

**THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEW
MEXICO**

REQUEST FOR PROPOSALS

Date: September 26, 2018

No: 2019-2

For: Legal Services

Proposal Deadline: October 19, 2018 at 3:00 PM



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

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I. INTRODUCTION

BACKGROUND INFORMATION

The Second Judicial District Court (SJDC), is part of the Judicial Branch of state government as established in Article VI, Section 12, of the New Mexico Constitution. It is the largest general jurisdiction trial court in New Mexico and processes approximately 50,000 cases per year. SJDC has three business locations: “downtown” at 4th Street and Lomas, which processes all civil, criminal, and domestic matters; a location at 4th and Roma that holds the court Pretrial Services Division; and a location on North 2nd Street “Children’s Court,” which processes all cases concerning juveniles, abuse and neglect, adoptions, and mental health commitments. SJDC employs 27 district judges and approximately 430 personnel on a full time basis with a general fund budget of approximately \$23M per year.

PURPOSE OF THIS REQUEST FOR PROPOSAL

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a procurement of professional legal services contract(s) to the Second Judicial District Court, specifically for special outside counsel to focus on extraordinary writ practice in the New Mexico Supreme Court, ancillary litigation in federal court, civil/employment litigation, and other litigation/research matters assigned by Court Administration. The RFP process is intended to ensure that all Professional Services Agreements are awarded in compliance with all relevant provisions of the New Mexico Procurement Code (13-128 et.seq. NMSA 1978).

Attorneys and law firms may submit proposals to provide legal services to secure contracts which support defense of the Second Judicial District Court.

Offerors who are awarded contracts will work closely with the SJDC Court Administration on extraordinary writs and ancillary litigation in federal court. Outside Counsel shall keep SJDC Court Administration timely informed during all litigation stages about dates of scheduled hearing dates on all dispositive motions. SJDC Court Administration and Finance Staff shall review all legal services invoices, and expense submissions for compliance with contractual billing guidelines and other governmental finance requirements.

SCOPE OF PROCUREMENT

The scope of procurement is to establish contracts through competitive negotiations for the procurement of on-call professional legal services to the Second Judicial District, including legal support due to staffing constraints or where a conflict of interest necessitates outside counsel representation. Legal assignments may include the defense or prosecution of lawsuits and legal services, including but not limited to the provision of oral or written legal advice or opinions. While a specific scope of work shall be negotiated upon entry into a contract, the legal services sought by this RFP will include, but are not limited to, the follow areas of law: extraordinary writ practice in the New Mexico Supreme Court, ancillary federal litigation, employment and labor law;

Inspection of Public Records Act; Fraud Against Taxpayers Act and Whistleblower Protection Act; Open Meetings Act; tort law; federal grant programs; collections; constitutional law; procurement and security; civil litigation, and appellate work.

In its proposal, an Offeror shall include a signed statement that to the best of its knowledge and belief (1) it currently represents no clients adverse to the Second Judicial District Court; or (2) its representation of another client or clients in matters involving the Second Judicial District Court will not adversely affect its ability to perform the requested services. If applicable, this statement shall include a list of all current matters involving the SJDC in which the Offeror represents another client or clients. The Second Judicial District Court retains the discretion to consent to or reject representation by any Offeror under the provisions of Rule 16-107 NMRA.

PROCUREMENT MANAGER

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

Farah French
Procurement Manager
Bernalillo County Courthouse
400 Lomas Blvd. NW
P.O. Box 488
Albuquerque, New Mexico 87102
Telephone: (505) 841-7466 FAX: (505) 841-7446
Email: albdxf@nmcourts.gov

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

Name: Farah French, Procurement Manager
Reference RFP Name: Legal Services RFP # 19-002
Address: 400 Lomas Blvd. NW
P.O. Box 488
Albuquerque, New Mexico 87102

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 Evaluation Committee members do not have the authority to respond on behalf of the SJDC.

DEFINITION OF TERMINOLOGY

“SJDC” means the Second Judicial District Court; SJDC is sponsoring the Procurement action.

“Authorized Purchaser” means an individual authorized by a Participating Entity to place orders against this contract.

“Award” means the final execution of the contract document.

