

STATE OF NEW MEXICO

NEW MEXICO PUBLIC REGULATION COMMISSION

REQUEST FOR PROPOSALS
FOR
RATE CASE CONSULTING SERVICES AMENDMENT # 1

JUNE 18, 2019

P.E.R.A. Building
1120 Paseo de Peralta/P.O. Box 1269
Santa Fe, NM. 87504-1269

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PART I

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

Utility Division Staff (“Utility Division” or “Staff”) of the New Mexico Public Regulation Commission (“Commission”) is requesting proposals from persons qualified to perform rate case consulting services to assist Staff in processing up to three rate cases to be filed in the second half of 2019. Specifically, Staff is seeking a consultant to assist in addressing utility Cost of Service, Rate of Return including Return on Equity, and Rate Design, and to provide training to Staff personnel in addressing these issues.

B. INTRODUCTION AND GENERAL INFORMATION

The Commission is a state agency created under Art. XI, § 1 of the New Mexico Constitution and pursuant to the New Mexico Public Regulation Commission Act, NMSA 1978, §§ 8-8-1 through 8-8-21, as amended. The Commission's offices are located in the P.E.R.A. Building, 1120 Paseo de Peralta, Santa Fe, NM 87501.

The Commission is charged with regulating public utilities in the State of New Mexico “to the end that reasonable and proper services shall be available at fair, just and reasonable rates and to the end that capital and investment may be encouraged and attracted so as to provide for the construction, development and extension, without unnecessary duplication and economic waste, of proper plants and facilities and demand-side resources for the rendition of service to the general public and to industry.” NMSA 1978, § 62-3-1.B. Pursuant to the Public Utility Act, NMSA 1978, § 62-3-1 et seq., the Commission has the authority to determine the just and reasonable rates to be charged by a public utility for the services it provides. NMSA 1978, § 62-9-7.D.

The Utility Division is tasked with representing the public interest in utility matters before the Commission, including the presentation of testimony and other evidence, in a manner that balances the consumer interest and the investor interest with that public interest. NMSA 1978, § 8-8-12.C. In the context of public utility rate proceedings, that includes a review and analysis of a utility’s Cost of Service- the total amount of revenue that the utility must collect through rates to recover the costs it expends to provide service to its customers, along with a reasonable return on the utility’s investment; of the utility’s Rate of Return, a determination of the rate at which the utility may earn a return on its investment, including its Cost of Debt, Return on Equity (“ROE”), and which includes an analysis of the utility’s capital structure; and of Rate Design, which develops specific rates designed to allow the utility to recover its Cost of Service.

Beginning early summer 2019 and continuing into the fall, the Commission anticipates that each of the three electric Investor Owned Utilities (“IOUs”) in the state will file a general rate case with the Commission, seeking an increase in rates for electric service. Recent personnel departures have left Staff without the depth of experience needed to be able to address each IOU’s Cost of Service, Rate of Return and Rate Design with the requisite proficiency appropriate for such cases. Staff therefore is seeking the assistance of one or more rate case consultants who are capable of both performing the necessary services and of training Utility Division personnel to perform these services.

C. SUMMARY OF SCOPE OF WORK

The scope of work shall consist of developing, in consultation with Staff, a recommended Cost of Service and/or recommended Rate of Return and/or Rate Design in one or more of the IOU rate cases to be filed during the second half of 2019. More specifically, the scope of work for each IOU rate application shall include (but need not be limited to) the following activities:

1. Review and analyze the IOU rate case filing, testimony, and attached schedules.
2. Communicate with assigned Utility Division personnel and Staff Counsel regarding analysis of IOU rate case filing and development of Staff positions.
3. In coordination with Utility Division and Staff Counsel, develop and draft discovery, and review discovery responses received.
4. In coordination with Utility Division and Staff Counsel, develop and draft direct and rebuttal (as needed) testimony and exhibits to be submitted into the record.
5. Review and analyze testimony and exhibits filed by intervenors in the proceeding.
6. Communicate with assigned Utility Division personnel and Staff Counsel regarding analysis of intervenor testimony.
7. Participate in rate case settlement discussions with assigned Utility Division personnel and Staff counsel, as well as with other parties, as directed.
8. Prepare for and participate in rate case hearings, including testifying on the stand, assisting with the preparation of cross-examination questions, and preparing other Staff witnesses.
9. Assist Staff Counsel with the preparation and drafting of post-hearing brief and responsive brief, as directed.
10. Review Recommended Decision or Certification of Stipulation, and communicate with assigned Utility Division personnel and Staff Counsel regarding that review.
11. Assist Staff counsel with the preparation of Exceptions to the Recommended Decision or Certification of Stipulation, as directed.
12. Assist assigned Utility Division personnel in the development and drafting of their testimony.
13. Instruct and educate assigned Utility Division personnel on how to most effectively and productively perform all of the previously-identified activities.

