



PUBLIC EMPLOYEES RETIREMENT ASSOCIATION OF NEW MEXICO

REQUEST FOR PROPOSALS (RFP)

**Information Technology Support for the Retirement Information
Online (RIO) Pension Administration System
RFP No. NM 36600-2018-00002
February 7, 2018**

TABLE OF CONTENTS

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

27. <i>Use of Electronic Versions of this RFP</i>	14
28. <i>New Mexico Employees Health Coverage</i>	14
29. <i>Campaign Contribution Disclosure Form</i>	15
30. <i>Letter of Transmittal</i>	15
31. <i>Pay Equity Reporting Requirements</i>	16
32. <i>Disclosure Regarding Responsibility</i>	16
33. <i>New Mexico Preferences</i>	18
III. RESPONSE FORMAT AND ORGANIZATION	18
A. NUMBER OF RESPONSES	18
B. NUMBER OF COPIES	18
1. <i>Hard Copy Responses</i>	18
C. PROPOSAL FORMAT	19
1. <i>Proposal Content and Organization</i>	19
IV. SPECIFICATIONS	20
A. DETAILED SCOPE OF WORK	20
B. TECHNICAL SPECIFICATIONS.....	26
1. <i>Organizational Background, General Description and Staff</i>	26
2. <i>Organizational Experience</i>	27
3. <i>Organizational References</i>	27
4. <i>Information Technology Support Plan</i>	28
C. BUSINESS SPECIFICATIONS	28
1. <i>Financial Stability</i>	28
2. <i>Letter of Transmittal Form</i>	28
3. <i>Campaign Contribution Disclosure Form</i>	28
4. <i>Cost</i>	28
5. <i>Resident Business or Resident Veterans Preference</i>	29
V. EVALUATION	29
A. EVALUATION POINT SUMMARY	29
B. EVALUATION FACTORS	30
1. <i>B.1 Organizational Background, General Description and Staff (See Table 1)</i>	30
2. <i>B.2 Organizational Experience (See Table 1)</i>	30
3. <i>B.3 Organizational References (See Table 1)</i>	30
4. <i>B.4 Information Technology Support Plan (See Table 1)</i>	30
5. <i>C.1 Financial Stability (See Table 1)</i>	30
6. <i>C.2 Letter of Transmittal (See Table 1)</i>	30
7. <i>C.3 Campaign Contribution Disclosure Form (See Table 1)</i>	30
8. <i>C.4 Cost (See Table 1)</i>	30
9. <i>C.5. New Mexico Preferences</i>	30
C. EVALUATION PROCESS	31
APPENDIX A	32
ACKNOWLEDGEMENT OF RECEIPT FORM	33
APPENDIX B	34
CAMPAIGN CONTRIBUTION DISCLOSURE FORM	35
APPENDIX C	38
SAMPLE CONTACT	39
APPENDIX D	67

COST RESPONSE FORM	68
APPENDIX E	69
LETTER OF TRANSMITTAL FORM.....	70
APPENDIX F	71
ORGANIZATIONAL REFERENCE QUESTIONNAIRE	72
APPENDIX G.....	76
RESIDENT VETERANS CERTIFICATION.....	77

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 Information Technology Support for the Retirement Information Online (RIO) Pension Administration System. The Public Employees Retirement Association of New Mexico (“PERA” or the Agency) is requesting proposals from qualified firms that have demonstrated past excellence and knowledge in providing information technology support for pension administration systems. PERA has 31 member coverage plans covering state, municipal and county employees, police, firefighters, judges, magistrates and legislators. As of June 30, 2017, PERA had 72,437 non-retired members and 38,761 retired members.

B. BACKGROUND INFORMATION

PERA operates under the authority of the Public Employees Retirement Act, NMSA 1978, Sections 10-11-1 to 10-11-142, as amended, the Volunteer Firefighters Retirement Act, NMSA 1978, Section 10-11A-1 to 10-11A-8, as amended, the Judicial Review Act, NMSA 1978, Section 10-12B-1 to 10-12B-19, as amended, the Magistrate Retirement Act, NMSA 1978, Section 10-12C-1 to 10-12C-18, as amended, and the Public Employees Reciprocity Act, NMSA 1978, Sections 10-13A-1 to 10-13A-4, as amended. The RIO pension administration system is a mission critical system to PERA that includes member, employer, and retiree data and document images and workflow. The information contained in RIO is critical for business continuity. The information technology support for the RIO pension system ensures PERA’s ability to meet mission critical processes.

C. SCOPE OF PROCUREMENT

PERA is seeking a contractor for a multi-year contract to provide the information technology support for the RIO pension administration system as further described in Section IV. A. to include, but are not limited to, 30- to 45-day turnaround for responding to all member requests; work with the RIO software vendor, PERA’s user administrator, and PERA’s system administrator to address the data quality issues currently impeding the optimal utilization of the RIO system; continue to refine procedures in the RIO system to more accurately and more quickly provide information requested by members, retirees, and affiliated employers; and research additional ways in which work processes, and their associated costs, can be streamlined in RIO. Contractor is only responsible for services associated with Maintenance Problem Incident Reports (PIRs), Support PIRs, Technical Support Requests, and Telephone Support. Contractor is not responsible for performing other services (e.g. Enhancement PIRs) unless they are explicitly added to the scope of the work via an amendment to the original contract.

D. PROCUREMENT MANAGER

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

Name: Renada Peery-Galon, Procurement Manager
Address: Public Employees Retirement Association of New Mexico
33 Plaza La Prensa
Santa Fe, NM 87507
Telephone: (505) 476-9304
Email: Renada.Peery-Galon@state.nm.us

2. All deliveries of responses via U.S. Mail or express carrier must be addressed as follows:

Name: Renada Peery-Galon
Reference RFP Name: Information Technology Support for the Retirement Information Online (RIO) Pension Administration System RFP No. NM 36600-2018-00002
Address: Public Employees Retirement Association of New Mexico
33 Plaza La Prensa
Santa Fe, NM 87507

3. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact ONLY the Procurement Manager regarding this procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of PERA. **Protests of the solicitation or award must be delivered by mail to the Protest Manager.** As A Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, 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. Emailed protests will not be considered as properly submitted nor will protests delivered to the Procurement Manager be considered properly submitted.

E. DEFINITION OF TERMINOLOGY

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

“Acceptance” or “Accepted” shall mean the approval, after Quality Assurance, of all Deliverables by an Executive Level Representative of the Procuring Agency.

“Application Deployment Package” shall mean the centralized delivery of business critical applications including the source code (for custom software), documentation, executable code and deployment tools required to successfully install application software fixes including additions, modifications, or deletions produced by the Contractor.

“Business Days” shall mean Monday through Friday, 7:30 a.m. (MST or MDT) to 5:30 p.m. except for federal or state holidays.

“Change Request” shall mean the document utilized to request changes or revisions in the Scope of Work – Exhibit A, attached hereto and incorporated herein.

“Chief Information Officer (“CIO”)” shall mean the CIO of PERA or Designated Representative.

“Confidential Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) that consists of: (1) confidential client information as such term is defined in State or Federal statutes and/or regulations; (2) all non-public State budget, expense, payment and other financial information; (3) all attorney-client privileged work product; (4) all information designated by the Procuring Agency or any other State agency as confidential, including all information designated as confidential under federal or state law or regulations; (5) unless publicly disclosed by the Procuring Agency or the State of New Mexico, the pricing, payments, and terms and conditions of this Agreement, and (6) State information that is utilized, received, or maintained by the Procuring Agency, the Contractor, or other participating State agencies for the purpose of fulfilling a duty or obligation under this Agreement and that has not been publicly disclosed.

“Contract Manager” shall mean a Qualified person from the Procuring Agency responsible for all aspects of the administration of this Agreement. Under the terms of this Agreement, the Contract Manager shall be the Chief Information Officer or his/her Designated Representative.

“Default” or “Breach” shall mean a violation of this Agreement by either failing to perform one’s own contractual obligations or by interfering with another Party’s performance of its obligations.

“Deliverable” shall mean any verifiable outcome, result, service or product that must be delivered, developed, performed or produced by the Contractor as defined by the Scope of Work.

“Designated Representative” shall mean a substitute(s) for a title or role, e.g. Contract Manager, when the primary is not available.

“DoIT” shall mean the Department of Information Technology.

“DFA” shall mean the Department of Finance and Administration; “DFA/CRB” shall mean the Department of Finance and Administration, Contracts Review Bureau.

“Escrow” shall mean a legal document (such as the software source code) delivered by the Contractor into the hands of a third party, and to be held by that party until the performance of a condition is Accepted; in the event Contractor fails to perform, the Procuring Agency receives the legal document, in this case, Source Code.

“Enhancement” means any modification including addition(s), modification(s), or deletion(s) that, when made or added to the program, materially changes its or their utility, efficiency, functional capability, or application, but does not constitute solely an error correction.

"Executive Level Representative" shall mean the individual empowered with the authority to represent and make decisions on behalf of the Procuring Agency's executives or his/her Designated Representative.

"GRT" shall mean New Mexico gross receipts tax.

"Intellectual Property" shall mean any and all proprietary information developed pursuant to the terms of this Agreement.

"Independent Verification and Validation ("IV&V")" shall mean the process of evaluating a Project and the Project's product to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an entity independent of the Procuring Agency.

"Know How" shall mean all technical information and knowledge including, but not limited to, all documents, computer storage devices, drawings, flow charts, plans, proposals, records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.

"Payment Invoice" shall mean a detailed, certified and written request for payment of Services by and rendered from the Contractor to the Procuring Agency. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the Payment Invoice is submitted.

"Performance Bond" shall mean a surety bond which guarantees that the Contractor will fully perform the Contract and guarantees against breach of contract.

"Project" shall mean a temporary endeavor 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 the Project approval is given by the Executive Level Representative and verified by the Procuring Agency CIO to the DoIT.

"Project Manager" shall mean a Qualified person from the Procuring Agency responsible for the application of knowledge, skills, tools, and techniques to the Project activities to meet the Project requirements from initiation to close. Under the terms of this Agreement, the Project Manager shall be Greg Portillos or his/her Designated Representative.

"Qualified" means demonstrated experience performing activities and tasks with Projects.

"Quality Assurance" shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.

"Services" shall mean the tasks, functions, and responsibilities assigned and delegated to the Contractor under this Agreement.