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

“Close of Business” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.

“Contract” means any agreement for the procurement of items of tangible personal property, services or construction. “Contractor” means any business having a contract with a state agency or local public body.

“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.

“Desirable” – the terms “may”, “can”, “should”, “preferably”, or “prefers” identify a desirable or discretionary item or factor.

“Evaluation Committee” means a body appointed to perform the evaluation of Offerors’ proposals.

“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.

“Mandatory” – the terms “must”, “shall”, “will”, “is required”, or “are required”, identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

“Minor Technical Irregularities” anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.

“Multiple Source Award” means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“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.

“Procuring Agency” means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.

“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.

“Request for Proposals (RFP)” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“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.

“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.

“Staff” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors company.

II. CONDITIONS GOVERNING THE PROCUREMENT

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

SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	SJDC	September 26, 2018
2. Distribution List/ Acknowledgement of Receipt of Request for Proposals Form	Potential Offerors	October 5, 2018 at 10:00 a.m.
3. Deadline to submit Questions	Potential Offerors	October 9, 2018
4. Responses to Written Questions	SJDC	October 12, 2018
5. Submission of Proposal	Potential Offerors	October 19, 2018 at 3:00 p.m.
6. Proposal Evaluation	Evaluation Committee	October 25, 2018
7. Finalize Contractual Agreements	SJDC	October 31, 2018

8. Contract Awards	SJDC	October 31, 2018
9. Protest Deadline	SJDC/Finalist Offerors	November 16, 2018

EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown above.

1. Issuance of RFP

This RFP is being issued on behalf of the Second Judicial District Court on Wednesday, September 26, 2018.

2. Distribution List Response Due

Potential Offerors who desire to be placed on a distribution list for distribution of written responses to questions and other announcements regarding the procurement process should hand deliver, return by facsimile or registered or certified mail the *Acknowledgement of Receipt of Request for Proposals Form* that accompanies this document, **APPENDIX A**, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Manager by 10:00 Am MST or MDT on October 5, 2018.

Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offerors organization name shall not appear on the distribution list.

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 12:00 PM Mountain Standard Time/Daylight Time as indicated in the sequence of events. All written questions must be addressed to the Procurement Manager as declared in Section I, Paragraph D.

4. Response to Written Questions

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offerors that provide Acknowledgement of Receipt Forms (**Appendix A**) before the deadline. Additional copies will be posted to the Court's website:

5. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON **Friday, October 19, 2018**. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section I, Paragraph D2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the SJDC, Legal Services RFP No. 2019-2 Proposals submitted by facsimile, or other electronic means, will not be accepted.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to Section 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 the 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. Finalize Contractual Agreements

Any Contractual agreements resulting from this RFP will be finalized with the most advantageous Offerors as per the Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of the Second Judicial District Court.

8. Contract Awards

After review of the Evaluation Committee Report and the signed contractual agreements, SJDC Fiscal Services will award as per the schedule in Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the Second Judicial District Court Administration.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the Second Judicial District Court taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal(s) may or may not have received the most points. The award is subject to appropriate Court approval.

9. Protest Deadline

Any protest by an Offeror must be timely and in conformance with Section 13-1-172 NMSA 1978 and applicable procurement regulations. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Mountain Standard Time/Daylight Time 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:

Farah French
Procurement Manager
Bernalillo County Courthouse
400 Lomas Blvd. NW
P.O. Box 488
Albuquerque, New Mexico 87102
Telephone: (505) 841-7466 FAX: (505) 841-7446
Email: albdxf@nmcourts.gov

Protests received after the deadline will not be accepted.

GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Potential Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in this RFP.

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 the Second Judicial District Court which may derive from this RFP. The Second Judicial District Court will make payments to only the prime contractor.

4. Subcontractors/Consent

SJDC must approve the use of subcontractors. 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 Second Judicial District Court awarding any resultant contract, before any subcontractor is used during the term of this agreement.

5. Amended Proposals

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

6. Offerors' Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Procurement Manager and signed by the Offerors duly authorized representative.

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

7. Proposal Offer Firm

Responses to this RFP, including acceptance of prescribed rates for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals.

