

The New Mexico Institute of Mining and Technology (NMIMT)
Request for Proposal (RFP)

PROJECT NAME: Attorney Services

PROPOSAL NUMBER: 2404022C

RFP DUE TIME AND DATE: June 18, 2024 at 2:00 PM (Local Time)

PURCHASING CONTACT: Lisa Majkowski
575-835-6168
purchasing@nmt.edu

LOCATION: New Mexico Institute of Mining & Technology Attn: RFP #2404022C
Brown Hall, Rm 100
801 Leroy Place
Socorro, NM 87801

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1. INSTRUCTIONS TO PROPOSERS

- 1.1 It is the Proposer's responsibility to deliver their offer by the date and time indicated in this Request For Proposal (RFP). The date and time of receipt will be stamped on the offer by the Purchasing Services Office (PSO) and held in a secure place. Offers received later than the due date and time shall not be considered. Offers submitted by fax or email shall not be considered. Proposers should never leave an offer with any NMIMT office or NMIMT individual for delivery to the PSO.
- 1.2 This RFP contains specific requests for information. However, in responding, Proposers are encouraged to include in their offers any additional information they believe relevant and valuable. Sales and general promotional material should not be included. The offer must be specific and must be responsive to the criteria set forth in this request. There is no page limit, but please be concise.
- 1.3 Clarification of instructions, terms and conditions, insurance, and preparation or submission of offers shall be made only by the Purchasing Services Office. No other source within NMIMT is authorized to explain, interpret, or give information concerning this RFP document. Further, no contact between the proposers and the end-users of the goods or services is permitted until an offer is selected and a contract signed. Questions must be submitted in writing and should be restricted to clarification of the RFP. Proposers should reference their questions to specific RFP sections, paragraphs and page numbers. Questions may be faxed to 575-835-5887 or emailed to purchasing@nmt.edu. **All questions must be submitted no later than 5:00 P.M. seven (7) calendar days before the proposal is due.** Questions and their answers will be incorporated into an addendum, which will be posted on the Purchasing website at <https://www.nmt.edu/finance/purchasing/rfp.php> Receipt of addenda must be noted on the Proposer's offer confirming the receipt of all amendments.
- 1.4 This RFP implies no obligation on the part of NMIMT, nor does NMIMT's silence imply any acceptance or rejection of any offer. Incomplete offers may result in dismissal of all or part of the response.
- 1.5 The offer should be delivered to the PSO at the address shown on page 1. The original offer with an **original signature** and a separated pricing document shall be submitted, along with a thumb drive containing the offer and pricing. The completed offer must be in a sealed envelope or box marked with "Request for Proposal" and corresponding RFP number. Note: the PSO is closed at lunch M-F from noon until 1:00 p.m. if hand delivering, please time your arrival accordingly.
- 1.6 Each offer must give the complete mailing address of the Proposer and must be signed by the Proposer with the Proposer's legal authorized signature on the forms included in this RFP, electronic signatures are not acceptable. An offer by partnerships must be signed by one of the members of the partnership or by an authorized representative. Offers by corporations must be signed and sealed in the name of the corporation followed by the signature and title of the president, secretary or other person authorized to bind the corporation in the matter. The names of all signers should be typed or printed below the signature. **Unsigned offers will be considered non-responsive and returned to the Proposer.**
- 1.7 Offers will not be opened publicly but shall be opened in the presence of the Chief Procurement Officer and one or more NMIMT representatives.
- 1.8 Offers will be evaluated on their ability to satisfy the requirements stated herein at the best obtainable price. The precise method by which the Proposer shall be evaluated is detailed further in this document.
- 1.9 No state agency or local government agency shall accept a bid or proposal from a person who directly participated in the preparation of specifications, qualifications or evaluation criteria on which the specific competitive bid or proposal was based per NMSA 10-16-13.
- 1.10 Each offer must be typed and legible. Failure to include all information requested in the RFP documents may render the Proposer's offer non-responsive and the offer may be returned to the Proposer. All information must be entered in ink or typed and corrections must be initialed.
- 1.11 No employee of NMIMT shall have any direct financial interest with any Proposer's company. Any violation of this provision will render the offer void unless it is approved by the Board of Regents after full disclosure by the employee.

1.12 Proposer’s response must be specific and in such form that the evaluation committee may readily compare the response to the appropriate criteria. If invited for an interview or product demonstration regarding this proposal, failure to respond to an invitation to make a presentation to the committee may result in an offer not being considered.

1.13 Proposer’s offer must be bound and indexed and must use, where required, the forms provided in the RFP.

1.14 The Chief Procurement Officer will make every effort to adhere to the following schedule however the schedule is subject to change.

Action	Responsibility	Date
Issuance of Request for Proposal	NMIMT Purchasing	May 19, 2024
Mandatory Pre-Proposal Conference and Site Visit	NMIMT Purchasing Proposer	N/A
Deadline for Questions	Proposer	June 10, 2024 @5:00 PM (local time)
Deadline for Addendum(s)	NMIMT Purchasing	June 12, 2024 @5:00 PM (local time)
Submission of Offer	Proposers	June 18, 2024 @2:00 PM (local time)
Selection of Finalists*	Evaluation Committee	June 28, 2024
Finalists Interviews	Evaluation Committee	Week of July 7, 2024
Contract Award(s)	NMIMT	August 1, 2024

*The Evaluation Committee will select and the Chief Procurement Officer will notify finalist as soon as possible with the dates and times. The interviews will be held via either Zoom or in person.

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

- A. Signed Letter of Transmittal
- B. Table of Contents
- C. Proposal Summary (optional)
- D. Response to Professional Services Agreement Terms and Conditions
- E. Offeror’s Additional Terms and Conditions
- F. Response to Specifications
 - a. Organizational Experience
 - b. Organizational References
 - c. Adherence to Specifications
 - d. Financial Stability (financial information considered confidential should be placed in an envelope labeled Confidential Information)*
 - e. Signed Offer
 - f. Signed Campaign Contribution Form
 - g. Certification Regarding Debarment, Suspension, and Other Responsibility Matters Form
 - h. Non-Collusion Form
 - i. New Mexico Preferences
- G. Other Supporting Material
- H. Cost Proposal

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

independently audited financial statements do not exist, Offeror must state the reason and instead submit sufficient information (e.g. Dun and Bradstreet report) to enable the Evaluation Committee to assess the financial stability of the Offeror.

2. MODIFICATION AND WITHDRAWAL OF OFFER

2.1 Any offer may be modified prior to the established due date in accordance with the requirements of the New Mexico Procurement Code 13-1-1 et seq. NMSA 1984 Supp. A late modification of an otherwise successful offer that makes its terms more favorable to NMIMT will be considered at any time it is received.

2.2 If not withdrawn before the proposal opening date and except as otherwise provided in the Procurement Code, no Proposer may withdraw its offer within ninety (90) days after the actual date of the opening. Prior to award, offers may be withdrawn anytime by written notice or in person by Proposer's authorized representative.

2.2 No Proposer shall be deemed responsible if it has been debarred by NMIMT, if in the preceding twelve months it has failed to perform any contract, or if Proposer's bonding company has been required to complete the work of a contract for Proposer.

3. RFP TERMINATION

3.1 This RFP in no manner obligates NMIMT to the eventual purchase of any services or goods described, implied or which may be offered, until confirmed by a written contract. Progress towards this end is solely at the discretion of NMIMT and may be terminated without penalty or obligation at any time prior to the signing of a contract. NMIMT reserves the right to cancel this RFP at any time, for any reason, and to reject any or all proposals.

4. EVALUATION CRITERIA

4.1 Offers shall be evaluated by a committee comprised solely of three to five (3-5) NMIMT employees. Offers must address each of the following criteria. Each offer may be awarded points up to the numeric value listed. Points will be awarded in compliance with NMSA 13-1-21 for New Mexico In-State Resident Business and Native American Resident Business, and Resident Veteran Business and Native American Resident Veteran Business . If offer is a Joint Venture, Proposer shall state in submitted offer the percentage of work that will be performed by Resident / Native American Business and / or Resident Veteran / Native American Business. Please Note: A Proposer cannot be awarded both a resident / Native American preference and a Resident Veteran / Native American business preference. Proposers shall include in their proposal a copy of the certificate issued by State of New Mexico Taxation and Revenue. Offers will be evaluated by NMIMT on the following factors:

	Possible Points	Points This RFP
Cost A cost proposal shall be included; list your firm's detailed pricing for the services using the Price Matrix.	25	
Experience and Qualifications Overview of current and prior experience in work comparable to the scope of services required in this request for proposals. Include years of experience providing these services for higher educational institutions of comparable size and complexity. Background, qualifications, education, training and years of experience of key personnel to be involved in these services shall be included.	35	
Response and Approach to Scope of Work Provide an in-depth response to the requested Scope of Work with detailed description of services to be offered and an indication of capabilities to provide these services.	25	
References Include a list of at least three (3) client references, names and telephone numbers of clients for which these services have been performed, currently or in the recent past. Please do not include New Mexico Institute of Mining and Technology Personnel.	5	
Presentation	10	
Total Possible Points	100	
New Mexico Resident Business and Native American Resident Business: Offeror shall include a copy of their In-State Certificate issued by State of New Mexico Taxation & Revenue Department.	8	
New Mexico Veteran Resident Business and Native American Resident Veteran Business: Offeror shall include a copy of their In-State Certificate issued by State of New Mexico Taxation & Revenue Department.	10	
Total Possible Awarded Points	100-118	

Note: FAILURE to adequately address and meet the above requirements may be cause for the proposal to be deemed non-responsive by the Chief Procurement Officer.