"State Purchasing Agent (SPA)" shall mean the State Purchasing Agent for the State of New Mexico or his/her Designated Representative.

"State Purchasing Division (SPD)" shall mean the State Purchasing Division of the General Services Department for the State of New Mexico.

"Software" shall mean all operating system and application software used by the Contractor to provide the Services under this Agreement.

"Software Maintenance" shall mean the set of activities which result in changes to the originally Accepted (baseline) product set. These changes consist of corrections, insertions, deletions, extensions, and Enhancements to the baseline system.

"Source Code" shall mean the human-readable programming instructions organized into sets of files which represent the business logic for the application which might be easily read as text and subsequently edited, requiring compilation or interpretation into binary or machine-readable form before being directly useable by a computer.

"Turnover Plan" means the written plan developed by the Contractor and approved by the Procuring Agency in the event that the work described in this Agreement transfers to another vendor or the Procuring Agency.

"Maintenance PIR" shall mean a system related change request that meets all of the following criteria:

Can be accomplished wholly by changes to (one or more) existing components;
Each existing component is one of the following types;

- Java Server Page
- Java Class
- Script
- Stored Procedure
- Configuration File
- Word Template
- SQR Source

Does not affect the structure or meaning of java methods that are referenced by components of a different functional area;

Does not require changes to architecture base classes used by the application.

"Support PIR" shall mean one of the following types of non-system change requests:

Providing assistance to 1 business user to accomplish 1 complex business transaction.
Fixes to production data for 1 employer account, 1 member account, or 1 benefit recipient account.
Changes to configuration data that impact 12 or fewer rows of information.

“RIO” shall mean “Retirement Information Online”, the Procuring Agency’s jClarity-based, mission-critical, pension administration solution as developed, maintained, and enhanced by Contractor and Procuring Agency in accordance with contractual terms.

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	PERA	February 7, 2018
2. Acknowledgement of Receipt	PERA	February 16, 2018 3:00 pm MST or MDT
4. Deadline to submit Questions	Potential Offerors	February 16, 2018 3:00 pm MST or MDT
5. Response to Written Questions	PERA	February 23, 2018
6. Submission of Proposal	Potential Offerors	March 9, 2018 3:00 pm MST or MDT
7. Proposal Evaluation	Evaluation Committee	March 19 – April 6, 2018
8. Selection of Finalists	Evaluation Committee	April 17, 2018
9. Best and Final Offers	Finalist Offerors	April 26, 2018 (Optional)
10. Oral Presentation(s)	Finalist Offerors	April 26, 2018 (Optional)
11. Finalize Contractual Agreements	PERA /Finalist Offerors	May 15, 2018
12. Contract Awards	PERA / Finalist Offerors	July 1, 2018
13. Protest Deadline	PERA	15 days after awarding of contract.

B. EXPLANATION OF EVENTS

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

1. Issuance of RFP

This RFP is being issued on behalf of the Public Employees Retirement Association of New Mexico (“PERA”) on February 7, 2018.

2. Acknowledgement of Receipt

Potential Offerors 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 3:00 pm MST or MDT on February 16, 2018.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror’s organization name shall not appear on the distribution list.

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 or MDT on February 16, 2018 as indicated in the sequence of events. All written questions must be addressed to the Procurement Manager as declared in Section I, Paragraph 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 written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offeror’s on February 23, 2018 that provide Acknowledgement of Receipt Forms described in II.B.2 before the deadline.

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/MOUNTAIN DAYLIGHT TIME ON March 9, 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 Information Technology Support for the Retirement Information Online (RIO) Pension Administration System RFP Number NM 36600-2018-00002.

Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this 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. 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. A schedule for the oral presentation and demonstration, if needed, 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 and demonstration.

9. Oral Presentations

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

10. Finalize Contractual Agreements

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s) as per schedule Section II. A., Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of PERA. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time 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

After review of the Evaluation Committee Report and the signed contractual agreement, PERA will award as per the schedule in Section II. A., Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of PERA.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the State of New Mexico and the Public Employees Retirement Association of New Mexico taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate Department and State approval.

12. Protest Deadline

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, 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 award of contracts and will end at 5:00 pm Mountain Standard Time/Mountain 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:

Protest Manager:
Marlena Riggs
Administrative Services Director
33 Plaza La Prensa
Santa Fe, NM 87507

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

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

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP; cost incurred for travel to Santa Fe,

NM, to make an oral presentation or to participate in negotiations; or for Offeror's expense in connection with a due diligence visit by PERA shall be borne solely by the Offeror. PERA shall pay its own expenses associated with a due diligence visit.

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

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

5. Amended Proposals

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

6. Offeror's Rights to Withdraw Proposal

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

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

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

- A. Proposals will be kept confidential until negotiations and the award are completed by the Agency. 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:
 - 1. confidential financial information concerning the Offeror's organization;
 - 2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
 - 3. 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, PERA shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This 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 effected 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 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 an agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in the Sample Contract Appendix C. However, the contracting agency 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 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 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 Offeror's 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 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. Please 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 NMSA 1978, § 13-1-83 and 13-1-85.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. 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, NMSA 1978, § 13-1-28 through 13-1-199, 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

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 Proposals

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

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 procuring 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.

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
<http://www.insurenewmexico.state.nm.us/>.
- 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 disqualification.

30. Letter of Transmittal

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

1. Identify the submitting business entity.
2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.
5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.
7. Identify the following with a check mark and signature where required:
 - a. **Explicitly** indicate acceptance of the Conditions Governing the Procurement stated in Section II. C.1;
 - b. **Explicitly** indicate acceptance of Section V. of this RFP; and
 - c. Acknowledge receipt of any and all amendments to this RFP.

8. Be signed by the person identified in 2. above.

31. Pay Equity Reporting Requirements

- A. If the Offeror has ten (10) or more employees OR eight (8) or more employees in the same job classification, Offeror must complete and submit the required reporting form (PE10-249) if they are awarded a contract. Out-of-state Contractors that have no facilities and no employees working in New Mexico are exempt if the contract is directly with the out-of-state contractor and fulfilled directly by the out-of-state contractor, and not passed through a local vendor.
- B. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Offeror must also agree to complete and submit the required form annually within thirty (30) calendar days of the annual bid or proposal submittal anniversary date and, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract.
- C. Should Offeror not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, Offeror must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.
- D. Offeror must also agree to levy these reporting requirements on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Offeror must further agree that, should one or more 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, offer will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement.

32. 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 PERA 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 PERA. 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.

33. New Mexico Preferences

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors must include a copy of their preference certificate with their 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>.

A. New Mexico Business Preference

B. New Mexico Resident Veterans Business Preference

In addition to a copy of the certification, the Offeror should sign and complete the Resident Veterans Preference Certificate form, as provided in this RFP.

An agency shall not award a business both a resident business preference and a resident veteran business preference.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

B. NUMBER OF COPIES

1. Hard Copy Responses

Offeror's proposal must be clearly labeled and numbered and indexed as outlined in **Section III.C. Proposal Format**. Proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the binder. Each portion of the proposal (technical/cost) must be submitted in separate binders and must be prominently displayed on the front cover. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

Offerors should deliver:

1. **Technical Proposals** – One (1) ORIGINAL, six (6) HARD COPY, and one (1) electronic copy of the proposal containing ONLY the Technical Proposal; ORIGINAL and COPY shall be in separate labeled binders. **The electronic version/copy can NOT be emailed.**
 - Proposals containing confidential information **must** be submitted as two separate binders:
 - **Unredacted** version for evaluation purposes
 - **Redacted** version (information blacked out and not omitted or removed) for the public file
2. **Cost Proposals** – One (1) ORIGINAL, six (6) HARD COPY, and one (1) electronic copy of the proposal containing ONLY the Cost Proposal; ORIGINAL and COPY of Cost Proposal shall be in separate labeled binders from the Technical Proposals. **The electronic copy can NOT be emailed.**

The original, hard copy and electronic copy information **must** be identical. In the event of a conflict between versions of the submitted proposal, the Original hard copy shall govern.

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

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

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

Organization of folders/envelopes for hard copy proposals and 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 should be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Technical Proposal (Binder 1):

- A. Signed Letter of Transmittal
- B. Table of Contents
- C. Proposal Summary (Optional)
- D. Response to Contract Terms and Conditions
- E. Offeror's Additional Terms and Conditions

F. Response to Specifications (**except cost information which shall be included in Cost Proposal/Binder 2 only**)

1. Organizational Background, General Description and Staff
2. Organizational Experience
3. Organizational References
4. Information Technology Support Plan
5. Financial Stability - Financial information considered confidential should be placed in the **Confidential Information** binder.
6. Signed Campaign Contribution Form
7. New Mexico Preferences (If applicable)

G. Other Supporting Material (If applicable)

Cost Proposal (Binder 2):

1. Completed Cost Response Form

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. All discussion of proposed costs, rates or expenses must occur only in Binder #2 on the cost response form.

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

IV. SPECIFICATIONS

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

A. DETAILED SCOPE OF WORK

1. Scope of Work

The purpose of the Agreement is to provide IT support for the RIO pension administration system.

A. Goals.

Procuring Agency's mission critical system is the RIO pension administration system that includes member, employer, and retiree data and document images and work flow. Procuring Agency executive and mid management have determined that this information is critical for business continuity. This contract is to ensure availability to meet mission critical processes.

B. Objectives.

A 30- to 45-day turnaround time for responding to all member requests.

Work with the RIO software vendor, Procuring Agency's user administrator, and Procuring Agency's system administrator to address the data quality issues currently impeding the optimal utilization of the RIO system. (The incorrect and incomplete data negates the improved system integrity of RIO, and by improving data, system integrity going forward can be relied upon.)

Continue to refine procedures in the retirement information online (RIO) system to more accurately and more quickly provide information requested by members, retirees, and affiliated employers.

Research additional ways in which work processes, and their associated costs, can be streamlined in RIO.

I. Performance Measures

Performance Measures for this contract shall be to assist and contribute to the proper functioning of the Procuring Agency's RIO pension administration system in furtherance of Procuring Agency's goals and objectives.

II. Activities:

The activities to be performed by the Contractor are as follows:

Contractor is only responsible for services associated with Maintenance PIRs, Support PIRs, Technical Support Requests, and Telephone Support. Contractor is not responsible for performing other services (e.g. Enhancement PIRs) unless they are explicitly added to the scope of the contract via an amendment to this Contract.