D. SCOPE OF PROCUREMENT

The scope of procurement includes the establishment of one or more professional services contracts for the performance of rate case consulting services. The Commission on behalf of the Utility Division may enter into separate contracts with separate Contractors for Cost of Service, Rate of Return, and Rate Design, and may enter into separate contracts with separate Contractors for each of the separate IOU rate cases.

Each contract shall commence upon execution by the Commission, which authority may be delegated at the Commission's option to the Chief of Staff, and by the selected Contractor through its authorized representative, and shall continue until the adoption of a Final Order by the Commission in the IOU rate case that is the subject of the contract.

E. PROCUREMENT MANAGER

1. The Utility Division has designated the Utility Division Director as Procurement Manager who is responsible for the conduct of this procurement whose title, address and telephone number is listed below.

Utility Division Director
NM Public Regulation Commission
Utility Division
P.O. Box 1269
Santa Fe, New Mexico 87501
1-877-427-5772

All deliveries via express carrier should be addressed as follows:

Chief of Staff's Executive Assistant
NM Public Regulation Commission
Utility Division
1120 Paseo de Peralta
Santa Fe, New Mexico 87501

Any inquiries regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other state employees do not have the authority to respond on behalf of the Utility Division.

F. DEFINITIONS

This section contains definitions that are used in this procurement document, including appropriate abbreviations.

"Agency" means the New Mexico Public Regulation Commission.

"Chief of Staff" means the Chief of Staff of the New Mexico Public Regulation Commission.

"Commission" or "PRC" means the New Mexico Public Regulation Commission.

"Contract" means an agreement for the procurement of professional services.

"Contractor" means the Offeror selected by the Commission pursuant to this Request for Proposals with which the Utility Division enters into a professional services contract.

"Determination" means the written documentation by the Procurement Manager of a decision, including facts supporting the decision. A determination becomes part of the procurement file to which it pertains. This definition does not apply to the use of the term "determination" in the appendices to this RFP.

"Desirable" -The terms "may," "can", "should," "preferably," or "prefers" identify a desirable or discretionary item or factor.

"Evaluation Committee" means a body appointed by the Utility Division Director to perform the evaluation of Offerors proposals.

"Evaluation Committee Report" means a report prepared by the Procurement Manager and the Evaluation Committee for submission to the Utility Division for contract award. It contains all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

"Mandatory" — The terms "must," "shall," "will," "is required," or "are required" identify a mandatory item or factor. An Offeror's failure to meet a mandatory item or factor will result in the rejection of the Offeror's proposal.

"Offeror" is any person, corporation, or partnership that submits a proposal.

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

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

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

"Staff" means the Utility Division of the New Mexico Public Regulation Commission.

"Utility Division" means the Utility Division of the New Mexico Public Regulation Commission.

PART II

CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and the conditions governing the procurement.

A. SEQUENCE OF EVENTS

The Procurement Manager shall make every attempt to adhere to the following schedule:

#	Action	Responsibility	(Date Deadline)
1	Issuance of RFP	Agency	06/21/2019
2	Distribution List Response	Potential Offerors	07/19/2019
3	Deadline to Submit Written Questions	Potential Offerors	07/22/2019
3	Response to Written Questions/RFP Amendments	Agency	07/29/2019
4	Submission of Proposal	Offeror	08/02/2019
5	Proposal Evaluation	Evaluation Committee	08/05/2019 through 08/09/2019
6	Recommendation of Contract Award	Evaluation Committee	08/12/2019
7	Finalize Contract	Agency, Offeror	08/14/2019
8	Contract Award	Agency	08/16/2019
9	Protest Deadline	Offeror	08/31/2019

B. EXPLANATION OF EVENTS

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

1. Issuance of RFP

The Commission is issuing this RFP for professional services.

2. Distribution List Response

Potential Offerors should hand deliver or return by registered or certified mail the "Acknowledgment of Receipt Form" (Appendix A) that accompanies this document to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by close of business on July 19, 2019. The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

3. Deadline to Submit Written Questions

Potential Offerors may submit written questions about the RFP until close of business on July 22, 2019. All written questions must be addressed to the Procurement Manager.

4. Response to Written Questions/RFP Amendments

Any written responses to written questions and any RFP amendments will be distributed on July 29, 2019 to all potential Offerors whose organization name appears on the procurement distribution list. An Acknowledgment of Receipt Form will accompany the distribution package. The form should be signed by the Offeror's representative, dated, and returned by the date indicated thereon.

5. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 5:00 P.M. MOUNTAIN STANDARD TIME ON AUGUST 2, 2019. Proposals received after this date and time will not be accepted. The date and time received will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the address listed in Part I, Paragraph E. Proposals must be labeled on the outside of the package to clearly indicate that they are IN RESPONSE TO THE REQUEST FOR PROPOSALS FOR RATE CASE CONSULTING SERVICES. Proposals submitted by facsimile will not be accepted. A public log will be kept of the names of all Offeror organizations that submit proposals. Pursuant to NMSA 1978, Section 13-1-116,

the contents of any proposal shall not be disclosed to competing Offerors prior to contract award.