4.2 The price portion of the offer shall remain sealed until the evaluation committee has completed its evaluation of the technical portions for all Proposers and has prepared technical scores for each. The evaluation committee will evaluate each Proposer's offer and then establish, by consensus, percentage points for each evaluation criteria. Award will be made to the Proposer(s) who receives the highest total score.

5. TERMS AND CONDITIONS

5.1 General

5.1.1 NMIMT's Terms and Conditions are an equal and integral part of this RFP.

5.1.2 This RFP, addenda, and all attachments will be considered to be part of and incorporated into the resultant contract or purchase order by reference.

5.1.3 The Proposer shall include all applicable costs in their proposal, including but not limited to licenses, materials and labor.

5.1.4 If applicable, the freight terms shall be Freight Prepaid unless otherwise agreed to at the time of award. The F.O.B. will be destination unless otherwise agreed to at the time of award.

5.1.5 This RFP constitutes the entire agreement between the parties with respect to its subject and shall not be modified, altered or amended in any way except as provided for this RFP. This RFP and the resultant contract will be interpreted and governed by the Laws of the State of New Mexico.

5.2 NMIMT reserves the right to select the combination of goods and services that appear best-suited to meet the needs of NMIMT. NMIMT reserves the right to reject any offer outright even if technically superior, if such an offer exceeds NMIMT's available resources.

5.3 In evaluating the responses, the Purchasing Services Office reserves the right to accept or reject all or any part of any response, waive minor technicalities and award the contract to the Proposer that best serves the interests of NMIMT.

5.4 Expenses for developing offers, pre-proposal and site visits, and for interviews and demonstrations, if requested, are entirely the responsibility of the Proposer and shall not be chargeable in any manner to NMIMT.

5.5 NMIMT reserves the right to negotiate a change in Proposer's representative if the assigned representative is not supplying NMIMT's needs adequately. The right shall carry forward through the RFP period and the full time during which the service acquired as a result of the Request for Proposal is provided to NMIMT.

5.6 If Proposer's offer is accepted, the offer and appropriate modifications will be incorporated in the contract entered into between NMIMT and Contractor.

5.7 The Purchasing Services Office will contract for the proposed goods and / or services from the selected Contractor. Third-Party Subcontractors to the Contractor will be expected to comply with all terms and conditions of the award. During the term of the agreement, no work is to be performed by the Contractor without the express written consent of the Purchasing Service Office. Any work performed without written authorization shall be at the Contractor's expense. Any resulting agreement will be the exclusive statement of understanding between the parties with respect to its subject matter and shall consist of the following, in order of precedence:

- 1) NMIMT RFP# 2404022C and all addenda
- 2) Proposer's Offer

5.8 The contract between NMIMT and the selected Offeror(s) will follow the format specified in the sample Professional Services Agreement (PSA) at the end of this RFP. However, NMIMT reserves the right to negotiate provisions in addition to those contained in this RFP with any Offeror.

5.9 NMIMT discourages exceptions from the contract terms and conditions as set forth in the sample PSA. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of NMIMT, the proposal appears to be conditioned on the exception, or correction of what is seemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

5.10 Should an Offeror object to any of the terms and conditions as set forth in the sample PSA strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose specific alternative language. NMIMT 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 PSA are not acceptable to NMIMT 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.

5.11 If an Offeror fails to propose any alternate terms and conditions during the procurement (RFP) process, 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 is an explicit agreement by the Offeror that the contractual terms and conditions contained herein are accepted by the Offeror.

5.12 This RFP will prevail in the event of a conflict between the Proposer's offer and the RFP. NMIMT will consider but is not bound by any Proposer's standard terms and conditions. If an impasse occurs, the offer shall be disqualified.

5.13 NMIMT shall reserve the right to terminate any contract entered into as a result of the RFP at any time by giving ninety (90) days written notice of its intent to cancel. In the event the Contractor fails to carry out and comply with any of the conditions and agreements to be performed under the specifications, NMIMT shall notify the Contractor, in writing, of such failure or default. In the event the necessary corrective action has not been completed within a ten (10) day period, the Contractor must submit, in writing, why such corrective action has not been performed. NMIMT reserves the right to determine whether or not such non-compliance may be construed as a failure of performance of the contract.

5.14 It shall be each Contractor's responsibility to provide for the safety of workers and public in compliance with the requirements of insurance and public health and safety.

5.15 The selected Contractor(s) shall be required to provide insurance certificates to the Purchasing Services Office as part of the resulting contract. Coverage must be maintained in full force for the duration of the contract, or until complete and successful performance of the contract is acknowledged by NMIMT. The following minimum amounts are required:

WORKER'S COMPENSATION - Minimum by Statute

COMMERCIAL GENERAL LIABILITY - INCLUDING CONTRACTUAL

Single Limit	\$500,000 OR
Bodily Injury Liability	\$100,000 each person and \$500,000 each occurrence
Property Damage Liability	\$100,000 each occurrence

COMPREHENSIVE AUTOMOBILE - Including Owned and Non-owned

Single Limit	\$500,000 OR
Bodily Injury Liability	\$100,000 each person and \$500,000 each occurrence
Property Damage Liability	\$100,000 each occurrence

5.16 The Contractor(s) will assume the liability for all losses, damages (including loss of use), expenses, demands and claims in connection with or arising out of any injury or alleged injury to persons (including death), or damages or alleged damages to property, sustained or alleged to have been sustained in connection with or to have arisen out of the performance of the work by the Contractor, and his agents, and employees, including losses, expenses, or damages sustained by NMIMT. The Contractor will undertake and agree to indemnify and hold harmless NMIMT and its Board of Regents, individually and collectively, and the officers, agents, and employees of NMIMT, from any and all losses, expenses, damages (including loss of use), and to pay all damages, judgments, costs and expenses, including attorney's fees in connection with said demands and claims resulting therefrom. Any claims against NMIMT must be filed with the State of New Mexico.

5.16.1 The Contractor shall adhere to the Federal Occupational Safety and Health Administration (OSHA) regulations and the State of New Mexico Environmental Improvement Board Occupation Health and Safety Regulations, and Radiation Control Bureau regulations that apply to work performed under this proposal. The Contractor shall defend, indemnify, and hold NMIMT free and harmless against any and all claims, loss, liability and expense resulting from any alleged violation(s) of said regulation(s) including but not limited to, fines or penalties, judgments, court costs, and attorney's fees.

5.17 NMIMT is an agency of the State of New Mexico. In accordance with State Statutes, Sections 7-9-13 and 7-9-54, sales of TANGIBLE PERSONAL PROPERTY to NMIMT are specifically exempted from the state Gross Receipts Tax. This exemption does not apply to the purchase of services, leases of property, software, or items purchased for a construction project.

5.17.1 All proposal amounts shall EXCLUDE any applicable Gross Receipts Tax.

5.17.2 Federal Registration #: 85-6000-411 New Mexico Identification #: CRS 01-507116-002

5.17.3 A Nontaxable Transaction Certificate (NTTC) can be obtained from NMIMT by sending a request to purchasing@nmt.edu along with company name, address and TIN or NM CRS number.

5.18 In accordance with NMSA 13-1-129, Proposers are hereby notified that other governmental entities within the State of New Mexico, or as otherwise allowed by their respective governing directives, may contract for services with the awarded Contractor. Contractual engagements accomplished under this provision shall be solely between the awarded Contractor and the contracting entity with no obligation by NMIMT.

5.19 The Immigration Reform and Control Act of 1986, Pub L 99-603 (8 USC 1324a) requires employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States. This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by authorized officials of the Department of Homeland Security, Department of Labor, and Office of Special Counsel for Immigration-Related Unfair Employment Practices. Submission of the information required is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986. More information regarding the employment requirements can be found at the following website: <http://www.uscis.gov/files/form/i-9.pdf> **NMIMT's E-Verify Company ID Number is 165512**

5.19.1 Any Contractor and Subcontractor(s) working on a contract entered into subsequent to this RFP shall not discriminate against any employee or applicant for employment, to be employed in the performance of such contract, with respect to its hire, tenure, terms, conditions, or privileges of employment, because of age, color, disability, national origin, race, religion, gender, sexual orientation, or veteran status.

