Sciences
43. Las Montañas Charter High School
44. Los Puentes Charter School
45. Mark Armijo Academy (previously Nuestros Valores)
46. McCurdy Charter School
47. Media Arts Collaborate Charter School
48. Middle College H.S.
49. Mission Achievement and Success
50. Monte Del Sol
51. Montessori of the Rio Grande
52. Moreno Valley Charter High School
53. Mosaic Academy
54. Mountain Mahogany Community Schools
55. Native American Community Academy
56. New America School
57. New America School - Las Cruces
58. New Mexico Connections Academy
59. New Mexico International School
60. New Mexico School for the Arts
61. New Mexico School for the Arts – Art institute
62. New Mexico School for the Blind and the Visually Impaired
63. North Valley Academy
64. Pecos CyberAcademy
65. Public Academy for Performing Arts
66. Raices Del Saber Xinachtli Community School
67. Red River Valley Charter
68. Rio Gallinas Charter School
69. Rio Grande Academy of Fine Arts
70. Robert F Kennedy Charter School
71. Roots and Wings Community School
72. San Diego Riverside Charter School
73. Sandoval Academy of Bilingual Education
74. School of Dreams Academy (SODA)
75. Sidney Gutierrez Middle Schools
76. Siembra Leadership
77. Six Directions Indigenous School
78. Solare Collegiate Charter School
79. South Valley Academy
80. South Valley Prep
81. Southwest Aeronautics, Mathematics and Science Academy
82. Southwest Preparatory Learning Center
83. Southwest Secondary Learning Center
84. Taos Academy
85. Taos Integrated School of the Arts
86. Taos International School

87. Taos Municipal Charter School
88. Technology Leadership High School
89. The Albuquerque Sign Language Academy
90. The Ask Academy Charter School
91. The Great Academy
92. The International School at Mesa del Sol or Mesa Del Sol
93. The Masters Program
94. The Montessori Elementary Schools
95. THRIVE Community School
96. Tierra Adentro Charter School
97. Tierra Encantada Charter HS
98. Turquoise Trail Elementary
99. Vista Grande High School
100. Voz Collegiate Preparatory Charter School
101. Walatowa High Charter Schools
102. William W. & Josephine Charter School

Higher Education:

1. Eastern New Mexico University
2. Luna Community College
3. Mesalands Community College
4. New Mexico Highlands University
5. Santa Fe Community College
6. Western New Mexico University

Other Educational Entities

1. Cooperative Educational Services
2. New Mexico Activities Association
3. New Mexico Association of School Business Officials
5. New Mexico Coalition of Educational Leaders
6. Regional Educational Cooperative #2
7. Regional Educational Cooperative #6
8. Regional Educational Cooperative #7
9. Regional Educational Cooperative #8
10. New Mexico Public Schools Insurance Authority
11. National Education Association

NMPSIA membership is subject to change.