I. Deliverables

The following sections describe the required tasks and subtasks to be performed by the Contractor for each Deliverable under the terms of this Agreement. The Contractor must perform each task and/or subtask. The Parties hereby agree that the Deliverable(s) are the controlling items and that the Contractor's obligation is to perform and deliver the Deliverable as described in the following sections.

In the event of extenuating circumstances affecting the delivery of a PIR or PIRs, at the discretion of Procuring Agency's User Administrator and the Agency CIO, the PIR or PIRs may be excluded from the deliverable requirement for the month they were created, and carried forward to the following months deliverable requirement.

A. Deliverable Number 1 Software Support Services

TASK ITEM	SUB TASKS	DESCRIPTION
Software Support Services	System Software Support	<p>The Contractor will perform required Services associated with Maintenance PIRs and Support PIRs created between July 1, 2017 and June 30, 2018. The Contractor will test the resolution in the development environment and confirm through testing that other functional areas are not affected with the implementation of the new code. The Contractor will test the resolution with Procuring Agency staff member that submitted the PIR to confirm the resolution. The PIR must be signed off as resolved by the Procuring Agency staff member that submitted the PIR, the user administrator and the Agency CIO. PIRs will be prioritized based on the following criteria:</p> <p>Fatal – The RIO System is offline or inoperable.</p> <p>Procuring Agency is requiring that the Contractor respond to the Procuring Agency User Administration Help Desk within 1 business hour from receiving the PIR to begin the research and analysis of the PIR. The service level for completing these requests is 24 hours from receiving the PIR unless otherwise agreed to on a case by case basis by the Agency CIO, Contractor staff and the User Administration Point-of contact.</p> <p>Critical – An issue that is impacting ten or more users and/or members, and/or significantly effecting major system functionality. Examples:</p> <ul style="list-style-type: none"> • While doing person search, getting error for ALL the members. • Pension Factor /Benefit amount is calculated incorrectly for ALL the members. • Cannot process refund for anyone. • Cannot load file for any employers. <p>Procuring Agency is requiring that the Contractor respond to the Procuring Agency User Administration Help Desk within 2 business hours to begin the research and analysis of the PIR. The service level for completing these requests is 48 hours unless otherwise agreed to on a case by case basis by the Agency CIO, Contractor staff and the User Administration Point-of contact.</p> <p>Major – An issue that is impacting five or more users and/or</p>

	<p>members, and/or significantly effecting portions of major system functionality.</p> <p>Examples:</p> <ul style="list-style-type: none"> • Members refunds who has a Court order (DRO) is not happening properly. • Certified earnings cannot be entered for members belong to HOBBS CITY OF. • Airtime calculation is not good for members belong to Municipal plan <p>Procuring Agency is requiring that Contractor respond to the Procuring Agency User Administration Help Desk within 1 business day to begin the research and analysis of the PIR. The service level for completing these requests is 5 business days unless otherwise agreed to on a case by case basis by the Agency CIO, Contractor staff and the User Administration Point-of contact.</p>
System Software Support	<p>Medium – An issue that is impacting an individual user and/or member.</p> <p>Examples:</p> <ul style="list-style-type: none"> • Cannot load employer payroll files only for OTERO Country. • Service credit mismatch across RIO screen for individual member. • Military Service credit calculation is incorrect for the individual member. <p>Procuring Agency is requiring that the Contractor respond to the Procuring Agency User Administration Help Desk within 3 business days to begin the research and analysis of the PIR. The service level for completing these requests is 10 business days unless otherwise agreed to on a case by case basis by the Agency CIO, Contractor staff and the User Administration Point-of contact.</p> <p>Minor – An issue that is having a minor impact on an individual user and/or member.</p> <p>Examples:</p> <ul style="list-style-type: none"> • System calculated benefit amount for DRO member is incorrect - as work around user can override it. • System projected the service incorrectly during benefit estimates – user can override it. • When clicked OK on a page, it is shown as Saved. But the history page it is not shown. But when you go out of the TAB and come back in you can see the saved record. • Change in letter or report format and/or change in font size. • Change in layout of a screen. • System does not display the current date in the date field.

	<p>Procuring Agency is requiring that the Contractor respond to the Procuring Agency requestor via e-mail with a copy sent to the Procuring Agency User Administration Help Desk within 5 business days to begin the research and analysis of the PIR. The service level for completing these requests is 20 business days unless otherwise agreed to on a case-by-case basis by the Agency CIO, Contractor staff and the User Administration Point-of-contact.</p> <p>The Contractor shall ensure the RIO system response time for the production online and Self-Service system shall NOT exceed an average time of 5 seconds. The response time will be measured using the Internet Information Services (IIS) logs. The IIS logs will measure the average response time from the time the server receives the query until the time the server responds to the query. This does not include any network or local processing. The Contractor will only capture and report the average response time upon a request from Procuring Agency. Upon a request, the Contractor will turn on the logs for a period of two days to capture the performance. The Contractor will generate the requested reports by using MS Parser, or similar product. Any system performance issues identified will be managed via system support PIR</p> <p>System Performance Support</p> <p>Procuring Agency is responsible for the hosting environment and will measure monthly uptime. The RIO system uptime target is 98.5% for all major functions of the system, Monday through Saturday, 6:30 a.m. to 6:30 p.m., including state and federal holidays, excluding scheduled downtime or Procuring Agency-initiated downtime. If the target is not reached, ES will work with Procuring Agency to determine the root cause (hardware, software, or application).</p> <p>The Contractor will monitor and ensure the timely and successful completion of all nightly batch jobs.</p>
--	---

B. Deliverable Number 2 Technical Support Services

Respond to Technical Support Requests for System Hardware Analysis, Third Party Software Analysis, and Telephone Support that occur between XXXX, 20XX through XXXX, 20XX.

TASK ITEM	SUB TASKS	DESCRIPTION
-----------	-----------	-------------

Technical Support Services	System Hardware Analysis	<p>If the RIO pension administration system is not functioning correctly, the Contractor will determine if the hardware is the root cause of the application problem. If the hardware is the problem the Contractor will provide a detailed analysis to the Procuring agency. The Contractor will assist the Procuring Agency and the hardware vendor until the problem is resolved.</p> <p>Any changes that affect the RIO pension administration should be communicated to the Contractor prior to implementing the changes to the environments.</p>
	Third party software analysis	<p>If the following third party software required by RIO is the problem the Contractor will provide a detailed analysis to the Procuring Agency. The Contractor will assist the Procuring Agency and the third party software vendor till the problem is resolved. Depending on the complexity of the required programming, major version upgrades to third party software that require corresponding changes to the Clarety architecture may be treated as a separate change request. Minor upgrades and patches may be treated as regular PIRs if they do not impact Clarety architecture.</p> <ul style="list-style-type: none"> • Rational Application Developer 9.0 • WebSphere Application Server Network Deployment • Office 2013 Professional (Word only) • SQL Server 2012 R2 Enterprise Edition • Windows Server 2012 • Windows Components included in the OS <ul style="list-style-type: none"> ◦ Internet Information Services ◦ Certificate Services ◦ Internet Explorer • Hyperion SQR 11.1 • LiteSpeed for SQL Server • Subversion – SVN 1.8 • Global ECS 4.22 • SQL Server SSRS (Anticipated FY19) • GroupID (Anticipated FY19) <p>Procuring Agency receives support for the following products from a 3rd party provider. The Contractor's responsibility is limited to the points of integration between jClarety and these products. Procuring Agency IT will manage resolution of issues that relate directly to these products with their 3rd party provider. Depending on the complexity of the required programming, major version upgrades to FileNet related products that require corresponding changes to the Clarety architecture may be treated as a separate change request. Minor upgrades and patches may be treated as regular PIRs if they do not impact Clarety architecture.</p> <ul style="list-style-type: none"> • FileNet ImageServices • FileNet eProcess • FileNet Web Services • FileNet P8 • FileNet P8 Conversion • IBM Case Manager (Anticipated FY19)

	Telephone support	The Contractor will provide telephone support to the Procuring Agency technical staff on technical support services for technical issues which are impacting Clarity production and UAT system. Procuring Agency IT will provide the details of analysis done by their team to resolve technical issues. Procuring Agency IT owns the primary responsibilities of Clarity production and UAT systems technical issues. The Contractor backs up Procuring Agency IT if the technical issue is not resolved. Depending on the complexity of the required programming, major version upgrades to RIO infrastructure that require corresponding changes to the Clarity architecture may be treated as a separate change request. Minor upgrades and patches may be treated as regular PIRs if they do not impact Clarity architecture.
--	--------------------------	--

B. TECHNICAL SPECIFICATIONS

1. Organizational Background, General Description and Staff

Offerors must:

- a) Give a brief history of the organization including, but not limited to, the month and year the organization began offering information technology support services to public sector clients. Describe the nature of the ownership and specific details with regard to any affiliated companies or joint ventures. Describe the material developments in your organization (change in ownership, personnel, business, etc.) over the past three (3) years. Describe any anticipated changes in ownership, personnel, business, etc. that would occur during the term of the contract.
- b) List all key professional staff to be assigned to the performance of the contract and the specific responsibilities of each person. Including the following information: person's name; professional certifications held; highest degree attained, indicating school and year; positions in the organization; total years with the organization; experience with the organization; experience performing information technology support services with other public sector clients; and number of other clients assigned to each individual. Provide a listing or chart detailing the organization with the number of employees in each position and a breakdown by position of employees involved in information technology support services and their physical location.
- c) Describe your organization's backup procedures in the event the key professional(s) assigned to provide information technology support services should leave the organization or be transferred to other duties.
- d) Describe the financial condition of your firm including any recent material changes. Indicate revenue expenses and net income for the three (3) most recent years available.
- e) Does your firm have a written code of conduct or a set of standards for professional behavior? Is so, how are they monitored and enforced?

- f) Over the past five years, has your organization, your parent organization or any of its affiliates, or any officer or principal been involved in any business litigation or regulatory proceedings? If so, provide an explanation and indicate the current status.
- g) Describe your firm's disaster recovery plan as it relates to the information technology equipment, software, and data tapes.

2. Organizational Experience

Offer 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 information technology support services.
- b) Indicate what percentage of business revenue is derived from information technology support services.
- c) Describe at least two successes and failures pertaining to information technology support services. Include how each experience improved the Offeror's services.