5.20 When appropriate, Contractor agrees to certify to the County of Socorro that all applicable Gross Receipts Taxes ("GRT") have been reported and paid under location code 25-025 in the unincorporated areas of Socorro County. Contractor agrees to certify to the City of Socorro that all applicable Gross Receipts Taxes ("GRT") have been reported and paid under location code 25-125 for work performed in the incorporated areas of Socorro.

5.21 During the term of this agreement, NMIMT reserves the right to contract with the awarded Contractor for additional services as required. Such services shall be performed by mutual consent of the parties and shall be documented by addendum to the contract.

5.22 NMIMT reserves the right to audit the Contractor's records associated with this contract at any time during the contract period and for a period of up to three (3) years following the expiration or termination of the agreement. Such audit may be conducted by NMIMT personnel or a third party under contract with NMIMT. NMIMT shall give the Contractor reasonable notice prior to the conduct of any audit and upon receiving the notice from NMIMT; the Contractor agrees to fully cooperate with the auditors.

5.23 Unless otherwise specifically stated by the Proposer, all equipment, materials, supplies and workmanship furnished or installed is to be free of defects and Proposer shall agree to replace solely at his / her expense any and all defective equipment, parts, etc. within a one (1) year period after the date of acceptance of the items and / or installation unless otherwise agreed to in writing at the time of award. Proposer also warrants the materials, supplies or services furnished to be exactly as specified in the order, free from defects and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by Offeror. All applicable UCC guarantees express and implied, are incorporated herein.

5.24 The performance of the Contract by NMIMT is contingent upon availability of sufficient funds and sufficient appropriations and authorizations being made by the funding entity for such performance. NMIMT's decision as to whether sufficient funds are available and whether sufficient appropriations and authorizations have been made shall be made in good faith and in its sole discretion, shall be accepted unconditionally by the Contractor, and shall be final. If NMIMT decides that sufficient funds are not available and / or sufficient appropriations and / or authorizations have not been made, it shall notify the Contractor of its decision in writing and may either terminate the Contract or propose modifications to accommodate the insufficient funds and / or appropriations and / or authorizations. If NMIMT proposes modifications, the Contractor shall within thirty (30) days after receiving NMIMT's notice give NMIMT written notice that it has elected to either (i) accept the proposed modifications or (ii) terminate the Contract. If the Contractor fails timely to give such notice, it shall be deemed to have accepted

the proposed modifications. In no event shall NMIMT be liable for any financial or other penalty on account of any termination or modification of the Contract as a result of insufficient funds, appropriations or authorizations.

6. DISCUSSIONS WITH PROPOSERS AND AWARD

6.1 The Procurement Code permits, and NMIMT reserves the right to conduct discussions with any or all Proposers, or to make an award of a contract without such discussions based only on evaluation of the written offers. NMIMT likewise reserves the right to designate an Evaluation Committee in evaluating the offers according to the evaluation criteria. NMIMT shall make a written determination showing the basis upon which the award was made and such determination shall be included in the procurement file.

6.2 If NMIMT is unable to negotiate a contract with one or more selected as most qualified, negotiations will be terminated at the discretion of NMIMT. Negotiations will then be initiated with the next most qualified, or the procurement process will be terminated and new proposals requested.

7. PROCUREMENT CODE

7.1 This award shall be made pursuant to the provisions of the Procurement Code governing procurement of goods and services. Please note that Sections 13-1-199 NMSA impose civil and criminal penalties for violation of the provisions of the Procurement Code. New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities or kickbacks.

8. RESIDENTIAL AND NATIVE AMERICAN PREFERENCE

8.1 A New Mexico resident business shall be awarded the equivalent of eight percent (8%) of the total possible points to be awarded based on the resident business possessing a valid resident business certificate in accordance with Section 13-1-21 of the New Mexico Statutes 1978 Annotated, Chapter 13. If applicable, document the residential preference number in the Offer form and attached your certificate to your response. Preferences may not be combined. Procurements involving federal funds are excluded from in-state preference laws.

9. VETERANS AND VETERAN NATIVE AMERICAN PREFERENCE

9.1 A New Mexico resident veteran contractor, upon providing certification as a resident veteran and verification of annual revenues, shall be given a preference of ten percent (10%). The preference may not be combined with the residential preference. Procurements involving federal funds are excluded from in-state preference laws.

10. TERM

10.1 The terms of this agreement shall be for one two-year period with the option to renew this agreement for up to an additional two years by mutual consent, not to exceed four years in total.

11. PUBLIC INSPECTION

11.1 General: After award, the register of offers shall be open to public inspection. Each offer, except those portions for which the Proposer has made a written request for confidentiality, shall also be open to public inspection.

11.2 Confidential Data: If a citizen of this State requests disclosure of data, for which a Proposer has made a written request for confidentiality, the Chief Procurement Officer shall examine the citizen's request and make a written determination that specifies which portions of the offer should be disclosed. Unless the Proposer protests under Section 13-1-172 NMSA 1978, the offer will be so disclosed. The offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

12. LICENSES AND PERMITS

12.1 The Contractor must keep himself informed of, and in adherence to, all laws and ordinances governing any matter related to the services to be performed. The Contractor shall obtain all necessary licenses and permits, and shall be aware of all labor conditions and agreements relating to the work specified in this document and shall make all provisions necessary to avoid any dispute which might arise from those conditions and agreements and shall be responsible for any delays, damages or extra costs caused by such disputes. The Contractor shall be solely engaged in this type of work and service.

13. CONTRACT TERMINATION

13.1 NMIMT reserves the right to terminate the contract at any time with ninety (90) days written notice by the Chief Procurement Officer via certified mail to the address listed on the signature page of the RFP if any of the terms of the proposal and subsequent contract are violated.

13.1.1 If, through any cause and as determined solely by NMIMT, the Contractor shall fail to fulfill in a timely and proper manner its obligation under this agreement or if the Contractor shall violate or fail to meet any of the covenants, agreements or stipulations of this agreement, NMIMT shall thereupon have the right to terminate this agreement by giving five (5) days written notice to the Contractor of such termination and specifying the effective date of such termination. In such event, all finished or unfinished documents, data and reports prepared by the Contractor under this agreement shall, at the option of NMIMT, become the property of NMIMT, and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to NMIMT for damages sustained by NMIMT by virtue of any breach of this agreement by the Contractor, and NMIMT may withhold any payments to the Contractor for the purposes of set-off until such time as the exact amount of damages due NMIMT from the contract is determined.

13.1.2 If the Contractor is terminated by NMIMT as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contractor covered by this agreement, less payments of compensations previously made. If this agreement is terminated due to the fault of the Contractor, the "Termination for Cause" clause will apply.

14. GOVERNMENT FLOW-DOWN PROVISIONS

14.1 If the resulting order is subcontracted under a U.S. Government Prime Contract, the applicable clauses listed below are incorporated into, and form a part of the terms and conditions of the resulting order. In the event of any conflict between previously referenced terms and conditions and the Government Flow-Down Provisions, the Government Flow-Down Provisions take precedence. The clauses contained in the following paragraphs of the Federal Acquisition Regulations (FAR) are incorporated herein by reference. For purposes of this Purchase Order, in the following clauses, the term “contract” shall mean “this order”, the term “contractor” shall mean “Seller” and the term “Government” and “Contracting Officer” shall mean “New Mexico Institute of Mining and Technology (NMIMT) and the “Chief Procurement Officer” respectively. The following provisions of the FAR apply at the specified order dollar amounts:

Title	Applicability	FAR Reference
Equal Employment Opportunity	All Orders	52.222-26 (July 1990)
Debarment and Suspension	All Orders	52.209-6 (Oct 2015)
Rights in Data	All R&D Orders	52.227-14 (May 2014)
Anti-Kickback Act	Construction Over \$2K	52.203-7 (May 2014)
Limitations on Payments to Influence Certain Federal Transactions	Construction Over \$2K	52.203-12 (Oct 2010)
Audit & Negotiations	All Orders Over \$100K	52-215-2 (Oct 2014)
Davis Bacon Act	Construction Over \$2K	52.222-6 (May 2014)
Contract Work Hours & Safety Standards	Construction and Labor Hour Contracts Over \$2.5K	52.222-4 (July 1995)
E-Verification	All Orders	52.222-54 (Oct 2014)
Certification and Disclosure Regarding Payments to Influence Certain Transactions	All Orders Over \$100K	52.203-11 (Sept 2007)
Patent Rights	All Orders	
Ownership by the Contractor		52.227-11 (May2014)
Ownership by the Government		52.227-13 (Dec 2007)
Buy American Act	All Orders over \$3K	52.225-2 (May 2014)
Cause & Convenience Termination	All Orders over \$10K	52.212-4 (May2015)
Energy Efficiency in Energy-Consuming Products	All Orders and Services with Energy Consuming Products	52.223-15 (Dec 2007)
Recovered Material	Biobased products that use USDA designated items	52.223-1 (May 2012)
Recovered Material	Biobased products that do not use USDA designated items	52.223-2 (Sept 2013)
Recovered Material	EPA Designated items except off the shelf Items less than \$150K	52.223-4 (May 2008)
Recovered Material	EPA Designated items except off the shelf Items greater than \$150K	52.223-9 (May 2008)
Recovered Material	EPA-designated items Service and Construction	52.223-17 (May 2008)

15. INTRODUCTION

15.1 New Mexico Institute of Mining and Technology (NMIMT) invites qualified attorneys (Contractors), to perform legal service on behalf of NMIMT. Contractors are to submit proposals in accordance with the specifications contained in this RFP. The purpose of this procurement is to select one or more law firms to provide specific legal services to NMIMT. There is no guarantee by NMIMT of the frequency or amount of work to be performed; it will be on an as needed basis.