6. Proposal Evaluation

An evaluation committee appointed by the Utility Division Director will perform the evaluation of proposals. This process will take place between August 5, 2019 and August 9, 2019. Before or during this time, the Procurement Manager may contact the Offeror for clarification of the response, and may, at his option, initiate discussions with Offerors who submit responsive or potentially responsive proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT BE initiated by the Offerors.

7. Recommendation of Contract Award

The Evaluation Committee will select and the Procurement Manager approve the recommendation to the Chief of Staff of a contract award to the Offeror whose proposal is most advantageous to the Agency.

8. Finalize Contract

The contract will be finalized with the most advantageous Offeror on August 14, 2019. In the event that mutually agreeable terms cannot be reached within the time specified, the Agency reserves the right to finalize a contract with another advantageous Offeror without undertaking a new procurement process.

9. Contract Award

The Commission will provisionally award the contract on or about August 16, 2019. This date is subject to change at the discretion of the agency management. The agreement shall become effective upon complete execution by the Commission, which authority may be delegated to the Chief of Staff, and the Offeror.

The contract shall be awarded to the Offeror whose proposal is most advantageous to the Agency, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

The contract is subject to appropriate State approvals.

10. Protest Deadline

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172, and applicable procurement regulations. The fifteen (15)

calendar day protest period for shall begin on the day following the contract award and will end as of close of business fifteen calendar days later. A Protest must be written and must include the name and address of the protestor and a reference to this RFP. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested. The protest must be delivered to the Chief of Staff at the following address:

Chief of Staff's Executive Assistant
NM Public Regulation Commission
Utility Division
1120 Paseo de Peralta
P.O. Box 1269
Santa Fe, New Mexico 87501 1-
877-427-5772

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

The procurement will be conducted in accordance with the State of New Mexico Procurement Code, NMSA 1978 §§ 13-1-21 et seq. and applicable regulations.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement (Part II of this RFP) in the letter of transmittal. Submission of a proposal constitutes acceptance of the evaluation factors contained in Part V of this RFP.

2. Incurring Cost

Any cost incurred by the Offeror in preparation, transmittal, or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contract resulting from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the Commission. The Commission will authorize payments for services rendered under the contract only to the prime contractor. Additionally, the Commission will only authorize payments for the work performed by employees of the prime contractor that are approved by the Commission. The prime contractor shall receive the prior written approval of the Utility Division Director to be selected by the Commission before substituting or replacing any approved employee with another employee.

4. Subcontractors

All services performed under a contract entered into pursuant to this procurement must be performed by the contractor unless the Utility Division Director approves in writing the subcontracting of any such services.

5. Amended Proposals

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

6. Offeror's Rights to Withdraw Proposal

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

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

7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or forty-five (45) days after receipt of a best and final offer if one is submitted.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until the Utility Division and the Contractor have entered into a contract. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for proprietary or confidential material that falls within an exception to the general requirement of disclosure set forth in the Inspection of Public Records Act, NMSA 1978, 14-2-1 et seq., including but not limited to data that qualifies as a trade secret under the Uniform Trade Secrets Act, NMSA 1978, Sections 57-3A-1 to 57-3A-7.

When an Offeror believes that material submitted with its proposal is proprietary or confidential and is subject to an exception in the Inspection of

Public Records Act, it shall stamp or imprint "proprietary" or confidential on that material and shall arrange that material in its submission in such a way that it is readily separable from the remainder of the materials submitted with the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Proprietary or confidential data is normally restricted to confidential financial information concerning the Offeror's organization and the cost of services proposed shall not be designated as proprietary or confidential information.

If the Procurement Manager or the Commission receives a request for disclosure of data for which an Offeror has made a written request for confidentiality, the Procurement Manager shall examine the request and make a written determination that specifies which portions of the proposal should be disclosed. The proposal will be disclosed in conformity with the Procurement Manager's determination unless a court of competent jurisdiction enters an order prohibiting or restricting disclosure. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data that falls within an exception stated in the Inspection of Public Records Act.

9. No Obligation

This procurement in no manner obligates the State of New Mexico or any of its agencies to the acceptance of or payment, including any payment from the State Universal Service Fund, for services offered until a valid written contract is awarded and approved by the appropriate authorities.

10. Termination

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

11. Sufficient Authorization

Any contract awarded as a result of this RFP process may be terminated if sufficient authorization does not exist. Sending written notice to the Contractor will effect such termination. The Commission's decision as to whether sufficient authorization exists will be accepted by the contractor as final.

12. Commitment to be bound by RFP Requirements

By submitting a response to this RFP, each Offeror agrees to be bound by the General Requirements contained in this RFP.