3. Organizational References

- a) Provide the client name, address, contact person and title, and phone number for three (3) references to whom you provide information technology support services. Also indicate the length of your relationship. Offerors are required to submit APPENDIX F, Organization Reference Questionnaire, to the business references they list. The business references must submit the Reference Form directly to the Procurement Manager. It is the offeror's responsibility to ensure the complete forms are received on or before March 9, 2018 for inclusion in the evaluation process.
- b) Organizational References that are not received or are not complete, may adversely affect the Offeror's score in the evaluation process. 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 Business Reference information required herein), in its evaluation of Offeror responsibility.
- c) Offers shall submit the following Business Reference information:
 - a. Client name;
 - b. Information Technology Support Description;

- c. Technical Environment (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);
- d. Staff assigned to reference engagement that will be designated for work per this RFP; and
- e. Client name, telephone number, fax number and e-mail address.

4. Information Technology Support Plan

- a) Develop a workable Information Technology Support plan that feeds key points to the overall RIO pension system maintenance.
- b) Develop overall approach and strategy documentation.
 - a. Work with PERA to plan the overall information technology support strategy.
 - b. Work with PERA to establish procedures for issue resolution.
 - c. Identify resources necessary to for information technology support for the RIO pension system.

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 (3) 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.

2. 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.

3. 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)

4. Cost

Offerors must complete the Cost Response Form in APPENDIX D. All amounts represented in the Cost Response Form will be considered as "not to exceed" amounts. All

charges listed on APPENDIX D must be justified and evidence of need documented in the proposal.

Any out-of-pocket expenses, including travel, should be included in the Cost Response Form. The successful offeror will be compensated for any New Mexico gross receipts taxes owed on information technology support services rendered in New Mexico under this RFP.

5. Resident Business or Resident Veterans Preference

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (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 G) must accompany any Offer and any business wishing to receive the preference must complete and sign the form.

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.

Factors – correspond to section IV.B and IV C	Points Available
B. Technical Specifications	
B. 1. Organizational Background, General Description and Staff	100
B. 2. Organizational Experience	150
B. 3. Organizational References	50
B. 4. Information Technology Support Plan	100
C. Business Specifications	
C.1. Financial Stability	Pass/Fail
C.2. Letter Of Transmittal	Pass/Fail
C.3. Signed Campaign Contribution Disclosure Form	Pass/Fail
C.4. Cost	100
TOTAL	500 points
C.5. New Mexico Preference - Resident Vendor Points per Section IV C. 6	
C.5. New Mexico Preference - Resident Veterans Points per Section IV C.6	

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

1. B.1 Organizational Background, General Description and Staff (See Table 1)

Points will be awarded based on the thoroughness and clarity of the response and the perceived validity of the response. Lack of a response will be awarded zero (0) points. Agencies must include evaluation criteria based on Section IV. B.

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

Points will be awarded based on the thoroughness and clarity of the response and the perceived validity of the response. Lack of a response will be awarded zero (0) points. Agencies must include evaluation criteria based on Section IV. B.

3. B.3 Organizational References (See Table 1)

Points will be awarded based on the thoroughness and clarity of the response and the perceived validity of the response. Lack of a response will be awarded zero (0) points. Agencies must include evaluation criteria based on Section IV. B.

4. B.4 Information Technology Support Plan

Points will be awarded based on the thoroughness and clarity of the response and the perceived validity of the response. Lack of a response will be awarded zero (0) points. Agencies must include evaluation criteria based on Section IV. B.

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

Pass/Fail only. No points assigned.

6. C.2 Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

7. C.3 Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

8. C.4 Cost (See Table 1)

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

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

9. C.5. New Mexico Preferences

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

A. New Mexico Business Preference

If the Offeror has provided their Preference Certificate the Preference Points for a New Mexico Business is 5%.

B. New Mexico Resident Veterans Business Preference

If the Offeror has provided their Preference Certificate **and** the Resident Veterans Certification Form the Preference Point are one of the following:

- 10% for less than \$1M (prior year revenue)
- 8% for more than \$1M but less than \$5M (prior year revenue)
- 7% for more than \$5M (prior year revenue)

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.6.
3. The Evaluation Committee may use other sources of to perform the evaluation as specified in Section II. C.18.
4. Responsive proposals will be evaluated on the factors in Section IV.B & C, which have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the State taking into consideration the evaluation factors in Section IV will be recommended for award (as specified in Section II. B.11). 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

REQUEST FOR PROPOSAL

Information Technology Support for the Retirement Information Online
(RIO) Pension Administration System
RFP #: 36600-2018-00002

ACKNOWLEDGEMENT OF RECEIPT FORM

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

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than by 3:00 pm MST or MDT February 16, 2018. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

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

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

Renada Peery-Galon, Procurement Manager
RFP #: 36600-2018-00002
Public Employees Retirement Association
33 Plaza La Prensa
Santa Fe, NM 87507
E-mail: Renada.Peery-Galon@state.nm.us

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

SAMPLE CONTRACT

State of New Mexico

[Insert Procuring Agency Name]

Information Technology Agreement
Contract No. _____

THIS Information Technology Agreement (“Agreement” or “Contract”) is made by and between the State of New Mexico, [Insert Procuring Agency Name], hereinafter referred to as the “Procuring Agency” and [Insert Contractor Name], hereinafter referred to as the “Contractor” and collectively referred to as the “Parties”.

WHEREAS, pursuant to the [CHOICE #1 - Procurement Code, NMSA 1978 13-1-28 *et. seq*; and Procurement Code Regulations, NMAC 1.4.1 *et.seq*; OR CHOICE #2 – New Mexico State Use Act (13-1C-1 NMSA 1978);] the Contractor has held itself out as expert in implementing the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as the offeror most advantageous to the State of New Mexico; and

[CHOICE #1 - If procurement method is a RFP or Sole Source, use the following language:
WHEREAS, all terms and conditions of the [RFP Number and Name] [SOLE SOURCE] and the Contractor’s response to such document(s) are incorporated herein by reference; and]

[CHOICE #2 – If procurement method is a state price agreement, use the following language:
“WHEREAS, this Agreement is issued against the state price agreement, established and maintained by the New Mexico State Purchasing Division of the General Services Department, SPD [Insert state price agreement number and name], and through this language hereby incorporates this price agreement by reference and gives the price agreement’s terms and conditions precedence over the terms and conditions contained in this present Agreement;”]

[CHOICE #3 - WHEREAS, all Parties agree that, pursuant to the [SUBCHOICE A - Procurement Code, 1.4.1.52 *et. seq*. OR SUBCHOICE B – New Mexico State Use Act (13-1C-1 NMSA 1978)] the total amount of this Agreement is \$60,000.00 or less, excluding taxes; and

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

ARTICLE 1 – DEFINITIONS

- A. “Acceptance” or “Accepted” shall mean the approval, after Quality Assurance, of all Deliverables by an Executive Level Representative of the Procuring Agency.
- B. “Application Deployment Package” shall mean the centralized delivery of business critical applications including the source code (for custom software), documentation, executable code and deployment tools required to successfully install application software fixes including additions, modifications, or deletions produced by the Contractor.
- C. “Business Days” shall mean Monday through Friday, 7:30 a.m. (MST or MDT) to 5:30 p.m. except for federal or state holidays.

- D. "Change Request" shall mean the document utilized to request changes or revisions in the Scope of Work – Exhibit A, attached hereto and incorporated herein.
- E. "Chief Information Officer ("CIO")" shall mean the Cabinet Secretary/CIO of the Department of Information Technology for the State of New Mexico or Designated Representative.
- F. "Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) that consists of: (1) confidential client information as such term is defined in State or Federal statutes and/or regulations; (2) all non-public State budget, expense, payment and other financial information; (3) all attorney-client privileged work product; (4) all information designated by the Procuring Agency or any other State agency as confidential, including all information designated as confidential under federal or state law or regulations; (5) unless publicly disclosed by the Procuring Agency or the State of New Mexico, the pricing, payments, and terms and conditions of this Agreement, and (6) State information that is utilized, received, or maintained by the Procuring Agency, the Contractor, or other participating State agencies for the purpose of fulfilling a duty or obligation under this Agreement and that has not been publicly disclosed.
- G. "Contract Manager" shall mean a Qualified person from the Procuring Agency responsible for all aspects of the administration of this Agreement. Under the terms of this Agreement, the Contract Manager shall be [Insert Name] or his/her Designated Representative.
- H. "Default" or "Breach" shall mean a violation of this Agreement by either failing to perform one's own contractual obligations or by interfering with another Party's performance of its obligations.
- I. "Deliverable" shall mean any verifiable outcome, result, service or product that must be delivered, developed, performed or produced by the Contractor as defined by the Scope of Work.
- J. "Designated Representative" shall mean a substitute(s) for a title or role, e.g. Contract Manager, when the primary is not available.
- K. "DoIT" shall mean the Department of Information Technology.
- L. "DFA" shall mean the Department of Finance and Administration; "DFA/CRB" shall mean the Department of Finance and Administration, Contracts Review Bureau.
- M. "Escrow" shall mean a legal document (such as the software source code) delivered by the Contractor into the hands of a third party, and to be held by that party until the performance of a condition is Accepted; in the event Contractor fails to perform, the Procuring Agency receives the legal document, in this case, Source Code.
- N. "Enhancement" means any modification including addition(s), modification(s), or deletion(s) that, when made or added to the program, materially changes its or their utility, efficiency, functional capability, or application, but does not constitute solely an error correction.
- O. "Executive Level Representative" shall mean the individual empowered with the authority to represent and make decisions on behalf of the Procuring Agency's executives or his/her Designated Representative.
- P. "GRT" shall mean New Mexico gross receipts tax.
- Q. "Intellectual Property" shall mean any and all proprietary information developed pursuant to the terms of this Agreement.