15.1.1 Period of Performance. The term of the contract awarded as a result of this RFP shall be for a period of one two-year period with the option to renew this agreement for up to an additional two years by mutual consent, not to exceed four (4) years in total.

15.1.2 Terminology

“RFP” is used when referring to this Request for Proposal.

“Contractor” is used when referring to those responding to this RFP.

“Party” is used when referring to NMIMT or the Contractor.

“Parties” is used when referring to both NMIMT and the Contractor.

“NMIMT” is used when referring to New Mexico Institute of Mining and Technology

“Administration” is used when referring to NMIMT Board of Regents, President’s Office, or Vice President Administration and Finance

“Representative” is used when referring to the individual designated to represent Administration

15.1.3 This RFP contains specific requests for information. In responding to this RFP, Contractors are encouraged to provide any additional information they believe is relevant. Please read this RFP carefully, because failure to comply therewith may result in an offer being classified as unresponsive and disqualified.

16. SCOPE OF SERVICES

16.1 The Board of Regents of NMIMT are seeking attorneys to perform some or all of the following legal services on behalf of the Board and NMIMT. Contractors should indicate in any one or more of the following areas or sub-areas of law they wish to be considered to advise, counsel and represent the Board and NMIMT:

16.1.1 *General Law, Corporate Law, and Litigation (including Alternative Dispute Resolution):*

16.1.1.1 Business and financial, including commercial litigation;

16.1.1.2 Civil litigation;

16.1.1.3 Civil trials and appeals;

16.1.1.4 Criminal matters;

16.1.1.5 Environmental law (including, without limitation, hazardous waste, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA), radioactive materials, and nuclear regulatory matters);

16.1.1.6 Construction law;

16.1.1.7 Debt Collections (Commercial and / or Consumer);

16.1.1.8 Bankruptcy / Insolvency / Creditor’s rights and

16.1.1.9 Procurement.

16.1.2 *Intellectual Property:*

16.1.2.1 Patent counsel and litigation support on issues relating to patenting, such as invention ownership and infringement; copyright counsel, including cyberspace issues (electronic media, Internet, computers, DMCA, distance education, software, etc.), fair use, ownership, and infringement;

16.1.2.2 Licensing and commercialization;

16.1.2.3 Trademark advice and representation,

16.1.2.4 Multi-media works and

16.1.2.5 Other intellectual property issues as they arise.

16.1.3 Regulatory Public Utility:

- 16.1.3.1 Taxation, including UBIT and tax-exempt organization advice, and deferred Compensation matters;
- 16.1.3.2 Federal cost reimbursement;
- 16.1.3.3 Compliance with federal requirements relating to human and animal subject research, research fraud, and conflicts of interest;
- 16.1.3.4 Compliance with federal regulations governing research on and use / transmittal of bio-hazardous materials;
- 16.1.3.5 Public / private partnerships, including establishing joint ventures and consortia;
- 16.1.3.6 Grants, contract, and cooperative agreement terms and conditions and disputes;
- 16.1.3.7 Export control laws and assistance obtaining licenses, and
- 16.1.3.8 Other governmental regulatory issues as they arise, including utility matters.

16.1.4 Immigration:

- 16.1.4.1 Draft pleadings and documents for labor certification applications, visa petitions, applications for permanent residency, etc.;
- 16.1.4.2 Handle questions of adjustment of status, deportation, etc.;
- 16.1.4.3 Consult on an as-needed basis, on the status of immigration and naturalization laws, the regulations and the applicability of such laws and regulations to NMIMT, its faculty, staff, and students;
- 16.1.4.4 Provide workshops or programs for foreign students, staff, and faculty at no cost to NMIMT provided that NMIMT will pay for duplicating written materials, and
- 16.1.4.5 Update Departments on regulatory and legal changes related to immigration law.

16.1.5 Labor Law:

- 16.1.5.1 Provide advice and counsel with respect to negotiations with organized labor and collective bargaining agreements;
- 16.1.5.2 Advise, counsel and represent on compliance with Public Employee Bargaining Act;
- 16.1.5.3 Advise, counsel and represent relative to Prohibited Practice Charges; and
- 16.1.5.4 Advise, counsel and represent NMIMT in mediations, arbitrations, and court and other proceedings related to disputes arising from collective bargaining agreement grievance and/or arbitration procedures.

16.1.6 Employment, Discrimination, and Civil Rights:

- 16.1.6.1 Advise on employee benefits, tax, fair labor standards act; and other federal and state employment statutes including federal and state anti-discrimination laws including Title IX;
- 16.1.6.2 Investigate and advise on civil rights employment matters;
- 16.1.6.3 Advise and represent on whistleblower and qui tam actions, actions of equitable relief and other actions not covered by New Mexico Risk Management Division;
- 16.1.6.4 Breach of Contract – advise, counsel and represent and
- 16.1.6.5 Advise and represent NMIMT on internal employment grievances as required.

16.1.7 Real Estate Legal Services:

- 16.1.7.1 Draft and/or review of purchase and sale agreements, oil and gas interests, leases, easements, and other real estate related transactions, and
- 16.1.7.2 Represent NMIMT at closings or court proceedings involving real property.

16.1.8 Higher Education:

- 16.1.8.1 Faculty Rights
- 16.1.8.2 Accreditation

- 16.1.8.1 Student rights;
- 16.1.8.2 International;

- 16.1.8.3 State and federal legal Issues pertaining to Higher Education, and
- 16.1.8.4 Student Financial Aid;
- 16.1.8.5 NMIMT Board of Regents.

16.1.9 *Public Law – Federal and State.*

The above list is not all-inclusive. A proposer may add other fields of law practice in which they are experienced.

17. COUNSEL GUIDELINES

17.1 NMIMT has developed the following guidelines to outline its expectations with regard to its relationships with counsel. To minimize misunderstandings, counsel should share these guidelines with all firm personnel working on NMIMT matters and review them prior to the commencement of any new assignment. The following list is not all-inclusive:

17.2 Engagement.

17.2.1 Authority. NMIMT Board of Regents, President’s Office, or Vice President Administration and Finance (Administration) will be responsible for defining the scope of services to be provided by counsel and the terms of engagement. Prior to commencing any work on a matter, counsel should assure itself that all required authorizations have been obtained. If someone other than the Administration requests a change in the scope of services to be provided by counsel, pre-approval must be obtained from the Administration before implementing any change in scope. Attorneys engaged by NMIMT employees outside this process will not be compensated for any work performed. Counsel that performs work outside the scope of services defined by the Administration will not be compensated for any such work outside this scope of services.

17.2.2 Management of Legal Services. Administration will delegate a Representative for each engagement who will manage the rendering of legal services by counsel and to serve as a point of contact between counsel and NMIMT. Appointed counsel is expected to ensure that NMIMT is aware of all developments on the matter assigned to counsel by way of at least monthly status reports or whenever a significant event occurs. The attorney to whom a matter is referred should personally handle all crucial and substantive activities and should be accountable for managing the work, the law firm team, and the costs of the engagement.

17.2.3 Initial Strategy Planning. Within thirty (30) days of assignment or sooner, as facts may warrant, a conference shall be held between NMIMT and counsel to establish the initial strategy for the engagement. The conference may be in person or by telephone depending on the complexity of the case and the logistics involved. The following will be addressed:

17.2.4 Information Assessment. Information already developed on the matter and further information needed for counsel to evaluate the scope of the assignment or, in the case of litigation an evaluation of the liability and potential damages, will be shared.

17.2.5 Identification of Members of the Team and Other Resources. Counsel will be asked to identify for review and consideration, the attorneys and other professional staff members considered for assignment on a particular matter. The NMIMT Representative may request resumes and other information regarding their specific areas of responsibility and qualifications. The NMIMT Representative will need to know and approve the engagement, qualifications, and billing rates of other resources needed for the representation including, but not limited to, experts, document management systems, or extensive use of external services. The NMIMT Representative will also provide counsel with information about resources, people, and / or witnesses from NMIMT and the preferred route to contact them.