13. Governing Law

This procurement and any agreement with Offerors that may result shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied by the Utility Division in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror's proposals.

15. Contract Terms and Conditions

The contract between the Utility Division and a Contractor will follow the format specified by the Commission and generally contain the terms and conditions set forth in this RFP and Appendix B, "Sample Professional Services Contract." However, the Utility Division reserves the right to negotiate provisions in addition to those contained in this RFP and Appendix B, or to negotiate modifications of such terms, with the successful Offeror.

If an Offeror objects to any of the Utility Division's terms and conditions, as contained in this RFP or in Appendix B, that Offeror must propose specific alternative language that is acceptable to the Utility Division. General references to the Offeror's terms and conditions in a proposed contract, or attempts at wholesale substitutions of other language for language that appears in the form of contract in Appendix B are not acceptable and will result in disqualification of the Offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact of each proposed change, as well as the specific proposed alternate wording.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions that they request to have included in a contract with the Utility Division.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Utility Division and the selected Offeror and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor deviations from the requirements of this RFP and to decide what constitutes such a minor deviation. The Evaluation Committee also reserves the right to waive departures from mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. The exercise of this right is at the sole discretion of the Evaluation Committee and the Utility Division.

20. Change in Contractor Representatives

The Utility Division reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the Procurement Manager, meeting its needs adequately.

21. Notice of Penalties

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

22. Agency Rights

The Utility Division reserves the right to accept all or a portion of an Offeror's proposal subject to the Offeror's consent.

23. Right to Publish

Throughout the duration of this procurement process and contract term, potential Offerors, Offerors and Contractors must secure from the Utility Division written approval prior to release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or termination of the contract.

24. Ownership of Proposals

All documents submitted in response to this Request for Proposals shall become the property of the Commission and the State of New Mexico. However, any technical or user documentation submitted with the proposals of non-selected Offerors shall be returned, if such an Offeror so requests, after the expiration of the protest period.

25. Electronic mail address required

Communication regarding this procurement shall be conducted by electronic mail. Offeror must have a valid e-mail address to receive this correspondence and must provide it to the Procurement Manager.

26. Use of Electronic Versions of this RFP

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

27. Campaign Contribution Disclosure Form

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

PART III

RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal.

B. NUMBER OF COPIES

Each Offerors shall deliver five (5) identical copies of its proposal to the location specified in Part I, Paragraph E on or before the closing date and time for receipt of proposals.

C. PROPOSAL FORMAT

All proposals must be typewritten on standard 8 x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and bound with tabs delineating each section.

1. Proposal Organization

The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated, unless marked optional.

Section 1

Letter of Transmittal
Table of Contents
Proposal Summary (Optional)
Response to Mandatory
Specifications Response to
Desirable Specifications

Section 2

Completed Cost Response Form (Appendix D to this RFP)

Response to Agency Conditions Governing the Procurement (Part II of this RFP)

Response to proposed form of contract (Appendix B to this RFP)

Any Additional Terms and Conditions proposed by Offeror (Optional)

Section 3

Other Supporting Material (Optional)

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

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

The proposal summary may be included by an Offeror to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the

evaluation process unless specifically referenced in other portions of the Offeror's proposal.

Offerors may attach other materials that they feel may improve the quality of their responses. These materials should be included as "Other Supporting Material" in Section 3.

2. Letter of Transmittal

A letter of transmittal must accompany each proposal. The letter of transmittal MUST:

Identify the submitting organization;

Identify the name and title of the person authorized by the organization to contractually obligate the organization;

Identify the name, title and telephone number of the person or persons authorized to negotiate the contract on behalf of the organization;

Identify the names, titles and telephone numbers of persons to be contacted for clarification;

Explicitly indicate acceptance of the Conditions Governing the Procurement, as required by Part II, Paragraph C.1;

Be signed by a person authorized to contractually obligate the organization;

Acknowledge receipt of any amendments to this RFP issued prior to the date of submittal of the proposal.

PART IV

SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each mandatory specification. The narrative(s) along with required supporting materials will be evaluated and awarded points accordingly.

A. Information

1. Agency Resources

No Commission in-house resources are available to contractor personnel for use on this contract.

2. Level of Effort

The contractor will work on an as-needed basis.

3. Time Frame

Services under the contract are scheduled to begin upon award.

B. Mandatory Specifications

1. Corporate Experience

Offeror must submit a statement of relevant corporate experience, including experience of any subcontractors. The documentation must thoroughly describe how the Offeror has supplied expertise for similar contracts and work related to utility rate case consulting services, including Cost of Service, Rate of Return or Rate Design. The documentation must also describe Offeror's knowledge and expertise in current utility regulatory law and policy.