- R. "Independent Verification and Validation (“IV&V”)" shall mean the process of evaluating a Project and the Project's product to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an entity independent of the Procuring Agency.
- S. "Know How" shall mean all technical information and knowledge including, but not limited to, all documents, computer storage devices, drawings, flow charts, plans, proposals, records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.
- T. "Payment Invoice" shall mean a detailed, certified and written request for payment of Services by and rendered from the Contractor to the Procuring Agency. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the Payment Invoice is submitted.
- U. "Performance Bond" shall mean a surety bond which guarantees that the Contractor will fully perform the Contract and guarantees against breach of contract.
- V. "Project" shall mean a temporary endeavor 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 the Project approval is given by the Executive Level Representative and verified by the Procuring Agency CIO to the DoIT. If applicable, under the terms of this Agreement the Project is [Insert Name of Project, if applicable; otherwise delete sentence].
- W. "Project Manager" shall mean a Qualified person from the Procuring Agency responsible for the application of knowledge, skills, tools, and techniques to the Project activities to meet the Project requirements from initiation to close. Under the terms of this Agreement, the Project Manager shall be [Insert Name] or his/her Designated Representative.
- X. "Qualified" means demonstrated experience performing activities and tasks with Projects.
- Y. "Quality Assurance" shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.
- Z. "Services" shall mean the tasks, functions, and responsibilities assigned and delegated to the Contractor under this Agreement.
- AA. "State Purchasing Agent (SPA)" shall mean the State Purchasing Agent for the State of New Mexico or his/her Designated Representative.
- BB. "State Purchasing Division (SPD)" shall mean the State Purchasing Division of the General Services Department for the State of New Mexico.
- CC. "Software" shall mean all operating system and application software used by the Contractor to provide the Services under this Agreement.
- DD. "Software Maintenance" shall mean the set of activities which result in changes to the originally Accepted (baseline) product set. These changes consist of corrections, insertions, deletions, extensions, and Enhancements to the baseline system.
- EE. "Source Code" shall mean the human-readable programming instructions organized into sets of files which represent the business logic for the application which might be easily read as text and subsequently edited, requiring compilation or interpretation into binary or machine-readable form before being directly useable by a computer.

FF. "Turnover Plan" means the written plan developed by the Contractor and approved by the Procuring Agency in the event that the work described in this Agreement transfers to another vendor or the Procuring Agency.

ARTICLE 2 – SCOPE OF WORK

- A. Scope of Work. The Contractor shall perform the work as outlined in Exhibit A, attached hereto and incorporated herein by reference.
- B. Performance Measures. The Contractor shall substantially perform to the satisfaction of the Procuring Agency the Performance Measures set forth in Exhibit A. In the event the Contractor fails to obtain the results described in Exhibit A, the Procuring Agency may provide written notice to the Contractor of the Default and specify a reasonable period of time in which the Contractor shall advise the Procuring Agency of specific steps it will take to achieve these results and the proposed timetable for implementation. Nothing in this Section shall be construed to prevent the Procuring Agency from exercising its rights pursuant to Article 6 or Article 16.
- C. Schedule. The Contractor shall meet the due dates, as set forth in Exhibit A, which due dates shall not be altered or waived by the Procuring Agency without prior written approval, through the Amendment process, as defined in Article 25.
- D. License. [CHOICE #1 – If a software license is required, use the following language.] Contractor hereby grants Procuring Agency a [CHOICE #2- If a perpetual license is required, use the following language] non-exclusive, irrevocable, perpetual license to use, modify, and copy the following Software: [Insert name of software and patent number if applicable]
[CHOICE #3- If the license is required for the term of the Agreement, use the following language] non-exclusive, irrevocable, license to use, modify, and copy the [Insert name of Software and patent number if applicable] Software and any and all updates, corrections and revisions as defined in Article 2 and Exhibit A, for the term of this Agreement.

The right to copy the Software is limited to the following purposes: archival, backup and training. All archival and backup copies of the Software are subject to the provisions of this Agreement, and all titles, patent numbers, trademarks, copyright and other restricted rights notices shall be reproduced on any such copies.

1. Contractor agrees to maintain, at Contractor's own expense, a copy of the Software Source Code to be kept by an escrow agent and to list the Procuring Agency as an authorized recipient of this Source Code. The Source Code shall be in magnetic form on media specified by the Procuring Agency. The escrow agent shall be responsible for storage and safekeeping of the magnetic media. Contractor shall replace the magnetic media no less frequently than every six (6) months to ensure readability and to preserve the Software at the current revision level. Included with

the media shall be all associated documentation which will allow the Procuring Agency to top load, compile and maintain the software in the event of a Breach.

2. If the Contractor ceases to do business or ceases to support this Project or Agreement and it does not make adequate provision for continued support of the Software it provided the Procuring Agency; or, if this Agreement is terminated, or if the Contractor Breaches this Agreement, the Contractor shall make available to the Procuring Agency: 1) the latest available Software program Source Code and related documentation meant for the Software provided or developed under this Agreement by the Contractor and listed as part of the Services; 2) the Source Code and compiler/utilities necessary to maintain the system; and, 3) related documentation for Software developed by third parties to the extent that the Contractor is authorized to disclose such Software. In such circumstances, Procuring Agency shall have an unlimited right to use, modify and copy the Source Code and documentation.

[**CHOICE #3** – Not Applicable. The Parties agree there is no License.]

- E. Source Code. [**CHOICE #1** – If for a maintenance and operations contract, use the following language.] The Contractor shall deliver any and all software developed as a result of maintenance releases by the Contractor. The Application Deployment Package must be able to reproduce a fully operational application that includes all base application functionality, all cumulative release functionality and including the functionality, as documented, verified and supported by the Contractor, which comprises the new application release.

[**CHOICE #2** – If Contractor will hold software in escrow, use the following language.] For each maintenance release, the Application Deployment Package shall be updated and shall be kept by an identified escrow agent at the Contractor's expense. The Application Deployment Package shall be in magnetic or digital form on media specified by the Procuring Agency. The escrow agent shall be responsible for storage and safekeeping of the storage media. The Procuring Agency shall be listed with said escrow agent as an authorized recipient of the storage media which shall contain the most recent application maintenance release deployment package.

[**CHOICE #3** – If Contractor will not hold software in escrow, use the following language.] For each maintenance release, the Application Deployment Package shall be updated and shall be delivered to the Procuring Agency's at the Contractor's expense. The Application Deployment Package shall be in magnetic or digital form on media specified by the Procuring Agency and shall be updated with each new application release deployment package at the Contractor's expense.

[**CHOICE #4** – Not Applicable. The Parties agree there is no Source Code.]

- F. The Procuring Agency's Rights.

1. Rights to Software. [CHOICE #1 – If the Procuring Agency has right to the Software, use the following language. - The Procuring Agency will own all right, title, and interest in and to the Procuring Agency's Confidential Information, and the Deliverables, provided by the Contractor, including without limitation the specifications, the work plan, and the Custom Software, except that the Deliverables will not include third party software and the associated documentation for purposes of this Section. The Contractor will take all actions necessary and transfer ownership of the Deliverables to the Procuring Agency, without limitation, the Custom Software and associated Documentation on Final Acceptance or as otherwise provided in this Agreement.] [CHOICE #2 – Not Applicable. The Parties agree the Procuring Agency does not have rights to the Software.]
2. Proprietary Rights. The Contractor will reproduce and include the State of New Mexico's copyright and other proprietary notices and product identifications provided by the Contractor on such copies, in whole or in part, or on any form of the Deliverables.
3. Rights to Data. [CHOICE #1 – If the Procuring Agency has right to the data, use the following language - Any and all data stored on the Contractor's servers or within the Contractors custody, in order to execute this Agreement, is the sole property of the Procuring Agency. The Contractor, subcontractor(s), officers, agents and assigns shall not make use of, disclose, sell, copy or reproduce the Procuring Agency's data in any manner, or provide to any entity or person outside of the Procuring Agency without the express written authorization of the Procuring Agency.] [CHOICE #2 – Not Applicable. The Parties agree the Procuring Agency does not have rights to the data.]

ARTICLE 3 - COMPENSATION

- A. Compensation Schedule. The Procuring Agency shall pay to the Contractor based upon fixed prices for each Deliverable, per the schedule outlined in Exhibit A, less retainage, if any, as identified in Paragraph D.
- B. Payment. The total compensation under this Agreement shall not exceed [Insert Dollar Amount] [CHOICE #1- excluding New Mexico gross receipts tax. CHOICE #2 - including New Mexico gross receipts tax.] 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 Procuring Agency 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 services, in excess of the total compensation amount being provided.

[Use if a state price agreement is the procurement method] Compensation for a statewide price agreement shall not exceed \$1,200,000 per year for Agreements that are part of

Certified projects or \$600,000 per year for all other Agreements. Contractor hereby agrees to perform work at or below the published maximum rates of the statewide price agreement as follows:

- [Insert professional service category(s) and define rate(s).]

Payment shall be made upon Acceptance of each Deliverable according to Article 4 and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the Procuring Agency no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

- C. Taxes. [CHOICE #1- Use if Agreement is between two public entities - Not Applicable - contract is between two public entities.]

[CHOICE #2- The Contractor [Use either - shall OR shall not] be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Contractor by any authority. The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification number(s).]

Contractor and any and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the Procuring Agency harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.]

- D. Retainage. [CHOICE #1 - The Procuring Agency shall retain [INSERT percentage which is recommended at - twenty percent (20%)] of the fixed-price Deliverable cost for each Deliverable that is the subject of this Agreement as security for full performance of this Agreement. All amounts retained shall be released to the Contractor upon Acceptance of the final Deliverable.] [CHOICE #2 – Not Applicable – The Parties agree there is no retainage.]

- E. Performance Bond. [CHOICE #1- If the amount of the Agreement exceeds \$1Million OR, if the Agreement is for custom developed software/application, OR Commercial Off the Shelf (COTS) software with greater than 20% Enhancement, OR for any other critical project execution concerns, use the following language.] Contractor shall execute and deliver to Procuring Agency, contemporaneously with the execution of this Agreement, a Performance Bond in the amount of [Insert Total Amount of agreed upon Performance Bond] in the name of the Procuring Agency. The Performance Bond shall be in effect for the duration of this Agreement and any renewals thereof. The required Performance Bond shall be conditioned upon and for the full performance, Acceptance and actual fulfillment

of each and every Deliverable, term, condition, provision, and obligation of the Contractor arising under this Agreement. The Procuring Agency's right to recover from the Performance Bond shall include all costs and damages associated with the transfer of Services provided under this Agreement to another Contractor or to the State of New Mexico as a result of Contractor's failure to perform.

[**CHOICE #2** – Not Applicable. The Parties agree there is no Performance Bond.]

ARTICLE 4 – ACCEPTANCE

- A. **Submission.** Upon completion of agreed upon Deliverables as set forth in Article 2 and Exhibit A, Contractor shall submit a Payment Invoice with the Deliverable, or description of the Deliverable, to the Procuring Agency. Each Payment Invoice shall be for the fixed Deliverable price as set forth in Article 2 and Exhibit A, less retainage as set forth in Article 3(D).
- B. **Acceptance.** In accord with Section 13-1-158 NMSA 1978, the Executive Level Representative shall determine if the Deliverable provided meets specifications. No payment shall be made for any Deliverable until the individual Deliverable that is the subject of the Payment Invoice has been Accepted, in writing, by the Executive Level Representative. In order to Accept the Deliverable, the Executive Level Representative, in conjunction with the Project Manager, will assess the Quality Assurance level of the Deliverable and determine, at a minimum, that the Deliverable:
 1. Complies with the Deliverable requirements as defined in Article 2 and Exhibit A;
 2. Complies with the terms and conditions of the [**CHOICE #1- RFP**] [**CHOICE #2 - state price agreement**] [**CHOICE #3 - Sole Source**] [**CHOICE #4 – other procurement method of (please specify)**];
 3. Meets the performance measures for the Deliverable(s) and this Agreement;
 4. Meets or exceeds the generally accepted industry standards and procedures for the Deliverable(s); and
 5. Complies with all the requirements of this Agreement.

If the Deliverable is deemed Acceptable under Quality Assurance by the Executive Level Representative or their Designated Representative, the Executive Level Representative will notify the Contractor of Acceptance, in writing, within [**INSERT # of days - recommend at not less than fifteen (15)**] Business Days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice.

- C. **Rejection.** Unless the Executive Level Representative gives notice of rejection within the fifteen (15) Business Day Acceptance period, the Deliverable will be deemed to have been Accepted. If the Deliverable is deemed unacceptable under Quality Assurance, fifteen (15) Business Days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice, the Executive Level Representative will send a consolidated set of comments indicating issues, unacceptable items, and/or requested revisions accompanying the rejection. Upon rejection and receipt of comments,

the Contractor will have ten (10) Business Days to resubmit the Deliverable to the Executive Level Representative with all appropriate corrections or modifications made and/or addressed. The Executive Level Representative will again determine whether the Deliverable(s) is Acceptable under Quality Assurance and provide a written determination within fifteen (15) Business Days of receipt of the revised or amended Deliverable. If the Deliverable is once again deemed unacceptable under Quality Assurance and thus rejected, the Contractor will be required to provide a remediation plan that shall include a timeline for corrective action acceptable to the Executive Level Representative. The Contractor shall also be subject to all damages and remedies attributable to the late delivery of the Deliverable under the terms of this Agreement and available at law or equity. In the event that a Deliverable must be resubmitted more than twice for Acceptance, the Contractor shall be deemed as in breach of this Agreement. The Procuring Agency may seek any and all damages and remedies available under the terms of this Agreement and available at law or equity. Additionally, the Procuring Agency may terminate this Agreement.

ARTICLE 5 – TERM

[**CHOICE #1-** If the Agreement is based on a state price agreement and is for professional services *only* OR it is for a combination of professional services and tangible property/services, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND DFA/CRB.

[**CHOICE #2-** If the Agreement is based on a state price agreement and is *only* for tangible property and/or services, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT.

[**CHOICE #3-** If the Agreement is NOT based on a state price agreement and is for professional services *only*, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND DFA/CRB.

[**CHOICE #4-** If the Agreement is NOT based on a state price agreement and is for *only* tangible property and *does not include* professional services, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND THE STATE PURCHASING AGENT.

[**CHOICE #5-** If the Agreement is NOT based on a state price agreement and is for *both* professional services and tangible property/services, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND THE STATE PURCHASING AGENT.

This Agreement shall terminate on [Insert Termination Date], unless terminated pursuant to Article 6. The contract term, including extensions and renewals, shall not exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

ARTICLE 6 – TERMINATION

- A. Grounds. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.
- B. Appropriations. By the Procuring Agency, if required by changes in State or federal law, or because of court order, or because of insufficient appropriations made available by the United States Congress and/or the New Mexico State Legislature for the performance of this Agreement. The Procuring Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency terminates this Agreement pursuant to this subsection, the Procuring Agency shall provide the Contractor written notice of such termination at least fifteen (15) Business Days prior to the effective date of the termination.
- C. Notice; Agency Opportunity to Cure.
 - 1. Except as otherwise provided in Paragraph (3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.
 - 2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency 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 Agency 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 Agency; (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.
- D. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency'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 AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

ARTICLE 7 – TERMINATION MANAGEMENT

- A. Contractor. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Contractor shall:

1. Transfer, deliver, and/or make readily available to the Procuring Agency property in which the Procuring Agency has a financial interest and any and all data, Know How, Intellectual Property, inventions or property of the Procuring Agency;
2. Incur no further financial obligations for materials, Services, or facilities under the Agreement without prior written approval of the Procuring Agency;
3. Terminate all purchase orders or procurements and any subcontractors and cease all work, except as the Procuring Agency may direct, for orderly completion and transition;
4. Take such action as the Procuring Agency may direct, for the protection and preservation of all property and all records related to and required by this Agreement;
5. Agree that the Procuring Agency is not liable for any costs arising out of termination and that the Procuring Agency is liable only for costs of Deliverables Accepted prior to the termination of the Agreement;
6. Cooperate fully in the closeout or transition of any activities to permit continuity in the administration of Procuring Agency's programs;
7. In the event that this Agreement is terminated due to the Contractor's course of performance, negligence or willful misconduct and that course of performance, negligence, or willful misconduct results in reductions in the Procuring Agency's receipt of program funds from any governmental agency, the Contractor shall remit to the Procuring Agency the full amount of the reduction;
8. Should this Agreement terminate due to the Contractor's Default, the Contractor shall reimburse the Procuring Agency for all costs arising from hiring new Contractor/subcontractors at potentially higher rates and for other costs incurred;
9. In the event this Agreement is terminated for any reason, or upon its expiration, the Contractor shall develop and submit to the Procuring Agency for approval an Agreement Turnover Plan at least ten (10) Business Days prior to the effective date of termination. Such Turnover Plan shall describe the Contractor's policies and procedures that will ensure: (1) the least disruption in the delivery of Services during the transition to a substitute vendor; and (2) cooperation with the Procuring Agency and the substitute vendor in transferring information and Services. The Turnover Plan shall consist of the orderly and timely transfer of files, data, computer software, documentation, system turnover plan, Know How, Intellectual Property and other materials, whether provided by the Procuring Agency or created by the Contractor under this Agreement, to the Procuring Agency, including but not limited to, user manuals with complete documentation, functional technical descriptions of each program and data flow diagrams. At the request of the Procuring Agency, the Contractor shall provide to the Procuring Agency a copy of the most recent versions of all files, software, Know How, Intellectual Property and documentation, whether provided by the Procuring Agency or created by the Contractor under this Agreement.

- B. Procuring Agency. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Procuring Agency shall:

1. Retain ownership of all work products and documentation created pursuant to this Agreement; and
2. Pay the Contractor all amounts due for Services Accepted prior to the effective date of such termination or expiration.

ARTICLE 8 – INDEMNIFICATION

- A. **General.** [Delete if the Agreement is between two public entities - The Contractor shall defend, indemnify and hold harmless the Procuring Agency, the State of New Mexico and its employees 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, subcontractors or agents, during the time when the Contractor, its 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) Business Days after it receives notice thereof, notify, by certified mail, the legal counsel of the Procuring Agency, the Risk Management Division of the New Mexico General Services Department, and the DoIT.]

[Use if the Agreement is between two public entities - Neither party shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et seq.]

- B. [Delete if the Agreement is between two public entities - The indemnification obligation under this Agreement shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Agreement. Money due or to become due to the Contractor under this Agreement may be retained by the Procuring Agency, as necessary, to satisfy any outstanding claim that the Procuring Agency may have against the Contractor.]

ARTICLE 9 – INTELLECTUAL PROPERTY

[**CHOICE #1** – If purchasing only IT hardware/equipment, use the following language - Not Applicable. The Parties agree there is no Intellectual Property.]

- A. **Ownership.** [**CHOICE #2** - Use this provision if Procuring Agency is to own the Intellectual Property] Any and all Intellectual Property, including but not limited to copyright, patentable inventions, patents, trademarks, trade names, service marks, and/or trade secrets created or conceived pursuant to, or as a result of, performance of this

Agreement, shall be work made for hire and the Procuring Agency shall be considered the creator and owner of such Intellectual Property. Any and all Know How created or conceived pursuant to, or as a result of, performance of this Agreement, shall be work made for hire and the Procuring Agency shall be considered the creator and owner of such Know How. The Procuring Agency shall own the entire right, title and interest to the Intellectual Property and Know How worldwide, and, other than in the performance of this Agreement, the Contractor, subcontractor(s), officers, agents and assigns shall not make use of, or disclose the Intellectual Property and Know How to any entity or person outside of the Procuring Agency without the express written authorization of the Procuring Agency. Contractor shall notify the Procuring Agency, within fifteen (15) Business Days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure that ownership of the Intellectual Property vests in the Procuring Agency and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the Procuring Agency. If, by judgment of a court of competent jurisdiction, Intellectual Property or Know How are not deemed to be created or owned by the Procuring Agency, Contractor hereby acknowledges and agrees to grant to the Procuring Agency and the State of New Mexico, a perpetual, non-exclusive, royalty free license to reproduce, publish, use, copy and modify the Intellectual Property and Know How.

[CHOICE #3- If the Contractor will own the Intellectual Property then delete the above language and insert the following language.] Contractor hereby acknowledges and grants to the Procuring Agency and the State of New Mexico, a perpetual, non-exclusive, royalty free license to reproduce, publish, use, copy and modify the Intellectual Property and Know How created or conceived pursuant to, or as a result of, performance of this Agreement.

ARTICLE 10 – INTELLECTUAL PROPERTY INDEMNIFICATION

- A. **Intellectual Property Indemnification.** The Contractor shall defend, at its own expense, the Procuring Agency, the State of New Mexico and/or any other State of New Mexico body against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorney's fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against the Procuring Agency based upon Contractor's trade secret infringement relating to any product or Services provided under this Agreement, the Contractor agrees to reimburse the Procuring Agency for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Procuring Agency shall:
1. Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
 2. Work with the Contractor to control the defense and settlement of the claim; and
 3. Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

- B. Procuring Agency Rights. If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:
1. Provide the Procuring Agency the right to continue using the product or service and fully indemnify the Procuring Agency against all claims that may arise out of the Procuring Agency's use of the product or service;
 2. Replace or modify the product or service so that it becomes non-infringing; or
 3. Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the Procuring Agency to the extent such modification is the cause of the claim.