8. Disclosure of Proposal Contents

- a. Proposals will be kept confidential until negotiations and the award are completed by the Second Judicial District Court. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential.

The Procurement Manager will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted “proprietary” or “confidential” subject to the following requirements:

- b. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
- c. Confidential data is restricted to:
 - i. confidential financial information concerning the Offerors organization;
 - ii. data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, Sections 57-3A-1 to 57-3A-7 NMSA 1978.
 - iii. PLEASE NOTE: The price of products offered or the cost of services proposed **shall not be designated** as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Second Judicial District Court shall examine the Offerors request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This RFP in no manner obligates the Second Judicial District Court to the use of any Offerors 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 SJDC determines such action to be in the best interest of the Court.

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 effected by sending written notice to the contractor. The Court’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 Offerors 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 Agency through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

The Contract between SJDC and the contractor will follow the format specified by the Court and contain the terms and conditions set forth in the Sample Contracts **Appendix C**. SJDC reserves the right to negotiate provisions in addition to those contained in this RFP (Sample Contract) with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offerors proposal will be incorporated into and become part of any resultant contract.

The Second Judicial District Court discourages exceptions from the contract terms and conditions as set forth in the RFP Sample 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 Sample 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 Offerors terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to the Agency and will result in disqualification of the Offerors proposal.

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

16. Offerors 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 Court.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Court 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 Sections 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. 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

SJDC 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, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil, 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

SJDC, in agreement with the Evaluation Committee, reserves the right to accept all or a portion of a potential Offerors proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from the Court written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement

and/or SJDC contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offerors proposal or removal from the contract.

24. Ownership of Proposals

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

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 Court.

All interactions between counsel for the Court and outside counsel are attorney-client privileged. 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 Court's written permission.

26. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offerors possession and the version maintained by the agency, the Offeror acknowledges that the version maintained by the Court shall govern.

28. New Mexico Employees Health Coverage

- 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://www.bewellnm.com/> .

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 disqualification.

30. 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 the Second Judicial District Court for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
- b. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
- c. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - i. 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;
 - ii. violation of Federal or state antitrust statutes related to the submission of offers; or
 - iii. 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;
- d. 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;
- e. 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.
 - i. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the

liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

- ii. 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.
 - iii. 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.)
- f. 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.
 - g. The Contractor shall provide immediate written notice to the Second Judicial District Court 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.
 - h. 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 be grounds for immediate termination of the Agreement.
 - i. 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.
 - j. 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 the resulting 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 Second Judicial District Court. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the Second Judicial District Court may terminate the involved contract for cause. Still further the Second Judicial District Court may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the Court.

31. Conflict of Interest; Governmental Conduct Act.

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement without the written consent by the CEO of SJDC. Prior disclosure of conflicts of interest shall be a condition precedent, and failure to disclose shall be grounds for subsequent contract termination. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

Offerors must disclose any past, existing, or potential conflicts of interest in the course of representing the SJDC. This disclosure should include both direct and indirect conflicts of interest and also include any positions Offeror has taken in the recent past, or is presently taking, on issues that may be adverse or harmful to the interests of SJDC. To the extent required by the Rules of Professional Responsibility, the disclosure must include any previous litigation against SJDC in which Offeror or members of Offerors firm have been involved in any capacity. If the SJDC CEO determines that an existing conflict of interest exists, the Offeror shall be required by the Procurement Manager to submit additional documentation limited to a specific description of how the Offeror proposes to overcome the conflict.

III. RESPONSE FORMAT AND ORGANIZATION

NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP. (To include the copies as stated below.)

NUMBER OF COPIES

Offerors shall deliver:

- One (1) original and three (3) identical hardcopies of their Proposal; all confidential information in the proposal shall be clearly identified and easily segregated from the rest of the proposal.

PROPOSAL FORMAT

All proposals must be submitted as follows: Typewritten on standard 8 1/2 x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed dividers delineating each section.

1. Proposal Content and Organization

This proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated:

- A. Letter of Transmittal
- B. Proposal Summary
- C. Response to Contract Terms and Conditions
- D. Response to Mandatory Specifications and Forms
- E. Offeror's Additional Terms and Conditions
- F. Other Supporting Material

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

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

Offeror may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

3. Letter of Transmittal

Each proposal must be accompanied by a letter of transmittal. The letter of transmittal must:

- A. Identify the submitting organization;
- B. Identify the name and title of the person authorized by the organization to contractually obligate the organization;
- C. Identify the name, title, email address and telephone number of the person authorized to negotiate the contract on behalf of the organization;
- D. Identify the names, titles and telephone numbers of persons to be contacted for clarification;
- E. Explicitly indicate acceptance of the Conditions Governing the Procurement.
- F. Be signed by the person authorized to contractually obligate the organization;
- G. Acknowledge receipt of any and all amendment to this RFP.

IV. SPECIFICATIONS

Offerors should respond in the form of a narrative to each specification. The narratives along with the supporting materials will be evaluated and awarded points accordingly. Failure to address specifications/requirements or provide forms will deem your proposal as non-responsive.

Failure to address and satisfy the below qualifications shall result in rejection of the proposal, or, in the instance of a later discovered conflict of interest, shall result in termination of a contract awarded by this RFP, if any.

- a. Law firms submitting offers must have documented experience, skills and knowledge in writ litigation and federal court litigation.
- b. Law firms submitting offers must have Principals/Owners/Directors/Partners with at least five (5) years general civil litigation experience.
- c. Offerors shall submit a list, with resumes, of all proposed professional staff members who will be performing services under this Agreement. Experience narratives shall be attached that describe the specific relevant experience of the staff members in relation to the role that members will perform for this Agreement. The narratives should include the name of the individual, a thorough description of their education, knowledge, relevant experience, areas of expertise, projects worked on and representative clients, as well as certifications or other professional credentials. SJDC retains the right to request additional information demonstrating the requisite experience.
- e. Offeror must be insured as required pursuant to the terms of set forth in the sample professional services agreements, attached hereto as **Appendix C** and incorporated herein by reference.
- f. Offerors must disclose any past, existing, or potential conflicts of interest in the course of representing SJDC. If a contract is awarded to an Offeror pursuant to this RFP, and SJDC later discovers a conflict of interest that was not previously disclosed as required herein, the contract may be terminated upon the date of such discovery on the basis of failure to satisfy a condition precedent.
- g. Offerors shall propose firm, fixed hourly rates. The Offeror shall submit a Cost Response Proposal of proposed fees to ensure cost effectiveness.
- h. **Failure to address and satisfy these SPECIFICATIONS shall result in rejection of the proposal.**

BUSINESS SPECIFICATIONS

1. Resident Business or Resident Veterans Preference

To ensure adequate consideration and application of 13-1-21 NMSA (as amended), Offerors must include a copy of their preference certificate in this section. In addition, for resident Veterans Preference, the attached certification Form (**APPENDIX E, F**) must accompany any Offer and any business wishing to receive the preference must complete and sign the form.

2. Letter of Transmittal

The Offerors proposal **must** be accompanied by the Letter of Transmittal and must be signed by the person authorized to obligate the company.

3. Campaign Contribution Disclosure Form

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

4. Employee Health Coverage Form

The Offeror must agree with the terms as indicated in **APPENDIX D**. The unaltered form must be completed, signed by the person authorized to obligate the Offerors firm and submitted with Offerors proposal.

V. EVALUATION

EVALUATION 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.

Factors	Points Available
Experience & success in writ, federal, civil/employment litigation	30
Proposed personnel and support staff to perform services,	20
Proposed approach and plan for delivering services	20
Cost	30

Total Maximum Allowable Points

100 points

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.
3. The Evaluation Committee may use other sources of information to perform the evaluation.
4. Offerors whose proposals are most advantageous to SJDC will be recommended for award. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection.

APPENDIX A
REQUEST FOR PROPOSAL

Legal Services
RFP No. 2019-2

ACKNOWLEDGEMENT OF RECEIPT FORM

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

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than **October 5, 2018 at 10:00 a.m.** Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all written questions and the written responses to those questions as well as RFP amendments, if any are issued.

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

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

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

Farah French, CFO
Second Judicial District Court
Fiscal Services, Room 327
400 Lomas Blvd. NW
Albuquerque, New Mexico 87102
(505) 841-7466
albdxf@nmcourts.gov

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

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

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

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

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

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

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

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

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

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

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

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By:

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s)

(Attach extra pages if necessary)

Signature

Date

Title (position)

--OR--

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

Signature

Date

Title (Position)

APPENDIX C

PROFESSIONAL SERVICES CONTRACTS



**STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT COURT
PROFESSIONAL SERVICES AGREEMENT**

THIS PROFESSIONAL SERVICES AGREEMENT, hereinafter referred to as "AGREEMENT", entered into this _____ day of October, 2018, by and between the **Second Judicial District Court**, hereinafter referred to as "the COURT" or "SJDC" and the _____ hereinafter referred to as "CONTRACTOR."

ADDRESS OF CONTRACTOR:

In consideration of their mutual promises, the parties agree that:

1. SCOPE OF WORK:

The Contractor agrees to provide legal services in extraordinary writ litigation, ancillary litigation in federal court, civil/employment litigation, and other litigation/research matters as assigned by the Second Judicial District Court.

Services shall be performed and be completed satisfactory to the Court with the instructions provided by the Court. The Contractor shall provide and charge only for those services requested by the Court. No services may be contracted except as agreed upon in advance by the parties to this Agreement. Upon execution of this Agreement, the Contractor shall commence work at the Court's request and services shall conform to the description of services as set forth herein or as hereafter mutually agreed to in writing.

2. COMPENSATION:

The Court will make monthly payment(s) for services rendered. Each payment will be inclusive of gross receipts tax, paid upon receipt of a detailed monthly invoice submitted to the COURT by CONTRACTOR no later than five (5) calendar days after the end of the month. The monthly invoice submitted by CONTRACTOR shall include the daily number of hours worked within the month while conducting the Scope of Work above and a general description of the work completed within the month. Payments shall be made to CONTRACTOR within thirty days of receipt of each monthly invoice.

The total amount of compensation by Court to the CONTRACTOR under the terms of this Agreement which shall not exceed \$ [REDACTED] in FY19 inclusive of gross receipts tax, within which CONTRACTOR shall provide all scope and deliverables contemplated herein, pursuant to the Scope of Work. The CONTRACTOR will submit monthly invoices for completed tasks for the itemized services and expenses.

CONTRACTOR is solely responsible for all costs and fees for maintaining license and continuing education and all incidental expenses.

Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties pursuant to Paragraph 1, Scope of Work, and to approval by the COURT. All invoices MUST BE received by the Agency 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.

3. TERMS:

This AGREEMENT runs from October ____, 2018 through June 30, 2019, and all services are to be performed within this time unless changes are authorized by Court or unless this agreement is terminated pursuant to Paragraph 4. Work hours shall be determined by the CONTRACTOR to provide the contracted services as soon as possible.

_____ No Renewal Option

XXXX 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 FOR CAUSE OR CONVENIENCE:

This AGREEMENT may be terminated with cause by the COURT upon written notice delivered to CONTRACTOR at least 10 days prior to the intended date of termination. This AGREEMENT may be terminated without cause by the COURT upon written notice delivered to CONTRACTOR at least 30 days prior to the intended date of termination. The CONTRACTOR may only terminate this AGREEMENT upon the Court's uncured, material breach of this Agreement and upon written notice delivered to the COURT at least 30 days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for the performance or failure to perform prior to the date of termination.

Notice; Opportunity to Cure.

1. The COURT shall give CONTRACTOR written notice of termination at least thirty (30) days prior to the intended date of termination.

2. CONTRACTOR shall give the COURT written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the COURT'S material breaches of this Agreement upon which the termination is based and (ii) state what the COURT must do to cure such material breaches. CONTRACTOR'S notice of termination shall only be effective (i) if the COURT 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 COURT 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 COURT; (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.

4. Liability. Except as otherwise expressly allowed or provided under this Agreement, the COURT'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 COURT'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

5. Termination Management. Immediately upon receipt by either the COURT 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 COURT; 2) comply with all directives issued by the COURT in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the COURT shall direct for the protection, preservation, retention or transfer of all property titled to the COURT 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 COURT upon termination and shall be submitted to the COURT as soon as practicable.

5. APPROPRIATIONS:

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorization being made by the United States Government, Legislature of New Mexico, and Bernalillo County for the performance of this AGREEMENT. If sufficient appropriations, grant funding, and authorization are not made by the New Mexico Legislature, the United States of America or Bernalillo County as determined by the COURT, this AGREEMENT

shall terminate immediately upon written notice being given by the COURT to the CONTRACTOR. The COURT'S decision as to whether sufficient appropriations are available shall be accepted by the CONTRACTOR and shall be final. If the COURT 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. CONTRACT MANAGER:

All written notifications and invoices required in this AGREEMENT shall be in writing and submitted by CONTRACTOR to the COURT's Executive Officer. The COURT's Contract Manager is:

James A. Noel
Second Judicial District Court Executive Officer
400 Lomas NW
Albuquerque, NM 87102

Written notifications from the COURT to CONTRACTOR shall be sent via first class mail, postage pre-paid, to the address listed by CONTRACTOR on the first page of this AGREEMENT. CONTRACTOR is responsible for immediately notifying the COURT in writing of any changes to the contact information for CONTRACTOR.

7. STATUS OF CONTRACTOR:

The CONTRACTOR and the CONTRACTOR'S agents and employees are independent CONTRACTORS performing professional services and are not employees of the state. The CONTRACTOR and CONTRACTOR'S agents and employees shall not, as a result of this AGREEMENT, accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to state employees. The CONTRACTOR shall carry its own liability insurance with at least \$1,000,000.00 of coverage and provide proof of such coverage.

8. 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 COURT.

9. SUBCONTRACTING:

The CONTRACTOR shall not subcontract any portion of the services to be performed under this AGREEMENT without the written approval of the COURT.

10. RECORDS AND AUDIT:

The CONTRACTOR shall maintain detailed time records that indicate the date, time and nature of services rendered. These records shall be provided by the CONTRACTOR for inspection by the COURT and the State Auditor upon written request of the COURT. The COURT has the right to audit billings both before and after payment. Payment under this AGREEMENT is not a waiver of the right to the COURT to recover excessive or illegal payments.

11. FINAL PAYMENT:

Since all payments under this AGREEMENT shall be monthly, the COURT shall be entitled to withhold the final payment due hereunder, pending final approval by the COURT of the services rendered and the return of any COURT property. Upon receipt and acceptance of a final invoice prior to the final payment, the CONTRACTOR shall furnish the COURT proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein have been properly paid and released.

12. RELEASE:

Upon final payment of the amount due under this AGREEMENT, the CONTRACTOR releases the COURT, its employees and the state of New Mexico from all liability, claims and obligations arising under this AGREEMENT that were reasonably discoverable prior to final payment. The CONTRACTOR agrees not to propose to bind the COURT to any obligations not assumed in this AGREEMENT by the COURT, unless the CONTRACTOR has express authority to do so, and then only within the strict limits of that authority.

13. CONFIDENTIALITY:

Any information given 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 entity by the CONTRACTOR without the prior approval of the COURT.

14. PRODUCT OF SERVICE - COPYRIGHT:

All materials developed or acquired by the CONTRACTOR under this AGREEMENT shall become the property of the COURT, and shall be delivered to the COURT. Nothing produced, in whole or in part, by the CONTRACTOR under this AGREEMENT shall be the subject of an application for copyright by or on behalf of the CONTRACTOR.

15. CONFLICT OF INTEREST; GOVERNMENTAL CONDUCT ACT:

The CONTRACTOR warrants that it currently has no interest and shall acquire no interest, direct or indirect, that would conflict in any manner or degree with the performance of services required pursuant to this AGREEMENT. The CONTRACTOR shall comply with all statutory provisions that require disclosure to the Secretary of State of amount received under state contract when and if such provisions become applicable. 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.

16. PROHIBITION AGAINST DUAL COMPENSATION:

The charges for services rendered under this AGREEMENT are reimbursable or subject to compensation only to the extent that such services relate exclusively and directly to the purpose of this AGREEMENT and supplemental or additional payment for such services is not received by the CONTRACTOR from any other source.

17. EQUAL EMPLOYMENT OPPORTUNITY:

The CONTRACTOR, in the performance of this AGREEMENT, shall not discriminate against any employee, client or other person in violation of state or federal law, or on the basis of race, color, religion, national origin, sex, age or disability.

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 Agency.

19. EMPLOYEE PAY EQUITY REPORTING:

CONTRACTOR agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If CONTRACTOR has (250) or more employees CONTRACTOR must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, CONTRACTOR also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should

CONTRACTOR a not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, CONTRACTOR agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. CONTRACTOR also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. CONTRACTOR further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, CONTRACTOR will submit the required report, for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. CONTRACTOR shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. CONTRACTOR acknowledges that this subcontractor requirement applies even though CONTRACTOR itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if CONTRACTOR has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this AGREEMENT.

20. PROCUREMENT CODE NOTICE:

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.

21. SCOPE OF AGREEMENT:

This AGREEMENT, with the attached scope of work and list of deliverables, incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter of the agreement, and all such covenants, agreements and understandings are merged into this written AGREEMENT. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the AGREEMENT.

22. AMENDMENT:

This AGREEMENT shall not be altered, changed or amended except by instrument

in writing executed by the parties to the AGREEMENT.

23. APPLICABLE LAW:

This AGREEMENT shall be governed by the applicable laws, statutes, rules and regulations of the State of New Mexico.

24. 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.

25. 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.

26. EFFECTIVE DATE:

This AGREEMENT is not effective until signed by all parties and is effective on the date specified in Paragraph 3 of this AGREEMENT.

27. INDEMNIFICATION:

The CONTRACTOR shall defend, indemnify and hold harmless the COURT and the State of New Mexico from all actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this AGREEMENT, caused by the negligent act or failure to act of the CONTRACTOR, its officers, employees, servants or agents, if acting within the scope of their employment and pursuant to this contract. In the event that any action, suit or proceeding related to the services performed by the CONTRACTOR or any officer, employee, servant or agent 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 COURT and the Risk Management Division of the New Mexico General Services Department by certified mail. As an independent contractor, CONTRACTOR is not covered by or entitled to representation by the Risk Management Division of the New Mexico General Services Department.

28. 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 Court:
James A. Noel
Second Judicial District Court
Bernalillo County Courthouse
400 Lomas Blvd., NW
Albuquerque, NM 87102
505-841-7162

To the Contractor:

29. SIGNATURE:

Signed by the parties on the dates indicated:

**STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT COURT:**

James A. Noel, Court Executive Officer

Date Signed

Elizabeth A. Garcia, General Counsel
Certifying Legal Sufficiency

Date Signed

CONTRACTOR

Date Signed

THE FOLLOWING ARE NEITHER PARTIES NOR PRIVIES TO THIS AGREEMENT:

The Records of the Taxation and Revenue Department reflect that the CONTRACTOR is registered for payment of the New Mexico gross receipts tax.

YES _____ New Mexico Tax I.D. # _____

NO _____

The Records of the Taxation and Revenue Department reflect that the CONTRACTOR is exempt from the payment of the New Mexico gross receipts tax.

YES _____

NO _____

BY: _____
TAX & REVENUE DEPARTMENT

Date Signed

APPROVED: _____
ADMINISTRATIVE OFFICE OF THE COURTS

Date Signed

APPENDIX D

NEW MEXICO EMPLOYEES HEALTH COVERAGE FORM

New Mexico Employees Health Coverage Form

1. For all contracts solicited and awarded on or after January 1, 2008: If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

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

3. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <https://www.bewellnm.com/>.

Signature of Offeror: _____ Date

APPENDIX E

Resident Veterans Preference Certification

Resident Veterans Preference Certification

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

Please check one box only

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

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

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

“I agree to submit a report, or reports, to the Second Judicial District Court Fiscal Division declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

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

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

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

(Signature of Business Representative)* _____
(Date)

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

APPENDIX F

Resident Vendor Certificate

Resident Vendor Certificate

Qualifying applicants should attach the relevant certificate and any other documentation as specified by the New Mexico Taxation and Revenue Department and NMSA 1978, § 13-1-21.

For more information, see: <http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification>.