Private sector companies, individuals or non-profit organizations are required to submit indicators of financial stability along with the proposal. For example, a private company must submit its most recent audited financial statement or a certified public accountant-compiled financial report. Non-profit organizations must submit an audited, a certified public accountant - compiled financial report or similar document. Individuals must submit documents which depict their financial stability, such as an audited proprietorship financial statement, statement from a certified public accountant or banker, or a statement from vendors or suppliers. Similar proof of financial responsibility is also required of any subcontractor that is expected to provide substantial services under the contract.

2. Corporate References

Proposals must include three (3) external client references from clients who received similar services. In addition, three (3) references must be submitted for each proposed subcontractor. The minimum information that must be provided about each reference is:

- a. Name of individual or company services were provided for
- b. Address of individual or company

- c. Name of contact person
- d. Telephone number of contact person
- e. Type of services provided and dates services were provided

3. Offeror Staff Experience

Offerors must submit resumes of all proposed professional, managerial or administrative staff members who will be performing services under the contract. Experience narratives shall be attached that describe the specific relevant experience of the staff members in relation to the role that member will perform for this contract. The narrative(s) must include the name of the individual(s) proposed and should include a thorough description of the education, knowledge, and relevant experience as well as certifications or other professional credentials.

4. Proposed Staff References

One external client reference for each proposed staff member must be provided. The minimum information that must be provided about each reference is:

- a. Name of individual or company services were provided for
- b. Address of individual or company
- c. Name of contact person
- d. Telephone number of contact person
- e. Type of services provided and dates services were provided

5. Project Plan

Offerors must submit a thorough project plan as part of the proposal. Project plans must reasonably specify the activities to be undertaken to carry out the duties to be undertaken in performance of the contracted-for rate case consulting services. Project plan schedules should show beginning and ending dates for each major task, event, activity and milestone as well as the names of persons responsible for each. Offeror should include any other information that is appropriate and that has not been covered elsewhere in this RFP.

6. Cost

Offerors may propose a fixed cost for the provision of rate case consulting services, or may in the alternative propose an hourly rate for each individual to perform work on the contract.

C. Desirable Specifications

Offerors should include in their proposals documentation of the extent of their

knowledge regarding accounting programs, databases, and Cost of Service and/or ROE models.

Offerors should provide with their proposals copies of appropriate professional certifications.

Offerors should include in their proposals samples of work performed for previous clients.

Offerors should include in their proposals additional information to assist the Commission in determining whether the Offeror:

- (1) is able to be neutral and impartial;
- (2) is a member of a trade association that advocates positions before this Commission or other state commissions in administrative proceedings related to telecommunications issues;
- (3) is an affiliate of any contributing company;
- (4) has a substantial financial interest in any entity or affiliate that provides electric utility services, and;
- (5) has a board of directors that includes any member with direct financial interests in entities that contribute to or receive support from the fund in this state or any other state.

PART V. EVALUATION

A. Evaluation Point Summary

New Mexico Preference: The Commission has determined that the Procurement Code provisions regarding resident business preference contained in NMSA 1978, § 13-1-21 Application of preferences (E) (point based system) are applicable to this contract:

§ 13-1-21 Application of preferences (E)

E. When a public body makes a purchase using a formal request for proposals process, and the contract is awarded based on a point-based system, the public body shall award an additional of the equivalent of:

- (1) five percent of the total possible points to a resident business; and
- (2) ten percent of the total possible points to a resident veteran business that has annual revenues of one million dollars (\$1,000,000) or less.

Bidder on the Contract desiring to receive any type of resident preference should formally submit the exact type in compliance with NMSA 1978, § 13-1-22. Resident business, resident veteran business, resident contractor and resident veteran contractor certification;

“a contractor shall submit with its bid or proposal a copy of a valid resident business certificate, valid resident veteran business certificate, valid resident

contractor certificate or valid resident veteran contractor certificate issued by the taxation and revenue department.”

The following is a summary of evaluation factors with point value assigned to each. These, along with the general requirements, will be used in the evaluation of Offeror proposals.

<u>FACTOR</u>	<u>POINTS AVAILABLE</u>
1. Corporate Experience	175
2. Corporate References	100
3. Proposed Staff Experience	175
4. Proposed Staff References	100
5. Project Plan	150
6. Cost	300
TOTAL	1000

B. Evaluation Factors

Points will be awarded on the basis of the following evaluation factors:

1. Corporate Experience (175 points)

The corporate experience of the Offeror including all subcontractors will be evaluated based upon documented experience on similar projects and engagements.

2. Corporate References (100 points)

Points for corporate references will be awarded based upon an evaluation of the Offeror's work for previous clients receiving similar services to those proposed by the Offeror for this contract.

3. Staff Experience (175 points)

Points for staff experience will be awarded based upon an evaluation of each staff member's experience as it relates to their role and the needs of this contract.

4. Individual References (100 points)

Points for individual references will be awarded based upon an evaluation of the individual's work performed for previous clients receiving similar services to those proposed for the staff member for this contract.