ARTICLE 11 - WARRANTIES

- A. General. The Contractor hereby expressly warrants the Deliverable(s) as being correct and compliant with the terms of this Agreement, Contractor's official published specification and technical specifications of this Agreement and all generally accepted industry standards. This warranty encompasses correction of defective Deliverable(s) and revision of the same, as necessary, including deficiencies found during testing, implementation, or post-implementation phases.
- B. Software. [CHOICE #1- Use if only purchasing or developing software] The Contractor warrants that any software or other products delivered under this Agreement shall comply with the terms of this Agreement, Contractor's official published specification(s) and technical specifications of this Agreement and all generally accepted industry standards. The Contractor further warrants that the software provided under this Agreement will meet the applicable specifications for [INSERT # of years - recommend 6mo.-2yrs.] years after Acceptance by the Executive Level Representative and implementation by the Procuring Agency. If the software fails to meet the applicable specifications during the warranty period, the Contractor will correct the deficiencies, at no additional cost to the Procuring Agency, so that the software meets the applicable specifications. [CHOICE #2 – Not Applicable. The Parties agree there is no Software.]

ARTICLE 12 – CONTRACTOR PERSONNEL

- A. Key Personnel. Contractor's key personnel shall not be diverted from this Agreement without the prior written approval of the Procuring Agency. Key personnel are those individuals considered by the Procuring Agency to be mandatory to the work to be performed under this Agreement. Key personnel shall be:
[Insert Contractor Staff Name(s)]
- B. Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the Procuring Agency. For

all personnel, the Procuring Agency reserves the right to require submission of their resumes prior to approval. If the number of Contractor's personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) Business Days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to Procuring Agency approval. The Procuring Agency, in its sole discretion, may approve additional time beyond the ten (10) Business Days for replacement of personnel. The Contractor shall include status reports of its efforts and progress in finding replacements and the effect of the absence of the personnel on the progress of the Project. The Contractor shall also make interim arrangements to assure that the Project progress is not affected by the loss of personnel. The Procuring Agency reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the Procuring Agency, meeting the Procuring Agency's expectations.

ARTICLE 13 – STATUS OF CONTRACTOR

[CHOICE #1- Use if only purchasing IT hardware/equipment - Not Applicable.]

- A. **Independent Contractor.** The Contractor and its agents and employees are independent contractors performing professional Services for the Procuring Agency 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 personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.
- B. **Subject of Proceedings.** Contractor warrants that neither the Contractor nor any officer, stockholder, director or employee of the Contractor, is presently subject to any litigation or administrative proceeding before any court or administrative body which would have an adverse effect on the Contractor's ability to perform under this Agreement; nor, to the best knowledge of the Contractor, is any such litigation or proceeding presently threatened against it or any of its officers, stockholders, directors or employees. If any such proceeding is initiated or threatened during the term of this Agreement, the Contractor shall immediately disclose such fact to the Procuring Agency.

ARTICLE 14 - CHANGE MANAGEMENT

- A. **Changes.** Contractor may only make changes or revisions within the Scope of Work as defined by Article 2 and Exhibit A after receipt of written approval by the Executive Level Representative. Such change may only be made to Tasks or Sub-Task as defined in the Exhibit A. Under no circumstance shall such change affect the:
 1. Deliverable requirements, as outlined in Exhibit A;
 2. Due date of any Deliverable, as outlined in Exhibit A;

3. Compensation of any Deliverable, as outlined in Exhibit A;
 4. Agreement compensation, as outlined in Article 3; or
 5. Agreement termination, as outlined in Article 5.
- B. **Change Request Process.** In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:
1. The Project Manager shall draft a written Change Request for review and approval by the Executive Level Representative to include:
 - (a) the name of the person requesting the change;
 - (b) a summary of the required change;
 - (c) the start date for the change;
 - (d) the reason and necessity for change;
 - (e) the elements to be altered; and
 - (f) the impact of the change.
 2. The Executive Level Representative shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Executive Level Representative are final. Change Requests, once approved, become a part of the Agreement and become binding as a part of the original Agreement.

ARTICLE 15 – INDEPENDENT VERIFICATION AND VALIDATION

- A. If IV&V professional Services are used or required to be used for the Project associated with this Agreement, the Contractor hereby agrees to cooperate with the IV&V vendor. Such cooperation shall include, but is not limited to:
1. Providing the Project documentation;
 2. Allowing the IV&V vendor to sit in on the Project meetings; and
 3. Supplying the IV&V vendor with any other material as directed by the Project Manager.
- B. If this Agreement is for IV&V professional Services then the Contractor agrees to:
1. Submit all reports directly to the Department of Information Technology, Project Oversight and Compliance Division (ivandv.reports@state.nm.us) according to the DoIT IV&V Reporting Template and Guidelines found on the DoIT website, http://www.doit.state.nm.us/project_templates.html, and copy the Procuring Agency.
 2. Use a report format consistent with the current DoIT IV&V Reporting Template and Guidelines found on the DoIT website, http://www.doit.state.nm.us/project_templates.html.

ARTICLE 16 – DEFAULT/BREACH

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the Procuring Agency and the State of New Mexico may procure the goods or Services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the Procuring Agency and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity.

ARTICLE 17 – EQUITABLE REMEDIES

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the Procuring Agency irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the Procuring Agency, and the Contractor consents to the Procuring Agency's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. Procuring Agency's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that Procuring Agency may have under applicable law, including, but not limited to, monetary damages.

ARTICLE 18 - LIABILITY

Contractor shall be liable for damages arising out of injury to persons and/or damage to real or tangible personal property at any time, in any way, if and to the extent that the injury or damage was caused by or due to the fault or negligence of the Contractor or a defect of any equipment provided or installed, provided in whole or in part by the Contractor pursuant to the Agreement. Contractor shall not be liable for damages arising out of, or caused by, alterations made by the Procuring Agency to any equipment or its installation or for losses caused by the Procuring Agency's fault or negligence. Nothing in this Agreement shall limit the Contractor's liability, if any, to third parties and/or employees of the Procuring Agency or the State of New Mexico, or any remedy that may exist under law or equity in the event a defect in the manufacture or installation of the equipment, or the negligent act or omission of the Contractor, its officers, employees, or agents, is the cause of injury to such person.

ARTICLE 19 – 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 this Agreement's approval authorities.

ARTICLE 20 – SUBCONTRACTING

- A. General Provision. The Contractor shall not subcontract any portion of this Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Agreement, nor shall any subcontracting obligate payment from the Procuring Agency.
- B. Responsibility for subcontractors. The Contractor must not disclose Confidential Information of the Procuring Agency or of the State of New Mexico to a subcontractor unless and until such subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required of the Contractor under this Agreement.

ARTICLE 21 – RELEASE

The Contractor's Acceptance of final payment of the amount due under this Agreement shall operate as a release of the Procuring Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

ARTICLE 22 – CONFIDENTIALITY

Any Confidential Information provided to the Contractor by the Procuring Agency or, developed by the Contractor based on information provided by the Procuring Agency 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 Procuring Agency. Upon termination of this Agreement, Contractor shall deliver all Confidential Information in its possession to the Procuring Agency within thirty (30) Business Days of such termination. Contractor acknowledges that failure to deliver such Confidential Information to the Procuring Agency will result in direct, special and incidental damages.

ARTICLE 23 –CONFLICT OF INTEREST

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. 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, state employee or former state employee have been followed.

ARTICLE 24 - RECORDS AND AUDIT

- A. The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of Services rendered during this Agreement's term and effect and retain them for a period of [Insert # of years, minimum is - three (3) years] from the date of

final payment under this Agreement. The records shall be subject to inspection by the Procuring Agency, CIO, SPA, and DFA and the New Mexico State Auditor's Office. The Procuring Agency shall have the right to audit billings both before and after payment. Payment for Services under this Agreement shall not foreclose the right of the Procuring Agency to recover excessive or illegal payments.

ARTICLE 25 - AMENDMENT

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto. No amendment shall be effective or binding unless approved by all of the approval authorities. Amendments are required for the following:

1. Deliverable requirements, as outlined in Exhibit A;
2. Due Date of any Deliverable, as outlined in Exhibit A;
3. Compensation of any Deliverable, as outlined in Exhibit A;
4. Agreement Compensation, as outlined in Article 3; or
5. Agreement termination, as outlined in Article 5.

ARTICLE 26 – 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 programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenewmexico.state.nm.us/>.
- D. For Indefinite Quantity, Indefinite Delivery contracts (state price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the Contractor reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

ARTICLE 27 – NEW MEXICO EMPLOYEES PAY EQUITY REPORTING

- A. The 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 Agreement, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for Agreements 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 Agreements up to one (1) year in duration. For Agreements 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 Agreements 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 Agreements, whichever comes first. Should Contractor not meet the size requirement for reporting as of the effective date of this Agreement 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.
- B. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than ten percent (10%) of the dollar value of this Agreement if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of this Agreement. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting as of the effective date of this Agreement 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) calendar 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.
- C. Notwithstanding the foregoing, if this Agreement 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.

ARTICLE 28 – MERGER, SCOPE, ORDER OF PRECEDENCE

- A. **Severable.** The provisions of this Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court or agency or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision.

- B. **Merger/Scope/Order.** This Agreement incorporates any and all agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this Agreement. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents or assignees shall be valid or enforceable unless embodied in this Agreement.

ARTICLE 29 – NOTICES

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail (return receipt requested), when sent by overnight carrier, or upon telephone confirmation by Contractor to the sender of receipt of a facsimile communication that is followed by a mailed hard copy from the sender. Notices shall be addressed as follows:

For PROCURING AGENCY

[Insert: Name of Individual, Position
Procuring Agency Name
E-mail Address
Telephone Number
Mailing Address.]

For CONTRACTOR

[Insert Name of Individual, Position,
Company Name,
E-mail Address,
Telephone Number,
Mailing Address.]

Any change to the Notice individual or the address, shall be effective only in writing.

ARTICLE 30 – GENERAL PROVISIONS

- A. 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, including but not limited to:
1. Civil and Criminal Penalties. The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.
 2. 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 agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, 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.
3. **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 Procuring Agency.
- B. **Applicable Law**. The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. 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 such lawsuits arising under or out of any term of this Agreement.
- C. **Waiver**. 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 expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.
- D. **Headings**. Any and all headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. Numbered or lettered provisions, sections and subsections contained herein, refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

ARTICLE 31 - SURVIVAL

The Articles entitled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties shall survive the expiration or termination of this Agreement. Software License and Software Escrow agreements entered into in conjunction with this Agreement shall survive the expiration or termination of this Agreement. [Choice #1 – Other unexpired agreements, promises, or warranties that will survive the termination of this Agreement are: (list here)]

ARTICLE 32 - TIME

Calculation of Time. Any time period herein calculated by reference to "days" means calendar days, unless Business Days are used; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be the first day following that is not a Saturday, Sunday, or such observed holiday.

ARTICLE 33 – FORCE MAJEURE

Neither party shall be liable in damages or have any right to terminate this Agreement for any delay or Default in performing hereunder if such delay or Default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

**[IF APPLICABLE, ADD ANY PROCURING AGENCY SPECIFIC, GRANT SPECIFIC,
OR CONTRACT SPECIFIC ARTICLES STARTING AT THIS POINT.]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____
[Insert Procuring Agency Cabinet Secretary Name]
Secretary of [Insert Agency Name]

By: _____ Date: _____
[Insert Contractor Name]
[Insert Title and Company Name]

By: _____ Date: _____
[Insert Procuring Agency CIO Name]
Chief Information Officer for [Insert Procuring Agency Name]

Approved for legal sufficiency:

By: _____ Date: _____
[Insert Procuring Agency General Counsel Name]
[Insert Procuring Agency Name] General Counsel

By: _____ Date: _____
[Insert Procuring Agency Chief Financial Officer Name]
[Insert Procuring Agency Name] Chief Financial Officer

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

CRS ID Number: _____

By: _____ Date: _____
Taxation & Revenue Department

Approved as to information technology contractual specifications and compliance with the Department of Information Technology Act, Chapter 9, Article 27 NMSA 1978 and Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico.

By: _____ Date: _____
Darryl Ackley, State CIO and Cabinet Secretary
Department of Information Technology

This Agreement has been approved by the State Purchasing Agent:

By: _____ Date: _____
Purchasing Agent for the State of New Mexico

OR

This Agreement has been approved by the Department of Finance and Administration, Contracts Review Bureau:

By: _____ Date: _____
Department of Finance and Administration, Contracts Review Bureau

EXHIBIT A – SCOPE OF WORK

III. Purpose of the Agreement including goals and objectives:

[If applicable – Certified Project Name: name]

IV. Performance Measures:

V. Activities.

VI. Deliverables

The following sections describe the required tasks and subtasks to be performed by the Contractor for each Deliverable under the terms of this Agreement. The Contractor must perform each task and/or subtask, but is not limited to performing only the identified task or sub tasks in a given project area. The Parties hereby agree that the Deliverable(s) are the controlling items and that the Contractor's obligation is to perform and deliver the Deliverable as described in the following sections.

[Deliverable samples are provided, but are only samples; the Procuring Agency is to add Deliverables that represent the work that needs to be performed and are traceable by the Procuring Agency. The Procuring Agencies may identify as many Deliverables, with associated tasks and subtasks, as are needed to accomplish the Project goals, objectives, and activities.]

A. Sample Deliverable Number 1 [Insert Name of Deliverable]

<u>Deliverable Name</u>	<u>Due Date</u>	<u>Compensation</u>
[Insert Name of Deliverable]	[Insert Date this Deliverable is due]	<ul style="list-style-type: none">• [Insert Total \$ Amount]• [Insert Amount less GRT, if applicable]• [Insert \$ Amount less retainage, if applicable]

Task Item	Sub Tasks	Description
-----------	-----------	-------------

<p>[Insert Name of Task or tasks to be performed for each Deliverable.]</p> <p>Sub 1 (through however many subtasks are needed to accomplish Task 1 which leads to the number of Tasks needed to accomplish Deliverable 1.)</p>	<ul style="list-style-type: none"> • [Insert Description] Please use active verbs to identify tasks and subtasks to be performed by the vendor. • The due dates for the tasks and/or subtasks should be included as a means of assisting the Procuring Agency and Contractor to monitor contract progress. • Compensation amounts for tasks and/or subtasks can be identified here. The total amount paid for all tasks and/or subtasks performed under this Deliverable should be consistent with the Compensation due for total delivery of the Deliverable. • The Contractor will bill the Procuring Agency per Deliverable; clear and well defined language will assist the Procuring Agency and Contractor in determining if the Deliverable is met for payment purposes.
---	--

A. Deliverable Number n – [Insert name of support Services.]

<u>Deliverable Name</u>	<u>Due Date</u>	<u>Compensation</u>
[Insert Name of Deliverable]	<p>[Choice #1 – Payment due at the start of the maintenance period Choice #2 - Arrears payment due at the end of the month or quarter]</p>	<ul style="list-style-type: none"> • [Insert Total \$ Amount] • [Insert Amount less GRT, if applicable] • [Insert \$ Amount less retainage, if applicable]

Task Item	Sub Tasks	Description
Problem Support	Sub 1	The Contractor shall make technical support personnel available by phone and email on the following schedule: [Such as - Monday through Friday, 8:00A.M. To 5:00P.M., excluding state holidays.]
	Sub 2	The Contractor will log requests and provide to the Procuring Agency technical support services for the Software based on the priority levels and problem resolution processes described in the Performance Measures, above.
	Sub 3	The Contractor will update documentation (Systems Administration Guide, User Guide, and Product Manual) to reflect changes made to the system as a result of problem resolution.
	Sub 4	The Contractor will respond to technical and functional questions about the [Insert Application Name]. Such requests will be assigned a default Priority of [Insert appropriate priority level] unless the Procuring Agency

		requests a higher priority be assigned to the request.
Monthly Report	Sub 1	The Contractor shall provide or make available online a monthly report on the activity and status of all logged requests received from the Procuring Agency.
Activities Tracking	Sub 1	Contractor shall maintain a log of requests in a Procuring Agency approved tracking system with a unique number assigned to each Procuring Agency request. The unique number shall be provided by the contractor to Procuring Agency for reference and communication.
	Sub 2	<p>The Procuring Agency will assign one of four levels of priority to each request:</p> <ul style="list-style-type: none"> • Priority 1 is the most severe program error and represents a situation where mission critical features and functions of the [name of application] are unavailable and no practical alternate mode of operation is available. Priority 1 problems will be corrected or a solution will be provided by Contractor for corrective action within [modify as appropriate - two (2) hours]. • Priority 2 indicates a problem in which certain features and functionality are not available and no practical alternate mode of operation is available. Priority 2 problems will be corrected or a plan will be provided by the Contractor for corrective action within [modify as appropriate - one (1) Business Day(s)]. • Priority 3 is the normal “next-in-line” problem priority assignment. At this level, requests are worked on in the order in which they are received. Priority 3 problems will be corrected or a plan will be provided by Contractor for corrective action within [modify as appropriate - ten (10) Business Days]. • Priority 4 is the Release assignment. At this level, requests are worked on as deemed appropriate by Procuring Agency. Priority 4 issues will be incorporated into specific releases, documented in an Application Deployment Package, which will be scheduled for delivery at the discretion of the Procuring Agency after time and cost estimates are provided by the Contractor and approved by the Agency, if applicable. As such, priority 4 issues will be due at the time the specific Release is delivered.

APPENDIX D

COST RESPONSE FORM

COST RESPONSE FORM

Offerors must provide a cost for each Deliverable on an annual basis for each of the four years that any information technology professional services agreement entered into by PERA may be in effect. The Cost Response Form shall include all charges whatsoever that the Contractor intends to charge PERA for providing the services specified in the Scope of Work, including New Mexico gross receipts taxes and other taxes, research, travel, and incidental and out-of-pocket expenses of any kind. PERA shall not pay amounts that are not included in the Cost Response Form.

	YEAR 1	YEAR 2	YEAR 3	YEAR 4
Deliverable 1 – Software Support Services				
Deliverable 2 – Technical Support Services				
Out-of-Pocket Expenses, including Travel				
Other Expenses (specify)				
Subtotal				
Gross Receipts Tax (specify applicable rate)				
Total Fee				

Name of Offeror

Authorized Signature/Title

Date

APPENDIX E

LETTER OF TRANSMITTAL FORM

Letter of Transmittal Form

RFP#: _____

Offeror Name: _____ **FED ID#** _____

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

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

2. For the person authorized by the organization to contractually obligate on behalf of this Offer:

Name _____

Title _____

E-Mail Address _____

Telephone Number _____

3. For the person authorized by the organization to negotiate on behalf of this Offer:

Name _____

Title _____

E-Mail Address _____

Telephone Number _____

4. For the person authorized by the organization to clarify/respond to queries regarding this Offer:

Name _____

Title _____

E-Mail Address _____

Telephone Number _____

5. Use of Sub-Contractors (Select one)

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

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

(Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.

(Attach extra sheets, as needed)

7. On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II. C.1.

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

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

_____, 2018
Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

APPENDIX F

ORGANIZATION REFERENCE QUESTIONNAIRE

RFP # 36600-2018-00002
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

(Name of Offeror)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the NM Public Employees Retirement Association via e-mail to:

Name: Renada Peery-Galon
Address: 33 Plaza La Prensa
Santa Fe, NM 87507
Telephone: 505-476-9304
Email: Renada.Peery-Galon@state.nm.us

no later than **March 9, 2018**, and **must not** be returned to the company requesting the reference.

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

Company providing reference:	
Contact name and title/position	
Contact telephone number	
Contact e-mail address	
Information Technology support services description	
Dates of service (starting and ending);	
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:

3. How would you rate this firm's ability to meet deliverable timelines?

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

COMMENTS:

4. 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:

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

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

COMMENTS:

6. How would you rate the dynamics/interaction between the vendor and your staff?
____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

7. Who were the vendor's principal representatives involved in your project and how would you rate them individually? Would you comment on the skills, knowledge, behaviors or other factors on which you based the rating?
(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

COMMENTS:

8. How satisfied are you with the products developed by the vendor?
____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

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

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

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

APPENDIX G

RESIDENT VETERANS CERTIFICATION

New Mexico Preference Resident Veterans Certification

Reminder, a copy of Resident Veterans Preference Certificate must be submitted with the proposal in order to ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended).

(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 State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

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

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

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

(Signature of Business Representative)* (Date)

*Must be an authorized signatory for the Business. The representations made in checking the boxes 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.