17.2.6 Litigation Plan. The creation of a litigation plan must include the initial and ongoing strategy for resolution and be segmented by phases of the litigation. The plan is to be grouped into four to five major phases corresponding to the American Bar Association’s Uniform Task-Based Management System (“UTBMS”) Litigation Code Set (e.g., case assessment, development and administration; pre-trial pleadings and motions; discovery; trial preparation and trial; and appeal). The plan shall set forth the objectives of each phase and activities to be undertaken to achieve those objectives. A timetable for the completion of the activities for each phase is to be included. A factual analysis of issues related to liability and damages is to be included. Counsel will provide insight regarding the judge, opposing counsel, jurisdiction, or venue. The litigation plan will be updated by a meeting

or telephone discussion either when a significant event in the case requires a change, or at the conclusion of each litigation phase. Counsel is also to provide the NMIMT Representative with a liability risk exposure estimate.

17.3 Communication in Litigation.

17.3.1 NMIMT Administration and the Representative must be involved in and approve all key decisions in litigation matters.

17.3.1.1 Please keep NMIMT and the appropriate internal clients apprised regularly as to the progress of the case with monthly status reports and when any significant event occurs. A significant event is any event that potentially affects the evaluation of the liability, nature, or extent of damages of the case, or the strategy that has been identified.

17.3.1.2 No litigation strategies, filings, or communications should be finalized without approval of NMIMT Administration or the Representative. Briefs and other filings should be prepared in near-final draft at least three (3) days before they are due to allow NMIMT adequate time to review.

17.3.1.3 A synopsis or summary of depositions and examinations before trial are to be forwarded to NMIMT Administration or the Representative. This summary shall be completed by the attorney who conducted the deposition and include an evaluation of the deponent, as well as an analysis of how this testimony affects the case.

17.3.1.4 Deposition notices of NMIMT witnesses are to be promptly dispatched to NMIMT Administration or the Representative. Usually NMIMT will be responsible for contacting the prospective NMIMT deponent, collecting necessary documentation, and forwarding the documentation to counsel.

17.3.1.5 All settlement demands must be treated as significant events and forwarded to NMIMT Administration immediately upon receipt. Any response to a settlement demand must be discussed with NMIMT. Settlement offers must not be conveyed by counsel unless first discussed and agreed to in advance by NMIMT Administration.

17.3.2 Conflicts. It is expected that counsel is to comply with all applicable professional guidelines, and NMIMT Policies, including those governing conflicts. Prior to beginning work on any NMIMT matter, the firm should identify, disclose, and clear to the satisfaction of NMIMT Administration any potential conflict of interest. Any conflicts that arise or may arise after the commencement of work for NMIMT shall be disclosed to and resolved with NMIMT Administration.

17.3.3 Media Contacts. Counsel is prohibited from making statements to the media on behalf of NMIMT without express authorization from Administration or NMIMT's Communication and Marketing Department. Counsel should refer all media inquiries to Administration or to the NMIMT Communication and Marketing Department.

17.3.4 Reputation Protection. NMIMT's reputation is a highly valued asset. It is expected that counsel will be vigilant about both identifying risk and communicating that risk effectively to Administration.

17.4 Initial Budget.

17.4.1 An initial budget estimate is due thirty (30) days from the date a matter is assigned to counsel. Counsel is to seek approval from the Representative before exceeding the initial budget estimate. For non-litigation matters, the Representative and counsel will develop case / matter budget where the activities are grouped into the major categories corresponding to the UTBMS Counseling Code Set and / or Project Code Set, as is appropriate under the circumstances. For each activity, a "target budget" is developed. Budget targets are flexible and will be revised to reflect unanticipated events; however, counsel must identify its baseline assumptions and these must be agreed to in advance.

17.4.2 For litigation matters, the Representative and counsel will develop a case / matter budget where the activities are grouped into four to five major categories corresponding to the UTBMS Litigation Code. For each activity, a "target budget" is developed. Budget targets are flexible and will be revised to reflect unanticipated events; however, counsel must identify its baseline assumptions and these must be agreed to in advance.

17.4.3 NMIMT Administration is receptive to alternative fee arrangements, including consultation retainers, fixed pricing by matter or task, incentive pricing, etc., and welcomes proposals of this nature.

17.5 Reporting

17.5.1 **Litigation Plan and Litigation Budget.** Counsel will submit a Litigation Plan and Initial Budget as described above, and will thereafter submit an updated Litigation Plan and Litigation Budget as needed to keep the Representative reasonably apprised of litigation strategy and anticipated expenses, but no less than every six (6) months during the pendency of the case.

17.5.2 **Narrative Litigation Risk Analysis.** Counsel will submit a Narrative Litigation Risk Analysis (NLRA) no less than ninety (90) days prior to trial on the merits or twenty-one (21) days prior to any settlement conference or mediation, whichever is earlier, or at such earlier time as may be requested by Administration. Administration or the Representative may request a NLRA at any other time and may request other or additional information in conjunction with a NLRA. The NLRA shall include a specification of:

- 17.5.2.1 Key legal issues that remain to be decided at trial, including those elements of each claim, which appear to be;
- 17.5.2.2 Critical factual findings that will determine the outcome of each key legal issue;
- 17.5.2.3 The evidence and arguments that will produce, respectively, a favorable or unfavorable outcome as to each critical factual finding. (In other words, the most salient factual issues and evidence expected to bear on same.);
- 17.5.2.4 The likelihood of a favorable outcome as to each critical factual finding, each key legal issue, each cause of action, and the likelihood of an overall defense verdict / judgment;
- 17.5.2.5 The anticipated damages that will be awarded as to each claim in the event of an adverse outcome;
- 17.5.2.6 The anticipated attorney's fees and costs yet to be incurred for defense through trial;
- 17.5.2.7 The anticipated attorney's fees and costs to be awarded to the plaintiff / claimant in the event of an adverse outcome;
- 17.5.2.8 Viable issues / arguments on appeal from the trial verdict / judgment and the likelihood of a favorable NMIMT outcome on each issue; and
- 17.5.2.9 Counsel's recommendation as to what (if anything) NMIMT should be willing to offer to settle the case, in light of the risk and scope of an anticipated adverse outcome versus the expense yet to be incurred to obtain a favorable outcome.

17.6 Root Cause Analysis (RCA)

17.6.1 Upon the conclusion of a trial, arbitration or other hearing on the merits which results in a verdict, judgment or other ruling on the merits that is adverse to NMIMT, or upon execution of a settlement agreement which involves (a) payment of money to the plaintiff / claimant and / or their attorney and / or (b) equitable relief for the plaintiff / claimant (e.g., reinstatement, reversal or modification of discipline, material change to an employee's employment records, affirmative action or obligation imposed upon or undertaken by NMIMT), counsel will submit a Root Cause Analysis (RCA) to Administration which shall include a discussion of any of the following which counsel believes applicable to the outcome of the case:

17.6.2 Acts or omissions by NMIMT personnel that resulted in the outcome, e.g., engaging in sexual harassment, unsafe driving, violation of rules or prescribed procedures; failure to train employees (regarding sexual harassment, safety equipment, proper procedures, etc.); failure to disseminate information (e.g., about where and how to file a sexual harassment complaint); failure to timely investigate (e.g., a sexual harassment complaint); inadequate monitoring of employee performance or conduct; absence of adequate performance correction or discipline; failure to enforce a rule or regulation; poor record keeping; written policies, regulations and procedures and unwritten practices of NMIMT or of the relevant department or office of NMIMT that materially contributed to the money or equitable relief; i.e., any policy, procedure, or practice which—had it been different—could have prevented the adverse outcome; and

17.6.3 Recommended actions which should be considered to minimize the possibility for recurrence of such a loss—e.g., promulgation or amendment of a particular policy, procedure or rule; better or more consistent enforcement of existing rules; training to be given to an employee or group of employees; organizational or structural changes to an administrative area; corrective personnel action (such as employee or supervisor discipline, performance improvement requirements, transfer); use of management techniques (such as mediation, referral to employee assistance program); resources which might be helpful to the relevant NMIMT personnel.

17.6.4 The RCA shall be submitted within thirty (30) days from the rendering of a judgment or dispositive order or final execution of a settlement agreement, as applicable.

17.7 Staffing

17.7.1 All matters shall be staffed with the minimum number of attorneys consistent with high quality legal services.

17.7.2 All matters shall be handled at the most efficient level (partner, associate, paralegal, clerk, or legal/administrative assistant) consistent with high quality legal services.

17.7.3 Bills are to include detail sufficient to demonstrate that the level of work is appropriate to the level of the person performing it.

17.7.4 NMIMT normally pays for only one attorney to accomplish a task. The preparation for and attendance at a deposition, hearing, trial, or meeting by more than one attorney, paralegal, etc. will not be paid unless prior approval is obtained from NMIMT Administration or the Representative. NMIMT will not pay for any attorney redoing the work of another attorney or for duplicative entries for reviewing and analyzing documentation and legal research. Conferencing among attorneys in the office is generally not compensable, unless the conference is necessitated by a significant legal event and is held at the request of NMIMT. When conferencing is necessary, only the senior attorney's time will be compensable unless prior approval is obtained. If for any reason the firm replaces a team member, the cost associated with the education of the new team member will be borne by the law firm.