5. Project Plan (150 points)

Points will be awarded for this evaluation factor based upon the quality and thoroughness of the project plan.

6. Cost (300 points)

The Offeror with the lowest proposed total cost shall be awarded 300 points. Each of the other bidders shall be awarded points determined in accordance with the following formula: $(\text{lowest proposed total cost} / \text{other bidder's proposed total cost}) \times 300$.

C. Evaluation Process

The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the mandatory requirements stated in the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Part II, Paragraph B(5).
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Part II, Paragraph C(18).
4. Responsive proposals will be evaluated on the factors in Part V that have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors based upon the proposals submitted. Finalist Offerors who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. The responsible Offeror whose proposal is most advantageous to the Agency, taking into consideration the evaluation factors in Part V, will be recommended for contract award as specified in Part II, Paragraph B(6). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

Acknowledgement of Receipt Form

REQUEST FOR PROPOSALS FOR
RATE CASE CONSULTING SERVICES
ACKNOWLEDGEMENT OF RECEIPT FORM

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

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than close of business on July 19, 2019. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the Agency's written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS : _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

This name and address will be used for all correspondence related to the Request for Proposal. Firm does/does not (**circle one**) intend to respond to this Request for Proposals.

RETURN THIS FORM TO:

Utility Division Director
NM Public Regulation Commission
Utility Division
P.O. Box 1269
Santa Fe, New Mexico 87501
1-877-427-5772

APPENDIX B

CONTRACT # _____

STATE OF NEW MEXICO PROFESSIONAL SERVICES CONTRACT FOR RATE CASE CONSULTING SERVICES

THIS AGREEMENT is made and entered into by and between the Public Regulation Commission, State of New Mexico ("Agency" or "Commission"), P.O. Box 1269, Santa Fe, NM 87504, and [insert contractor name] ("Contractor") and [insert address].

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

A. Definitions.

"Project Manager" means the individual assigned by the Procuring Agency to manage the project and administer this Agreement. For purposes of this project, the Project Manager shall be the Utility Division Director.

"Project Plan" means a document approved by the Project Manager which includes a list of tasks to be performed and the time frame for the completion of each task. (All work under this Agreement shall be performed in accordance with an approved Project Plan as attached in the final contract document.).

B. Scope of Work:

The Contractor shall perform the work outlined in the Scope of Work and in accordance with a Project Plan.

Performance Measures, default by Contractor — Contractor shall substantially perform the tasks set forth in Attachments 1 through 3. In the event the Contractor fails to perform the tasks or obtain the results described in the Attachments, or the timelines or other criteria set forth in the Project Plan, the Commission may provide written notice to the Contractor of the default and specify a reasonable period of time in which the Contractor shall advise the Commission of specific steps that it has taken or will take to achieve these results in the future and the timetable for implementation. Nothing in this subparagraph shall be construed to prevent the Commission from exercising its right of early termination pursuant to Paragraph 4 below.

2. Compensation.

A. The Agency shall authorize payment to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work (Attachments 1 through 3) at the agreed-

upon price, excluding gross receipts tax.

The total amount of the monies payable to the Contractor under this Agreement, including gross receipts tax, shall not exceed [AMOUNT TO BE INSERTED] for the full term of the Agreement which amount excludes New Mexico gross receipts tax. The Agency is not responsible to payment of any gross receipts tax obligations of the Contractor under this contract.

Travel – Contractor shall be responsible for paying its own travel expenses from the total compensation received. Travel expenses should thus be included in the Offeror’s bid price.

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

C. Invoices - Invoices shall be submitted to the Project Manager.

D. The Contractor will provide a mutually agreeable Guaranty of Performance as determined in the final offers and made a part hereof and attached as Attachment (___).

3. Term.

This Agreement shall become effective upon **execution of the Commission and the Contractor**. This agreement shall terminate upon the issuance of a Final Order in the last IOU rate case identified in the Agreement, unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations), infra.

4. Termination.

A. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least one hundred and twenty (120) calendar days prior to the termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Agreement also may be terminated immediately upon written notice to the Contractor, if the Contractor becomes unable to perform the services contracted for, as determined by the Agency or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of monies in the Fund. ***THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.***

In the event the Utility Division determines, in its sole discretion, that the Scope of Work should be modified due to a change in the applicable statute or rule or for any other reason, the Utility Division shall propose such changes to the Contractor and the parties shall negotiate modifications to this Agreement. If the parties fail to execute a revised agreement or an amendment to this Agreement within thirty (30) days following such notice, the Utility Division shall have the right to terminate this Agreement upon at least thirty (30) days' notice to Contractor.