17.7.5 Once counsel identifies the attorneys assigned to represent NMIMT in a specific matter, the attorneys should not be added to or removed from the assignment without prior notice to and approval from Administration or the Representative.

17.8 Billing.

17.8.1 Billing statements should not reflect increases to rates Administration has negotiated with the firm, unless Administration has pre-approved the rate changes. A Contractor may not submit more than one (1) request for a rate increase per year, per attorney assigned to represent NMIMT. The amount of any such increase shall not exceed an amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers from the prior year period's rate for such attorney, and in any event, an attorney's hourly fee shall not exceed the lowest fee charged to any of the Contractor's clients. The signature or other specific, documented approval by NMIMT Administration must be included on the first invoice submitted after the approval of the rate change. In the absence of such approval, NMIMT shall pay billing statements based on negotiated rates.

17.8.2 Billing must be submitted monthly, no later than thirty (30) days following the end of the month in which services were rendered.

17.8.3 Included Information:

17.8.3.1 The date the task was performed;

17.8.3.2 The name of the person performing the task;

17.8.3.3 A brief but detailed description of the task performed (e.g., drafted [description of document], or researched [description of precise issue researched], or met with [name of person] about [topic or topics discussed]). All correspondence, pleadings, and other documents drafted or reviewed must be distinctly identified;

17.8.3.4 The time devoted to the task in increments of one tenth of an hour. The time entered must be the actual time expended on each function. Block billing, which groups functions together, must not be used, unless the total time incurred is one tenth of an hour or less;

17.8.3.5 The billing rate as previously approved by Administration for the person performing the task;

17.8.3.6 An itemized breakdown of routine actual disbursement costs, billed at cost without markups by the firm, including:

17.8.3.6.1 Photocopies, billed at cost, indicating the price per page, color or black and white, and the number of copies made;

17.8.3.6.2 Long distance telephone calls and long distance fax charges, indicating the date of the call or fax, the telephone number, and total costs;

17.8.3.7.3 Travel related expenses:

17.8.3.7.3.1 Travel outside of the firm's local area requires the pre-approval of NMIMT Administration or the Representative;

17.8.3.7.3.2 NMIMT will pay for travel time at the rate established for the firm's employees, except for the time counsel is working on other matters;

- 17.8.3.7.3.3 For automobile travel, the date of travel, the person traveling, destination, purpose, and number of miles must be provided. NMIMT will pay the then current IRS mileage rate;
 - 17.8.3.7.3.4 Air travel will be reimbursed at economy or coach fare. The actual receipt from the airline ticket must be available upon request;
 - 17.8.3.7.3.5 Expenses for lodging, meals, and transportation are to be at reasonable rates and to fit within the per diem established by the state mileage per diem statute. Counsel is expected to exercise prudence in incurring such expenses and in distinguishing between personal expenses and properly chargeable business expenses.
- 17.8.4 All invoices shall also include summary information on a separate page indicating the date of invoice; invoice number, and consolidated time and charges for each person billing.
- 17.8.5 Counsel should address any concerns or questions about the NMIMT billing expectations as soon as practicable. Good communications are the best way to avoid misunderstandings. NMIMT is committed to the prompt payment of billing statements that conform to its requirements.
- 17.8.6 All costs for professional services for expert consultants may be invoiced and will be reimbursable only with the prior written approval of NMIMT.
- 17.8.7 These Billing Guidelines may be amended from time to time by Administration and such amendments shall become effective upon transmission to counsel.
- 17.9 NMIMT shall not pay for the following:
- 17.9.1 Preparation of budgets, invoices, routine diary reviews (a review not precipitated by any legal event, phone call, or receipt of correspondence), status reports which reiterate facts already known by NMIMT Administration or the Representative, or responses to billing inquiries;
 - 17.9.2 Attendance at weekly staff meetings and any internal firm events such as retreats;
 - 17.9.3 Clerical or paralegal work performed by attorneys; clerical work performed by paralegals;
 - 17.9.4 Secretarial, word processing, proofreading, filing, office machine attendants (photocopy or faxing), librarian, or other clerical services (normal, temporary, or overtime);
 - 17.9.5 Training or educating of personnel;
 - 17.9.6 Marketing and relationship-building time; or
 - 17.9.7 Basic research on matters presumed to be within the firm's expertise or on matters of common knowledge among reasonably experienced counsel in the locale.
 - 17.9.8 No charges are to be billed for any of the following services and items:
 - 17.9.8.1 Internal computer time;
 - 17.9.8.2 Computerized legal research such as Westlaw or Lexis;
 - 17.9.8.3 Air conditioning, lighting, conference rooms, office supplies, or other costs associated with the maintenance of offices;
 - 17.9.8.4 Parking, unless it is incurred while on NMIMT business (and does not include parking at the firm's office);
 - 17.9.8.5 Local telephone or facsimile charges;
 - 17.9.8.6 Cellular telephone charges;
 - 17.9.8.7 Meals (other than meals with a client or witness, or while away from the firm on approved travel representing NMIMT);
 - 17.9.8.8 Local travel time and expenses, unless approved on a case-by-case basis;
 - 17.9.8.9 Billing of a "miscellaneous" or "other" category of expenses, without specification of each expense; and
 - 17.9.8.10 Any other expense properly chargeable to overhead or as a capital expense.
 - 17.9.8.11 Credit Card Processing Fees: Contractor will not charge NMIMT for credit card Processing Fees.

PROPOSAL FORMS

(ALL FORMS TO BE COMPLETED, SIGNED AND INCLUDED IN OFFER)

OFFER

To: New Mexico Institute of Mining and Technology
801 Leroy Place
Socorro, NM 87801
Re: RFP# 2404022C

Offer of _____ (hereinafter called Proposer) a:

Corporation Partnership or Individual

The Proposer in compliance with RFP mentioned above having examined the proposal documents and the site of the proposed work (if applicable), hereby proposes to furnish all materials, equipment, labor and supplies and to complete the work at the prices stated in their offer. These prices, excluding New Mexico Gross Receipts Taxes, are to cover all expenses incurred in performing the Work as required in the RFP proposal.

The Proposer accepts all of the terms and conditions of the Request for Proposal and Instructions to Proposer. This offer will remain subject to acceptance for ninety (90) days after the day of Proposal opening.

An award shall be made pursuant to the evaluation criteria in the Instruction to Proposers. The Institute reserves the right to accept or reject any all offers, based entirely on its own judgment as to which are in the best interest of the Institute and/or within available funds.

By signing this form, proposers acknowledge receipt of the following addendum/addenda:

#1 _____ #2 _____ #3 _____ #4 _____ #5 _____ #6 _____ #7 _____ #8 _____

Title

Date

Telephone

Email

Resident Contractor Certification Number
(include a copy with the offer)

Resident Veteran Contractor Certification Number
(include a copy with the offer)

Signature

Date

Please provide a point of contact for questions regarding your offer:

Name

Telephone

Email

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

(please return with Offer)

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT HE/SHE/IT, HIS/HER/ITS FAMILY MEMBER, OR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

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

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

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law, or son-in-law.

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

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

"Prospective contractor" means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

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

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s): _____

Nature of Contribution(s): _____

Purpose of Contribution(s): _____
(Attach extra pages if necessary)

Name

Title

Signature

Date

-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.

Name

Title

Signature

Date

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY
MATTERS**

(please return with Offer)

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

Debarment: Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.

Have not within a three year period preceding this proposal been convicted of all has a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal of State Antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

Are not presently indicted for otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses in enumerated in paragraph (2) of this certification and

Have not within a three year period preceding this proposal had one or more public transaction (Federal, State, or local) terminated for cause or default.

Anti-Kickback: Per N.M.S.A. 13-1-191 & 198 and the Federal Acquisition Regulation (FAR 52.203.7) Anti-Kickback Act of 1986, in signing this offer we certify that we have not made, or accepted any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which was provided for the purpose of improperly obtaining, or as a reward for favorable treatment in connection with, any prime contract, or a subcontract relating to a prime contract.

I understand that a false statement of this certification may be ground for rejection of this proposal or termination of the award. Under 18USC Sec. 101, a false statement may result in a fine up to \$10,000 or imprisonment for up to 5 years, or both.

Name

Title

Signature

Date

NON-COLLUSION AFFIDAVIT

(please return with Offer)

State of _____)

County of _____)

_____, being first duly sworn, deposes and says that _____ he/she is (title) _____ of (organization) _____ submits herewith to New Mexico Institute of Mining and Technology, a proposal and that all statement of fact in such proposal is true.

That said proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;

That said Proposer has not directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of NMIMT, or any Proposer of anyone else interested in the proposed contract and further,

That prior to the public opening and reading of proposal, said Proposer:

1. Did not directly or indirectly induce or solicit anyone else to submit a false or sham proposal
2. Did not directly or indirectly collude, conspire, connive or agree with anyone else that said Proposer or anyone else would submit a false or sham proposal or that anyone should refrain from bidding or withdraw his proposals;
3. Did not in any manner directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the proposal price or fix the proposal price of said Proposer or of anyone else or to raise or fix any overhead, profit or cost element of their proposal price or of that of anyone else;
4. Did not directly or indirectly, submit his proposed price or any breakdown thereof, or the contest thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association organization, bid depository or to any member or agent thereof, or to any individual of group of individuals, except that NMIMT, or to any person or persons who have a partnership or other financial interest with said Proposer in his business.

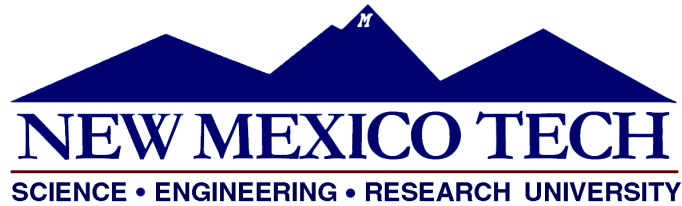
Name

Title

Signature

Date

THIS FORM WILL BE EXECUTED WITH THE SELECTED CONTRACTOR(S), IT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY



PROFESSIONAL SERVICES AGREEMENT (PSA)

Agreement / Purchase Order Number: _____

THIS AGREEMENT, made and entered into this ____ day of _____, 20__ by and between New Mexico Institute of Mining and Technology, hereinafter called New Mexico Tech, and

Hereinafter called the "Contractor"

WITNESSETH:

NOW THEREFORE, in consideration of the premises and of the mutual and reciprocal promises of the parties hereto, is hereby covenanted and agreed by and between parties:

1. That the Contractor will render the following professional services to New Mexico Tech:

2. That the Contractor represents and warrants that the Contractor is professionally qualified to render the consultant services required by New Mexico Tech and possess any licenses and / or certifications required under state or federal law to perform the services required under this Agreement.

3. That if the work to be performed under this Agreement is funded wholly or in part by the federal government, the Contractor represents and warrants that neither Contractor nor any employee of Contractor nor any subcontractor of Contractor are employees of the funding agency.

4. That the Contractor will devote the necessary hours each week to the performance of such duties that may be assigned to him / her by New Mexico Tech.

5. That the Contractor shall provide written progress reports and schedules in sufficient detail to the Department at a frequency agreed upon between the parties.

6. That the Contractor will serve New Mexico Tech diligently and faithfully, and according to its ability and in all respects will use his / her utmost endeavors to promote the interest of New Mexico Tech.

7. That the Contractor will maintain records indicating the date and length of time such services are rendered. These records shall be subject to inspection by the designated agent of New Mexico Tech. If federal funds are used under this Agreement, the Contractor and its subcontractors shall preserve fiscal records and supporting documentation for a period of three (3) years from the date of termination of this Agreement if an audit to the satisfaction of 2 CFR 200 Uniform Administrative

Requirements, Cost Principles, and Audit Requirements for Federal Awards has occurred by that time. If such audit has not occurred by that time, the records must be retained until an audit has occurred or for a period of five (5) years from the date of termination of this Agreement, whichever comes first. If any litigation, claim, or audit is started before the expiration of the retention period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved. The Contractor shall make its fiscal records and supporting documentation available for audit by New Mexico Tech and / or the Federal Government and any persons or entities hired by the above named. The Contractor shall refund any costs disallowed by such audit to New Mexico Tech.

8. That services rendered by the Contractor shall be performed at _____ or where New Mexico Tech shall designate. Contractor shall provide written notification to the Department when the costs incurred exceeds seventy-five percent (75%) of the total amount obligated under this Agreement.

9. That for the services rendered satisfactory, New Mexico Tech agrees to pay the Contractor compensation as follows, at the following rate (hourly or daily) of \$_____ plus expenses (if applicable) as follows: _____. Such compensation and expenses not to exceed \$_____ including tax, payable by New Mexico Tech upon receipt of a signed invoice or Payee Claim for Reimbursement. The Contractor will pay the State of New Mexico the Gross Receipts Tax levied on the amounts payable under this Agreement.

10. That invoices shall be sent to New Mexico Tech, Accounts Payable, 801 Leroy Place, Socorro, NM 87801 or emailed to apinvoice@npe.nmt.edu. Invoices shall be presented at the beginning of each month covering services and / or expenses incurred during the previous month. All applicable taxes shall be shown as a separate line item. The purchase order number shall be clearly marked on all invoices.

11. New Tech Mexico understands and agrees that the contractor may request additional funding to cover the day-to-day workflow activities that exceed the agreed amount on this document; the Contractor will request such additional funding upon previous discussion and approval from New Mexico Tech and Sponsor. Additional funding will be provided only on the issuance of an approved change order to the purchase order. No verbal approval shall be given.

12. That the Contractor is an independent contractor/ /corporation, is not an employee of the Sponsor, performing professional services for New Mexico Tech. The Contractor is responsible for any applicable state or federal taxes, a Form 1099 Nonemployee Compensation will be issued for any payments made. The Contractor shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of New Mexico Tech as a result of this Agreement.

13. That the performance of this Agreement by New Mexico Tech is contingent upon availability of sufficient funds and sufficient appropriations and authorizations being made by the funding entity(s) for such performance. New Mexico Tech's decision as to whether sufficient funds are available and whether sufficient appropriations and authorizations have been made shall be made in good faith and in its sole discretion, shall be accepted unconditionally by the Contractor, and shall be final. If New Mexico Tech decides that sufficient funds are not available and / or sufficient appropriations and / or authorizations have not been made, it shall notify the Contractor of its decision in writing and may either terminate this Agreement or propose modifications to accommodate the insufficient funds and/or appropriations and/or authorizations. If NMT proposes modifications, the Contractor shall within thirty (30) days after receiving New Mexico Tech's notice give New Mexico Tech written notice that it has elected either to (i) accept the proposed modifications or (ii) terminate this Agreement. If the Contractor fails

timely to give such notice, it shall be deemed to have accepted the proposed modifications. In no event shall New Mexico Tech be liable for any financial or other penalty on account of any termination or modification of this Agreement as a result of insufficient funds, appropriations or authorizations.

14. That the Contractor shall not assign any interest in this Agreement or transfer any interest in same or assign any claim for money due or to become due under this Agreement without the prior written consent of New Mexico Tech.

15. That either party, independent or in concert, may terminate this Agreement by giving thirty (30) days written notice to the other party.

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

17. That this Agreement shall not be altered, changed, or amended except by the instrument in writing executed by the parties hereto. The foregoing being clearly understood and agreed to, the parties hereto have set their hands and seals.

18. That this Agreement shall be deemed to be an Agreement made in accordance with the laws of the State of New Mexico.

19. That each party will be solely responsible for its liability for bodily injury, including death, or damage to property under the common law or statutory law of New Mexico and for only its own attorney fees and costs arising from the act or failure to act of such party or of its regents, directors, members, shareholders, officers, agents and employees pursuant to this Agreement; provided however, the foregoing obligation is a statement of responsibility pursuant to common and statutory law only and does not constitute an agreement to indemnify. The liability and responsibility of New Mexico Institute of Mining and Technology shall be subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4- through 41-4-27, and of any amendments thereto, and shall be construed and applied in accordance with the laws of the State of New Mexico, irrespective of the conflict of law and choice of law principles of New Mexico or any other jurisdiction.

20. That throughout the period of this Agreement, copies of all correspondence, work products, specifications, estimates and other material prepared by the Contractor should be directed to the Department Contact Person. Direct contact or communication by the Contractor with other New Mexico Tech offices or any other state or governmental entity concerning the Agreement shall be made only with the prior knowledge and approval of the Department Contact Person.

21. That all documents which are prepared by the Contractor or any subcontractor that form a part of its services under this Agreement shall be the property of New Mexico Tech and shall be delivered to New Mexico Tech upon termination of this Agreement if so requested by New Mexico Tech. The Contractor shall be responsible for the protection and / or replacement of any original documents in its possession. New Mexico Tech shall receive all original drawings and documentation.

22. That for the consideration payable under this Agreement, the work product required by this Agreement shall be considered a work made for hire within the meaning of that term under the copyright laws of the United States, applicable common law and corresponding laws of other countries. New Mexico Tech shall have sole right and authority to seek statutory copyright protection and to enjoy the benefit of ownership of the work. The party performing the work hereby assigns all rights, title and interest in and to the work to New Mexico Tech and shall require all subcontractors to agree in writing that they assign all right, title and interest in work product to New Mexico Tech required by the Agreement.

23. That for the consideration payable under this Agreement, the Contractor agrees to report to New Mexico Tech any invention arising out of the work required by this Agreement. New Mexico Tech shall have sole right and authority to seek statutory patent protection under United States and foreign patent laws to enjoy the benefits of ownership of the invention, whether or not the invention was required of the Contractor or subcontractor as part of the performance of the Agreement. The Contractor hereby assigns all right, title and interest in and to inventions made in the course of the Agreement and agrees to execute and deliver all documents and do any and all things necessary and proper to effect such assignment. Contractor shall require all subcontractors to agree in writing that they will execute and deliver all documents and do any and all things necessary and proper to effect assignment of inventions arising out of the Agreement.

24. That confidential information provided by New Mexico Tech to Contractor shall not be disclosed by Contractor, its officers, employees or agents, to any third party, without the express written consent of New Mexico Tech.

24. The Contractor shall follow the Immigration Reform and Control Act of 1986, Pub L 99-603 (8 USC 1324a). More information regarding the employment requirements can be found at the following website: <http://www.uscis.gov/files/form/i-9.pdf> NMT E-Verify Company ID Number is 165512.

CONTRACTOR INFORMATION

NAME

MAILING ADDRESS

TELEPHONE NUMBER

CITY / ST/ ZIP CODE

EMAIL ADDRESS

DEPARTMENT INFORMATION

DEPARTMENT

CONTACT PERSON

TELEPHONE NUMBER

EFFECTIVE DATE: _____

TERMINATION DATE: _____

TOTAL AMOUNT THIS AGREEMENT SHALL NOT EXCEED: \$ _____

THIS AGREEMENT BETWEEN NEW MEXICO TECH AND _____

HAS BEEN APPROVED BY:

SIGNATURE OF CONTRACTOR

SIGNATURE OF CHIEF PROCUREMENT OFFICER

SIGNATURE OF DEPARTMENT

SIGNATURE OF VICE PRESIDENT FOR ADMINISTRATION
AND FINANCE

___ THIS AGREEMENT IS NOT A FEDERALLY FUNDED PROJECT.

___ THIS AGREEMENT IS A FEDERALLY FUNDED PROJECT AND THE ATTACHED FEDERAL ACQUISITION REGULATIONS (FAR) CERTIFICATIONS, and FLOW-DOWN PROVISIONS APPLY.

Allowability of Costs under Sponsor's prime contract will be determined in accordance with 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Allowability of subcontractor costs, if commercial entity, will be determined in accordance with FAR 31.2 Cost Principles for Contracts with Commercial Organizations. In the event any subcontractor costs are disallowed under the prime contract because of a conflict between the provisions of 2 CFR 200 and FAR 31.2, the provisions of 2 CFR 200 shall govern.

THE FOLLOWING MUST BE CERTIFIED FOR ALL AGREEMENTS \$25,000 OR GREATER USING FEDERAL FUNDS

CONFLICT OF INTEREST

The authorized Person, Firm and / or Corporation states that to the best of his/her belief and knowledge:

No employee or Regent of New Mexico Tech (or close relative), with the exception of the person(s) identified below, has a direct or indirect financial interest in the Contractor or in the proposed transaction. Contractor neither employs, nor is negotiating to employ, any New Mexico Tech employee, Regent or close relative, with the exception of the person(s) identified below. Contractor did not participate, directly or indirectly, in the preparation of specifications upon which the quote or offer is made. If the Contractor is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in Contractor, please identify the legislator(s):

List below the name(s) of any New Mexico Tech employee, Regent or close relative who now or within the preceding twelve (12) months

- (1) works for the Contractor;
- (2) has an ownership interest in the Contractor (other than as an owner of less than 1% of Contractor's stock, if Contractor is a publicly traded corporation);
- (3) is a partner, officer, director, trustee or consultant to the Contractor;
- (4) has received grant, travel, honoraria or other similar support from Contractor; or
- (5) has a right to receive royalties from the Contractor.

NAME OF INDIVIDUAL(S)

DEBARMENT/SUSPENSION STATUS

The Contractor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice or proposed debarment from any Agency per FAR 52.209-5. The Contractor agrees to provide immediate notice to the New Mexico Tech Purchasing Department in the event of being suspended, debarred or declared ineligible by any department or federal agency, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or offer but prior to the award of the purchase order or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST and DEBARMENT/SUSPENSION Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the Contractor named and that the information contained in this document is true and accurate to the best of their knowledge.

Signature

Title

Date

Printed Name

Company Name

Address

City / State / Zip Code

THE FOLLOWING MUST BE CERTIFIED FOR ALL AGREEMENTS \$100,000 OR GREATER USING FEDERAL FUNDS
CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
(September, 2005)

1. In accordance with FAR 52.102, the definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in this certification.
2. The Offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after; December 23, 1989
 - A. No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to Influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract.
 - B. If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal Transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and
 - C. He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
3. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by Section 1352, Title 31, United States Code. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The undersigned company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.)

CERTIFICATION

The undersigned hereby certifies that he / she has read the above CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTION (APR 1991) and CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT requirements and that he / she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the Contractor named below.

_____ Signature	_____ Title	_____ Date
_____ Printed Name	_____ Company Name	
_____ Address	_____ City / State / Zip Code	

GOVERNMENT FLOW-DOWN PROVISIONS

The resulting order is subcontracted under a U.S. Government Prime Contract, the applicable clauses listed below are incorporated into, and form a part, of the terms and conditions of the resulting order. In the event of any conflict between previously referenced terms and conditions and the Government Flow-Down Provisions, the Government Flow-Down Provisions take precedence. The clauses contained in the following paragraphs of the Federal Acquisition Regulations (FAR) are incorporated herein by reference. For purposes of this Purchase Order, in the following clauses, the term “contract” shall mean “this order”, the term “contractor” shall mean “Seller” and the term “Government” and “Contracting Officer” shall mean “New Mexico Institute of Mining and Technology (NMIMT) and the “Chief Procurement Officer” respectively. The following provisions of the FAR apply at the specified order dollar amounts:

Title	Applicability	FAR Reference
Equal Employment Opportunity	All Orders	52.222-26 (Sept 2016)
Debarment and Suspension	All Orders	52.209-6 (Jun 2020)
Rights in Data Alt IV	All R&D Orders	52.227-14 (May 2014)
Anti-Kickback Act	Construction Over \$2K	52.203-7 (Jun 2020)
Limitations on Payments to Influence Certain Federal Transactions	Orders exceeding \$150K	52.203-12 (Jun 2020)
Audit & Negotiations Alt II	All Orders Over \$100K	52-215-2 (Jun 2020)
Davis Bacon Act	Construction Over \$2K	52.222-6 (Aug 2018)
Contract Work Hours & Safety Standards	Construction and Labor Hour Contracts Over \$2.5K	52.222-4 (Mar 2018)
E-Verification	All Orders	52.222-54 (Oct 2015)
Certification and Disclosure Regarding Payments to Influence Certain Transactions	All Orders Over \$150K	52.203-11 (Sept 2007)
Patent Rights Ownership by the Contractor Ownership by the Government	All Orders	52.227-11 (May 2014) 52.227-13 (Dec 2007)
Buy American Act	All Orders over \$3K	52.225-2 (May 2014)
Contract Terms & Conditions, Commercial Items	All Orders over \$10K	52.212-4 (Oct 2018)
Energy Efficiency in Energy-Consuming Products	All Orders and Services with Energy Consuming Products	52.223-15 (May 2020)
Contract Provisions for Non-Federal Entity Contracts Under Federal Awards	All Orders over \$150K	CFR200.236
Small Business Subcontracting Plan	All Orders over \$700K	52.219-9 (June 2020)
Subcontractor Certified Cost or Pricing Requiring Certified Cost or Pricing Data	All Orders over \$750K	52.215-12 (June 2020)
Disclosure and Consistency of Cost Acctg	All Orders over \$750K	15.403-4 52.230-3 (June 2020)
Recovered Material	Biobased products that use USDA designated items	52.223-1 (May 2012)
Recovered Material	Biobased products that do not use USDA designated items	52.223-2 (Sept 2013)
Recovered Material	EPA Designated items except off the shelf	52.223-4 (May 2008)
Recovered Material	Items less than \$150K EPA Designated items except off the shelf	52.223-9 (May 2008)
Recovered Material	Items greater than \$150K EPA-designated items Service and Construction	52.223-17 (Aug 2018)

Pricing matrix

(this is not all inclusive, you may add other costs traditionally charged by your firm, see 17.8 and 17.9)

Category	Hourly Rate
Law Clerk	
Legal Secretary	
Administrative Personnel	
Paralegal	
Accountant	
Associate	
Senior Associate	
Partner	
Attorney	
Investigator	
Expert Consultants	
Miscellaneous Expenses	Estimated Cost
Retainer per engagement	
Travel	
Mileage	
Copies	

You may also propose a different price structure as outlined in 17.4.3