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

C. Liability.

Except as otherwise expressly allowed or provided under this Agreement, the Commission's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice of the Utility Division to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Utility Division or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of NMRUSF funds or due to the Appropriations paragraph herein. ***THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.***

D. Termination Management.

Immediately upon receipt by either the Utility Division or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Utility Division; 2) comply with all directives issued by the Utility Division in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Utility Division shall direct for the protection, preservation, retention or transfer of all property titled to the Utility Division and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Utility Division upon termination and shall be submitted to the Utility Division as soon as practicable. Within two days after a notice of termination is received from the Utility Division, the Contractor shall furnish to the Utility Division a complete, detailed inventory of non-expendable personal property purchased with funds provided under the existing and previous Commission agreements with the Contractor; the property listed in the inventory report including client records and a final closing of the financial records and books of accounts which were required to be kept by the Contractor under

the paragraph of this Agreement regarding financial records.

E. Reduction in Payments, Authorization and Sufficiency of Funds.

If the Utility Division proposes an amendment to the Agreement to reduce payments to the Contractor, the Contractor shall have the option to terminate the Agreement or agree to the reduced compensation, within sixty (60) days of receipt of the proposed amendment.

5. Status of Contractor.

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

6. Assignment.

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

7. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Utility Division. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency. The contractor shall request the Project Manager's prior approval when replacing an existing employee with another employee.

8. Release.

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

9. Confidentiality.

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

10. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Utility Division no later

than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor. Previously existing software developed by the Contractor and used with other customers may be specifically excluded by mutual agreement in the final contract.

11. Conflict of Interest; Governmental Conduct Act.

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

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

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

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

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

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

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 11 are material representations of fact upon which the Utility Division relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Utility Division if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 11 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 11 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Utility Division may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 11(B).

12. Amendment.

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

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

13. Merger.

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

14. Penalties for violation of law.

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

15. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment

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

16. Applicable Law.

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

17. Workers Compensation.

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

18. Records and Financial Audit.

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

19. Indemnification.

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

20. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are

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

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

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenwexico.state.nm.us/>.

21. Employee Pay Equity Reporting.

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

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

22. Invalid Term or Condition.

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

23. Enforcement of Agreement.

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

24. Notices.

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

To the Agency:

[insert name, address and email].

To the Contractor:

[insert name, address and email].

25. Authority.

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

26. Debarment And Suspension And Other Responsibility Matters.

A. Contractor certifies by signing this Agreement, that Contractor and Contractor's principals, if applicable, to the best of Contractor's knowledge and belief: (1) are not debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) have not, within a three-year period preceding the effective date of this Agreement, been convicted of or had 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) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; (3) have not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses

enumerated above in this Paragraph; and, (4) have not, within a three-year period preceding the effective date of this Agreement, had one or more public Agreements or transactions (Federal, State or local) terminated for cause or default. If applicable, Contractor certifies that it and its principals have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a.

B. Contractor’s certification in Paragraph A is a material representation of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Commission if, at any time during the term of this Agreement, Contractor learns that Contractor’s certification in Paragraph A was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances. If it is later determined that Contractor’s certification in Paragraph A was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency, the Agency may terminate the Agreement.

C. Contractor shall require each proposed first-tier sub-Contractor whose subcontract will equal or exceed \$25,000, to disclose to the Agency whether as of the time of award of the subcontract, the sub-Contractor, or its principals, is or is not debarred, suspended, or proposed for debarment by any Federal department or agency. Contractor shall make such disclosures available to the Agency. If the sub-Contractor, or its principals, is debarred, suspended, or proposed for debarment by any Federal department or agency, the Agency may refuse to approve the use of the sub-Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the DFA Contracts Review Bureau below.

By: _____ Date: _____
Agency

By: _____ Date: _____
Agency’s Legal Counsel – Certifying legal sufficiency

By: _____ Date: _____
Agency’s Chief Financial Officer

By: _____
Contractor

Date: _____

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

ID Number: **00-000000-00-0**

ATTACHMENT 1 (TO APPENDIX B)

SCOPE OF WORK

GENERAL ADMINISTRATION AND ACCESS REDUCTION PROGRAM

The Contractor shall perform the following services in the [Insert IOU rate case proceeding info] proceeding:

The scope of work shall consist of developing, in consultation with Staff, a recommended Cost of Service and/or recommended Rate of Return and/or Rate Design in one or more of the IOU rate cases to be filed during the second half of 2019. More specifically, the scope of work for each IOU rate application shall include (but need not be limited to) the following activities:

1. Review and analyze the IOU rate case filing, testimony, and attached schedules.
2. Communicate with assigned Utility Division personnel and Staff Counsel regarding analysis of IOU rate case filing and development of Staff positions.
3. In coordination with Utility Division and Staff Counsel, develop and draft discovery, and review discovery responses received.
4. In coordination with Utility Division and Staff Counsel, develop and draft direct and rebuttal (as needed) testimony and exhibits to be submitted into the record.
5. Review and analyze testimony and exhibits filed by intervenors in the proceeding.
6. Communicate with assigned Utility Division personnel and Staff Counsel regarding analysis of intervenor testimony.
7. Participate in rate case settlement discussions with assigned Utility Division personnel and Staff counsel, as well as with other parties, as directed.
8. Prepare for and participate in rate case hearings, including testifying on the stand, assisting with the preparation of cross-examination questions, and preparing other Staff witnesses.
9. Assist Staff Counsel with the preparation and drafting of post-hearing brief and responsive brief, as directed.
10. Review Recommended Decision or Certification of Stipulation, and communicate with assigned Utility Division personnel and Staff Counsel regarding that review.
11. Assist Staff counsel with the preparation of Exceptions to the Recommended Decision or Certification of Stipulation, as directed.

12. Assist assigned Utility Division personnel in the development and drafting of their testimony.
13. Instruct and educate assigned Utility Division personnel on how to most effectively and productively perform all of the previously-identified activities.

APPENDIX C

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

THIS FORM MUST BE FILED BY EVERY 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)

Signature

Date

Title (Position)

----OR----

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

Signature

Date

Title (Position)

APPENDIX D

COST PROPOSAL

This form must be completed by all Offerors. Offerors may propose one firm, fixed cost proposal, or may in the alternative propose an hourly rate for each individual to perform work on the contract. New Mexico Gross Receipts taxes are to be excluded from the fixed cost proposal and from the proposed maximum hourly rates. They shall be shown separately on the invoice, if required.

|

ANY DIFFERENT OR MODIFIED BASIS OF COMPENSATION PROPOSED BY
OFFEROR:

Offeror's Name:

Signature:

Printed Name:

Title/Position:

Date: _____

APPENDIX E

SUSPENSION AND DEBARMENT CERTIFICATION

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

All Offerors must provide as a part of their proposals a certification to the Commission in the form provided below. Failure of an Offeror to furnish a certification or provide such additional information as requested by the Procurement Manager for this RFP will render the Offeror non-responsible. Furthermore, the Offeror shall provide immediate written notice to the Procurement Manager for this RFP if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Although the Commission may review the veracity of the certification through the use of the federal Excluded Parties Listing System or by other means, the certification provided by the Offeror in paragraph (a), below, is a material representation of fact upon which Commission will rely when making a contract award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available, the Commission may terminate the contract resulting from this request for proposals for default.

The certification provided by the Offeror in paragraph (a), below, will be considered in connection with a determination of the Offeror's responsibility. A certification that any of the items in paragraph (a), below, exists may result in rejection of the Offeror's proposal for non-responsibility and the withholding of an award under this RFP. If the Offeror's certification indicates that any of the items in paragraph (a), below, exists, the Offeror shall provide with its proposal a full written explanation of the specific basis for, and circumstances connected to, the item; the Offeror's failure to provide such explanation will result in rejection of the Offeror's proposal.

(1) By signing and submitting a proposal in response to this RFP, the Offeror certifies, to the best of its knowledge and belief, that:

(i) The Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency;

(B) Have not, within a three-year period preceding the date of the Offeror's proposal, been convicted of or had 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) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of

embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;

(C) Are D are not D presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this certification;

(D) (Have),(have not), within a three-year period preceding the date of Offeror's proposal, had one or more public agreements or transactions (Federal, State or local) terminated for cause or default; and

(ii) "Principal," for the purposes of this certification, shall include an officer, director; owner, partner, principal investigator, or other person having management or supervisory responsibilities related to this contract. "Principal" also includes a consultant or other person, whether or not employed by the participant or paid with Federal funds, who: is in a position to handle Federal funds; is in a position to influence or control the use of those funds; or occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

(iii) For the purposes of this certification, the terms used in the certification, have the meanings set forth in the definitions contained in federal regulation particularly **CFR 47 § 54.8 Prohibition on participation: suspension and debarment:**

(a) Definitions-(1) Activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. Such matters include the receipt of funds or discounted services through one or more of these support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding one or more of these support mechanisms.

(iv) Nothing contained in the foregoing certification shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

OFFEROR: _____

SIGNED BY: _____

TITLE: _____

DATE: _____

APPENDIX F

NEW MEXICO PUBLIC REGULATION COMMISSION

CONTRACTUAL SERVICE AFFIDAVIT

I, _____, being first duly sworn upon my oath
depose and state the following:

- 1) This Contractor is NOT a current or former state employee or a business in which a current state employee has an interest of greater than 20%; and
- 2) This Contract is NOT an attempt to circumvent the State's hiring freeze.

FURTHER, AFFIANT SAYETH NOT.

Print Name of Contractor or Representative

Signature of Contractor or Representative

(Date)

SUBSCRIBED AND SWORN to before me by _____ [name of
former employee] this _____ day of _____, 2017.

NOTARY PUBLIC

My Commission Expires:
