

New Mexico Educational Retirement Board

REQUEST FOR PROPOSALS (RFP)

Disability Evaluation Services



RFP# 24-352-0815-02412

RFP Release Date: Tuesday, August 15, 2023

Proposal Due Date: Friday, September 29, 2023, at 3 P.M.
MST/MDT

ELECTRONIC-ONLY PROPOSAL SUBMISSION

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The State of New Mexico Educational Retirement Board (“NMERB” or the “Agency”) is requesting proposals from qualified firms that have demonstrated past excellence and knowledge in providing Disability Evaluation Services. NMERB processes approximately 188 applications for disability-related transactions each year and requires the services of an established disability evaluation services firm who will provide prompt independent written evaluations of applications made by NMERB’s members for disability-related benefits to develop recommendations on the applications to the Agency’s Board of Trustees. The approximately 188 disability application related transactions include approximately 84 new disability applications, 102 annual reviews and 2 Cost of Living Adjustment (COLA) applications. These services are further described below in the Detailed Scope of Work in Section IV(A).

B. BACKGROUND INFORMATION

The NMERB has nine members that serve on its Board of Trustees (the Board). The Board employs the Executive Director of the ERB. The Educational Retirement Act (ERA) established a retirement system (the “Educational Retirement Fund” or the “Retirement Fund”) for employees of the public schools, colleges, universities, and selected state agencies in the State of New Mexico. The system was established in 1957 and operates under the authority of New Mexico Statutes, Sections 22-11-1 et seq. NMSA 1978, as amended. The Act is administered by the Educational Retirement Board and its staff (collectively “NMERB”). As of July 11, 2023, the plan has approximately 64,813 active members, 69,074 inactive members and 58,279 retirees and eligible beneficiaries. Assets of the Educational Retirement Fund under management are valued at approximately \$15.8 billion as of June 30, 2023.

Active members who have accumulated ten or more years of service credit, are totally disabled and unable to continue their current employment or have recently terminated employment and are unable to obtain and retain other gainful employment commensurate with their education, background, and experience are eligible to apply for disability benefits provided by NMERB. The initial process begins with an inquiry to NMERB by the member/applicant. A screening by NMERB staff is completed to ensure eligibility. The member is presented with documents to affirm their request for disability. Upon receipt affirming request to proceed with the application process, NMERB staff enters the member into the Contracted Evaluation Service provider’s electronic portal. The contracted Disability Evaluation Service will provide an application for disability to the member. The applicant will provide all medical records including a full description of the disability (diagnosis and prognosis) by the member’s physician(s) and supporting documentation. If a member receiving disability benefits has not been designated as permanently disabled, the member’s case is subject to periodic review by NMERB. This review is typically performed annually, but may, at the discretion of NMERB, be required more frequently. In addition, a member who is certified by the Board as disabled at the time of regular retirement is eligible to receive cost of living adjustments at the same time as members approved for disability retirement.

NMERB staff is responsible for ensuring all disability-related applications are completely processed in a timely, accurate and efficient manner. Staff shall present the final recommendation to the Board within two months of the date that an applicant submits a complete application for disability.

C. SCOPE OF PROCUREMENT

NMERB requests proposals, as identified in this RFP, to provide disability evaluation services as described in the Detailed Scope of Work in Section IV(A). In no circumstance shall the contract entered into, including any renewals thereof, exceed a total duration of four years. The contract will be effective upon approval by the New Mexico General Services Department (GSD) State Purchasing Division (SPD) Contracts Review Bureau (CRB).

D. PROCUREMENT MANAGER

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

Name: Renada Peery-Galon, Procurement Manager
Telephone: (505) 476-6118
Email: Renada.Peery-Galon@erb.nm.gov

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

E. DEFINITION OF TERMINOLOGY

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

1. **“Agency”** means the New Mexico Educational Retirement Board (NMERB).
2. **“Award”** means the final execution of the contract document.
3. **“Business Hours”** means weekdays (Monday – Friday) 8:00 AM through 5:00 PM MST/MDT, whichever is in effect on the date given.

4. “**Close of Business**” means weekdays (Monday – Friday) 5:00 PM MST/MDT, whichever is in effect on the date given.
5. “**Confidential**” means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7 NMSA 1978,. See also NMAC 1.4.1.45. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
6. “**Contract**” means any agreement for the procurement of items of tangible personal property, services, or construction.
7. “**Contractor**” means any business having a contract with a state agency or local public body.
8. “**Determination**” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
9. “**Desirable**” – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.
10. “**Electronic Submission**” means a successful submittal of Offeror’s proposal to NMERB.
11. “**Electronic Version/Copy**” means a digital format consisting of text, images or both, readable on computers or other electronic devices, which includes all content that the Original document contains.
12. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
13. “**Evaluation Committee Report**” means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee’s recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.
14. “**Final Award**” means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.
15. “**Finalist**” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.
16. “**Hourly Rate**” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

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

30. “**Staff**” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.
31. “**State (the State)**” means the State of New Mexico.
32. “**State Agency**” means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the Purchasing Division of the General Services Department and the State Purchasing Agent but does not include local public bodies.
33. “**State Purchasing Agent**” means the Director of the Purchasing Division of the General Services Department.
34. “**Statement of Concurrence**” means an affirmative statement from the Offeror indicating its response to a required Section IV specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal, pursuant to Section III.C.1. (E.g., “We concur,” “Understands and Complies,” “Comply,” “Will Comply if Applicable,” etc.)
35. “**Unredacted**” means a version/copy of the proposal containing all complete information; including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.
36. “**Written**” means typed in standard 8 ½ x 11-inch document format, by common electronic means (such as Microsoft Word, Adobe PDF, etc.). A larger size document is permissible for charts, spreadsheets, etc.

F. PROCUREMENT LIBRARY

The Procurement Manager has established a Procurement Library. All items in the Procurement Library for this procurement are available on the NMERB website at www.erb.nm.gov under “News” and “Requests for Proposals”. Offerors are encouraged to review material in the Procurement Library. The library contains the information, or links to the information, listed below:

Procurement Regulations, 1.4.1 NMAC
Educational Retirement Act, NMSA 1978 – Section 22-11-1, *et seq.*

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule. The due dates are subject to change at the discretion of NMERB.

Action	Responsible Party	Due Dates
1. Issue RFP	NMERB	Tuesday, August 15, 2023
2. Acknowledgement of Receipt Form	Potential Offerors	Friday, August 25, 2023, at 3 P.M. MST/MDT
3. Deadline to submit Written Questions	Potential Offerors	Friday, August 25, 2023, at 3 P.M. MST/MDT
4. Response to Written Questions	NMERB	Friday, September 1, 2023
5. Submission of Proposal	Potential Offerors	Friday, September 29, 2023, at 3 P.M. MST/MDT
6. Proposal Evaluation	Evaluation Committee	October 2-13, 2023
7. Selection of Finalists	Evaluation Committee	Wednesday, October 18, 2023
8. Oral Presentation(s)	Finalist Offerors	Friday, October 27, 2023 (optional)
9. Best and Final Offers	Finalist Offerors	Friday, October 27, 2023 (optional)
10. Finalize Contractual Agreements	NMERB/Finalist Offerors	October 30-December 4, 2023
11. Contract Awards	NMERB/ Finalist Offerors	Tuesday, December 5, 2023
12. Protest Deadline	NMERB	+15 days

B. EXPLANATION OF EVENTS

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

1. Issue RFP

This RFP is being issued by New Mexico Educational Retirement Board on August 15, 2023.

2. Acknowledgement of Receipt Form

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

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

3. **Deadline to Submit Written Questions**

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

4. **Response to Written Questions**

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A). Also, a copy will be posted to the NMERB website at www.erb.nm.gov.

5. **Submission of Proposal**

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

ALL PROPOSALS MUST BE RECEIVED BY THE PROCUREMENT MANAGER NO LATER THAN 3:00 PM MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS. **NO LATE PROPOSAL CAN BE ACCEPTED.** The date and time of receipt will be recorded by receipt of email. Such electronic submissions will be considered sealed in accordance with statute.

Proposals must be submitted electronically to the Procurement Manager at Renada.Peery-Galon@erb.nm.gov. Refer to Section III.B.1 for instructions. Proposals submitted by facsimile, or other electronic means other than Renada.Peery-Galon@erb.nm.gov, will not be accepted.

Proposals will be opened and reviewed to verify the submission met the minimum requirements by the Procurement Manager and a witness within 24 hours of the deadline.

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

6. **Proposal Evaluation**

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in Section II.A, Sequence of Events, depending upon the number of

proposals received. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

7. Selection of Finalists

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

8. Oral Presentations

Finalist Offerors, as selected per Section II.B.7 above, may be required to conduct an oral presentation at a venue to be determined as per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. If Oral Presentations are held, Finalist Offerors may be required to make their presentations through electronic means (Microsoft Teams, Zoom, etc.). Whether or not Oral Presentations will be held is at the sole discretion of the Evaluation Committee.

9. Best and Final Offers

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by as per schedule Section II. A., Sequence of Events or as soon as possible. Best and final offers may also be clarified and amended at finalist Offeror's oral presentation.

10. Finalize Contractual Agreements

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

11. Contract Awards

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

12. Protest Deadline

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

proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be directed to:

Protest Manager:
Megan Mannila
Chief Procurement Officer
Megan.Mannila@erb.nm.gov

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

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

2. Incurring Cost

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

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

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

5. Amended Proposals

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

6. Offeror's Rights to Withdraw Proposal

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

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

7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of the best and final offer, if the Offeror is invited or required to submit one.

8. Disclosure of Proposal Contents

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

- a. ***Proprietary and Confidential information is restricted to:***
 1. confidential financial information concerning the Offeror's organization; and
 2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7 NMSA 1978.
- b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Section III.B.2.a, shall be submitted containing the blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

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

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

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

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

12. Legal Review

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

13. Governing Law

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

14. Basis for Proposal

Only information supplied in writing by the Procurement Manager or contained in this RFP shall be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

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

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

Should an Offeror object to any of the terms and conditions as set forth in the RFP Sample Contract (APPENDIX C) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The Agency may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to NMERB and will result in disqualification of the Offeror's proposal.

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

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate

terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an **explicit agreement** by the Offeror that the contractual terms and conditions contained herein are **accepted** by the Offeror.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the NMERB. See Section II.C.15 for requirements.

17. Contract Deviations

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

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.E.19. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that **all** of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

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

21. Notice of Penalties

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

22. Agency Rights

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

23. Right to Publish

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

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of the State of New Mexico. If the RFP is cancelled, all responses received shall be destroyed by the Agency.

25. Confidentiality

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

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

26. Electronic mail address required

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

27. Use of Electronic Versions of this RFP

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

28. New Mexico Employees Health Coverage

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <https://bewellnm.com>.

29. Campaign Contribution Disclosure Form

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

30. Letter of Transmittal

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

Provide the following information:

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

Failure to submit a signed Letter of Transmittal Form (Appendix E) will result in Offeror's disqualification.

31. Disclosure Regarding Responsibility

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

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

Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

32. New Mexico/Native American Resident Preferences

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

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

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. ELECTRONIC SUBMISSION

ONLY ELECTRONIC SUBMISSION TO Renada.Peery-Galon@erb.nm.gov

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

1. Proposals in response to this RFP must be submitted through email ONLY

- a. The Offeror need only submit single electronic copy of each portion of its proposal (Technical and Cost) as outlined below. *EXCEPTION: Single electronic files that exceed 20 mb may be submitted as multiple emails, which must be the least number of emails necessary to fall under the 20mb limit.* Separate the proposals as described below into separate electronic files for submission.
- b. Proposals must be submitted in the manner outlined below. Technical and Cost portions of the Offerors proposal **must** be submitted in separate emails as indicated below in this section, and **must** be prominently identified as “Technical Proposal” or “Cost Proposal” on the subject line of each email.

2. Technical Proposal – One (1) ELECTRONIC email must be organized in accordance with **Section III.C.1. Proposal Format**. All information for the Technical Proposal must be combined into a single file/document for emailing. *EXCEPTION: Single electronic files that exceed 20mb may be submitted as multiple emails, which must be the least number of emails necessary to fall under the 20mb limit. The Technical Proposal **SHALL NOT** contain any Cost information.*

- a. **Confidential Information**: If Offeror’s proposal contains confidential information, as defined in Section I.E.5 and detailed in Section II.C.8, Offeror **must** submit **two (2) separate ELECTRONIC technical files** :
 - i. One (1) ELECTRONIC version of the requisite proposals identified in Section III.B.2, above, as an **unredacted** (def. Section I.E.35) version for evaluation purposes; **and**
 - ii. One (1) **redacted** (def. Section I.E.24) ELECTRONIC for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror’s proposal. Redacted versions **must** be clearly marked as “REDACTED” or “CONFIDENTIAL” on the first page of the electronic file;

3. Cost Proposal – One (1) ELECTRONIC email of the proposal containing **ONLY** the Cost Proposal. All information for the cost proposal must be combined into a single file/document for

emailing. *EXCEPTION: Single electronic files that exceed 20mb may be submitted as multiple emails, which must be the least number of emails necessary to fall under the 20mb limit*

C. PROPOSAL CONTENT AND ORGANIZATION

All proposals must be submitted as follows:

1. Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material must be minimal. Within each section of the proposal, Offerors must organize and address the RFP requirements in the order indicated below. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of Offeror's proposal. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in the Cost Proposal.**

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

1. Signed Letter of Transmittal
2. Signed Campaign Contribution Form
3. Table of Contents
4. Proposal Summary (Optional)
5. Response to Contract Terms and Conditions (from Section II.C.15)
6. Offeror's Additional Terms and Conditions (from Section II.C.16)
7. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal**)
 - a. Organizational Experience
 - b. Organizational References
 - c. Desirable Specification
 - d. Mandatory Specification
 - e. Financial Stability – (Financial information considered confidential, as detailed in Section II.C.8, should be placed in the **Confidential Information** file, per Section III.B.2.a, as applicable)
 - f. New Mexico/Native American Resident Preferences (if applicable)
8. Other Supporting Material (if applicable)

Cost Proposal:

1. Completed Cost Response Form (APPENDIX D)

A Proposal Summary may be included in Offeror's Technical Proposal, to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal. **DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.**

IV. SPECIFICATIONS

A. DETAILED SCOPE OF WORK

1. The firm/service provider will perform all tasks necessary to provide the Agency's Board of Trustees with recommended actions on applications for disability-related retirement benefits. This includes without limitation: reviewing such applications, job descriptions and supporting medical, psychological and other examination reports (collectively "examination reports") submitted by or on behalf of an applicant. When appropriate, requiring individual applicants, with periodic evaluation periods, to submit additional examination reports for use in determining whether an applicant previously found disabled continues to be eligible for disability; and reviewing applications for disability-related cost-of-living adjustments.

2. Initial inquiries by potential applicants will be processed by Agency staff. If staff determines that a member is eligible to apply for disability-related benefits, staff will provide the member with a form to sign and return to Agency should they choose to proceed with the disability application process. Upon receipt, an Agency employee will place the applicant into the firm's portal to begin the disability application process. The firm is responsible for sending the Disability Retirement Application Packet to the applicant. Applicants will forward all application-related documentation directly to the firm in a postage-prepaid envelope provided by the firm. The firm will send notice to the applicant acknowledging receipt of the application. If the firm subsequently determines the application is complete, the applicant receives written notice confirming completion of application by the firm.

3. If the firm determines that an application is incomplete, the firm will provide the member with written notice stating why the application is incomplete. The firm will work directly with applicants to ensure that applicants understand what supporting documentation is most critical to formulating a recommendation. This allows the applicant the opportunity to provide the best available examination reports. In limited cases, the firm will obtain a release of information from applicant, and contact medical providers directly to obtain examination reports.

a. If the applicant becomes non-compliant with the disability application at any time in the process, the firm will notify the Agency of the status. The Agency will make the determination to extend the period or close the claim.

4. The firm will confer with Agency counsel if issues arise regarding the interpretation of relevant statutory and regulatory standards and procedures.

5. The firm will provide weekly status reports to the Agency in the format requested by the Agency. Each status report should identify and describe the status of all pending disability applications in sufficient detail so that Agency staff is able to respond to inquiries from disability applicants.

6. The firm will provide a written recommendation for each application to the Board regarding whether an applicant: is totally disabled and unable to continue with his or her employment or unable to obtain and retain other gainful employment commensurate with his or her background, education and experience ("permanently disabled"); should be re-examined to determine his or her continued eligibility for disability and at what intervals that re-examination should occur ("temporarily disabled"); or should be granted a disability-related cost-of-living adjustment.

7. In reviewing the applicant's claimed disability(ies), as described on his/her application, plus all relevant past medical records, knowledge of many medical specialties is required to develop a recommendation for each application. The medical specialties used for past evaluations have included, but are not limited to: allergy; cardiology; dermatology; ear, nose and throat; gastroenterology; general surgery; hematology; immunology; internal medicine; nephrology; neurology; oncology; ophthalmology; oral surgery; orthopedics; pathology; physical medicine; psychiatry; rheumatology; and urology.

8. Upon completion of the review of each disability application, the following services are expected to be performed by the successful firm. A written recommendation report will be prepared for each disability application. The firm shall work with Agency staff to ensure the recommendation reports are prepared in the format required by Agency. The format for the disability application recommendation reports may vary for each medical specialty and the reports should contain certain unique discussion areas specific to each specialty (such as mental status exam and substance abuse information for psychiatric-related disability application). However, certain general elements are expected to be addressed within each disability application recommendation report as follows:

- a. Review of records - a description detailing the medical records reviewed for the disability application.
- b. Current or most recent employment status - a description of the applicant's current or most recent job duties and related physical demands.
- c. Diagnosis - a detailed description of the diagnosis determined by the firm's medical professionals from their review of the disability applicant's medical records.
- d. Discussion - a description of the rationale and medical findings that led to the firm's medical professionals' diagnosis and opinions on the disability of the applicant, in light of the duties description provided.
- e. Prognosis - a description of the likelihood for medical recovery and whether the applicant has reached maximum medical improvement (MMI). The prognosis should address whether the applicant might be expected to medically recover sufficiently to return to his/her job. If a prognosis for recovery exists, the report should include the reasonable length of time the firm's medical professionals expect will be needed to elapse before such a recovery is reasonable and would be expected to be sufficient to require a reexamination of the applicant by the applicant's physician(s). The recommendation report should state if an applicant shows no possibilities for recovery or where a recovery is not expected to allow an applicant to return to his/her job.
- f. Other important issues - a description of other issues the firm's medical professionals believe should be considered or addressed relative to assessing the applicant's request for disability benefits.

9. If the firm's medical professionals believe that additional medical information may exist, but was not provided to them for review, which they believe would be important in completing their disability medical evaluation recommendation, the firm may declare the application to be incomplete and contact the member for the additional information.

10. The firm shall provide the written recommendation report to the Agency as soon as it is available, but in no event later than the 15th day of the month following the month in which the completed application was received. In limited cases identified by the Agency, the firm will use its best efforts to expedite production of the recommendation report. Possible recommendations include permanent disability, temporary disability or denial. The Agency will provide written notice to each applicant of the recommended action. If denial is recommended, such notice shall include notice of the applicant's right to appeal the recommendation.

11. For each two-month period, the firm shall provide a report which summarizes the individual recommendations for presentation by Agency staff at the next meeting of the Board of Trustees. The firm shall work with Agency staff to ensure these summary reports are prepared in the format and within the period required by Agency.

12. The firm will track those members who have been approved for temporary disability benefits and the dates on which benefits are set to expire. Three months prior to such date, the firm will provide written notice to the member of the impending expiration date and the need to provide updated examination reports if the member seeks to continue benefits.

13. In the event an applicant appeals a recommendation, the firm shall make available a medical professional knowledgeable of the basis for the recommendation to appear and provide testimony, either in-person, telephonically or via videoconference at an administrative hearing. The firm will cooperate with Agency counsel in order to prepare for the hearing. In the event the applicant provides significant additional examination reports during the appellate process, the Hearing Officer may remand the matter to the firm for reconsideration of its recommendation.

14. As the custodian of Agency's disability related data, the firm shall maintain the confidentiality of all disability-related applications and related records. The firm shall retain complete records in accordance with New Mexico records retention rules and ensure that all disability data, current and historical third-party data are available to the Agency through the firm's portal for reporting purposes and through any other secure means requested. Upon termination of the contract those records shall be returned to Agency.

15. The firm shall provide access to a cloud-based portal and the firm will back up all data. An on premise system and agentless solution are not permitted. This portal shall provide and support the entire process, from application submittal to approval or denial of a claim. The portal shall provide the ability to add new claims and retrieve new and historical information regarding disability claims. The portal will include the medical determination of the applicant along with all medical documentation involved in the determination.

B. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offeror **must**:

- a) provide a description of relevant corporate experience with state government and private sector. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge as a provider of review and processing of disability benefit applications. All related services provided to private sector will also be considered; and
- b) describe at least two project successes and failures related to disability benefit review and processing. Include how each experience improved the Offeror's services.

2. Organizational References

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

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

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

Offeror is required to submit APPENDIX F, Organizational Reference Questionnaire ("Questionnaire"), to the business references it lists. **The business references must submit the Questionnaire directly to the designee identified in APPENDIX F. The business references must not return the completed Questionnaire to the Offeror.** It is the Offeror's responsibility to ensure the completed forms are submitted by 3:00 P.M. MST/MDT on September 29, 2023, for inclusion in the evaluation process.

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

3. Desirable Specification

- a) Due Diligence questions:
1. Describe your firm's disaster recovery plan as it relates to the equipment, software, data, and personnel that would be used in providing the services required by NMERB.
 2. Does the organization routinely perform penetration tests utilizing a qualified third-party vendor, and if so, how often are tests performed and when was the last test performed?
 3. What technical prevention measures are in place to secure and monitor your network?
 4. Is multi-factor authentication utilized for network remote access? If so, what type of authentication?
 5. How is data protected in transit between the vendor and NMERB? Additionally, how is data at rest protected on servers and backup media?
 6. Is there a formal security incident response program in place, and if so, how often is the incident response program tested?
 7. Over the past five years, has your organization, your parent organization or any of its affiliates or any officer or principal been involved in any business litigation or regulatory proceedings? If so, provide an explanation and indicate the status of the action.
 8. Describe employee training programs of your organization including software, security, and technology training that would be used in providing the services required by NMERB.
 9. Does your organization have a written code of conduct or set of standards for professional behavior? If so, how are they monitored and enforced?
 10. Do you anticipate any significant changes in your organizational ownership, staffing, or products and services offered? If so, describe these anticipated changes and their impact on NMERB.
 11. Describe your organization's risk management process including how issues are identified and how responses are executed.
 12. Have you had a SOC 2 audit conducted, and are you willing to share that report with NMERB?

4. Mandatory Specification

- a. Firm Experience and Qualifications
- b. Qualifications and experience of key personnel and workforce
- c. Disability evaluation approach
- d. Qualifications of Medical Professionals
- e. Reporting Abilities
- f. Conflicts of Interest/Confidentiality

Offeror should respond to the following questions as they relate to each of the mandatory specifications:

a. Firm Experience and Qualifications:

- i. Describe the total number of years of experience your firm has in providing disability evaluation services. Describe the types of experience with both the public and private sectors. List the complete range of services you provide within the entire scope of your business operations. Break out each area with the percentages they contribute to your total annual revenue for the firm.
- ii. Describe any additional advisory or consulting services offered by your firm which may not be covered within the Scope of Work of this RFP.
- iii. Provide an overview of your view of the long-term viability of your firm. Specify the size of your organization both by annual revenue and total numbers of employees involved in the services associated with this RFP.
- iv. Describe the amounts of coverages for errors and omissions insurance coverage held by your firm. List the amounts by insurance carrier supplying the coverage. List any other relevant insurance coverage information associated with these types of professional services.
- v. Over the past five years, has your company or any of its affiliates or parent, or any officer or principal, been involved in any business litigation or other legal proceedings relating to medical evaluation services? If so, provide a brief explanation and indicate how the litigation was resolved or its current status.
- vi. If you have any other types of pending litigation against your firm, not related to medical evaluation services, do you feel that a negative outcome is possible for the litigation that could impact your firm's ability to provide the services described in this RFP? Please explain.
- vii. Describe your plans and/or arrangements in place for any business continuance should your firm's facilities become inoperable because of an emergency, such as a fire, earthquake, etc.
- viii. Provide contact references from the three largest state or municipal employers or retirement systems for which you provide similar services as described within the RFP.
- ix. What are your firm's relative competitive advantages? What areas of strength do you feel distinguish your firm from your competitors? Please explain.
- x. Have you had a disability medical evaluation services contract with any governmental entities terminated within the past five years? If applicable, describe the situation and the entity involved.

- xi. What are your security procedures to protect client information, especially with respect to unauthorized access to data, methods for authenticating users, and providing different access rights and permissions? Please describe in detail all security measures. Please describe your notification process should a breach occur.
- xii. Have you experienced any security breaches in the past 3 years? If so, how many? Describe how the issues(s) were resolved and provide the extent of the liability the client experienced as a result of the security breaches.
- xiii. Describe your process for backing-up and storing data.
- xiv. Describe your information technology security testing and assessment methods. Identify the date of the last testing and a summary of results or lessons learned.

b. Qualifications and experience of key personnel and workforce

- i. Provide information on the account manager you will be assigning to manage the services contract with NMERB, including the name, position in your organization, backup, professional accreditations, and experience in providing these types of management services.
- ii. Describe all other personnel, including any support personnel, the firm would expect to assign to the NMERB account, including the names, titles, roles, accreditations, and years of experience (both within your firm and the disability evaluation industry).
- iii. Describe how your firm handles workforce management. Describe how the firm ensures professional accreditations are maintained and encourages maintenance of a stable workforce sufficient to ensure continuity of the firm's abilities to provide quality disability evaluation services.

c. Disability evaluation approach

- i. Describe your firm's philosophy and approach to providing disability evaluation services as described in the Scope of Work.
- ii. Describe your level of experience in providing disability evaluation services to clients similar to NMERB as described in the Scope of Work.
- iii. Describe any areas of service contained within the Scope of Work that you feel your firm would find inconsistent with the types of disability evaluation services you would typically provide.
- iv. Provide a description of your billing practices and a sample of a typical billing you would use for clients requesting the types of services contained within the Scope of Work.

d. Qualifications of Medical Professionals

- i. Describe the criteria you use when recruiting, evaluating and selecting medical professionals for work with your firm. How do you monitor the medical professionals you engage for the quality of their disability evaluation services? How do you ensure they remain licensed and in good standing?
- ii. Describe the types of medical professionals you would use to perform the disability evaluation services for NMERB members and what their respective roles would be in the evaluation.

e. Reporting Abilities

- i. Describe your firm's abilities and experience in generating disability evaluation reports consistent with the specified format provided in the Scope of Work.
- ii. Submit four redacted disability evaluation reports as examples of the types of disability evaluation reports you would provide to NMERB. Please attempt to provide examples in each of the following medical specialties: orthopedic; psychiatric; internal medicine; and neurological.
- iii. Describe the types of quality controls that you use to ensure your reports meet the requirements of your clients.
- iv. What is the average timeframe, in days, from the time of receipt of a member's application for disability benefits, with all necessary medical records through to the date the completed disability recommendation report would be sent out to your client? Please explain by providing a timeline illustrating the different procedures involved and decision actions performed.

f. Conflicts of Interest/Confidentiality

- i. Does your firm have a policy on potential conflicts of interests between your firm, staff, and the applicants and/or clients. Please explain.
- ii. What methods does your firm use to ensure that no conflicts of interest are overlooked in dealing with client services? What steps would you take if a conflict of interest was discovered? Please describe.
- iii. What method does your firm use to ensure the protection of client-provided medical information? Please describe.
- iv. What method does your firm use to ensure that there are no unauthorized disclosures of client information? Please describe.
- v. Has your firm been involved with, within the past five years, any litigation involving unauthorized releases of client confidential information? If so, please explain.

C. BUSINESS SPECIFICATIONS

1. Financial Stability

Offerors must submit copies of the most recent years independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D & B report) to enable the Evaluation Committee to assess the financial stability of the Offeror.

2. Letter of Transmittal Form

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

3. Campaign Contribution Disclosure Form

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

4. Oral Presentation

If oral presentations are held, finalist Offeror(s) may be required to explain, demonstrate, detail, and/or clarify any aspect of its submitted proposal, to which the Evaluation Committee may ask questions and/or seek clarifications. Pursuant to Section II.B.8, Oral Presentations may be held at the sole discretion of the Evaluation Committee.

5. Cost

Offerors must complete the Cost Response Form in APPENDIX D. All amounts represented in the cost proposal will be considered as "not to exceed" amounts. All charges listed on APPENDIX D must be justified and evidence of need documented in the proposal.

6. New Mexico/Native American Resident Preferences

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

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category.

Evaluation Factors <i>(Correspond to Sections IV.B and IV.C)</i>	Points Available
B. Technical Specifications	
B. 1. Organizational Experience	120
B. 2. Organizational References	75
B. 3. Desirable Specification	65
B. 4. Mandatory Specification	
a. Firm experience and qualifications	100
b. Qualifications and experience of key personnel and workforce	110
c. Disability Application Approach	110
d. Qualifications of Medical Professionals	100
e. Reporting Abilities	100
f. Conflicts of Interest/Confidentiality	60
C. Business Specifications	
C.1. Financial Stability	Pass/Fail
C.2. Letter Of Transmittal	Pass/Fail
C.3. Campaign Contribution Disclosure Form	Pass/Fail
C.4. Oral Presentations (Optional)	60
C.5. Cost	100
TOTAL POINTS AVAILABLE	1,000
C.6. New Mexico / Native American Resident Preference	80
C.7. New Mexico / Native American Resident Veteran Preference Points per Section IV C.7	100

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

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

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. Lack of a response will be awarded zero (0) points.

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

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

3. B.3 Desirable Specifications

Points will be awarded based on the thoroughness and clarity of Offeror’s response in this Section. Lack of a response will be awarded zero (0) points.

4. B.4 Mandatory Specifications

Points will be awarded based on the thoroughness and clarity of Offeror’s response in this Section. Lack of a response will be awarded zero (0) points.

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

Pass/Fail only. No points assigned.

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

Pass/Fail only. No points assigned.

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

Pass/Fail only. No points assigned.

8. C.4 Oral Presentation (See Table 1)

The oral presentation is optional. If the Evaluation Committee requires an oral presentation, points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda. (If no Oral Presentations are held all Offerors will receive the maximum amount of total points for this Evaluation Factor).

9. C.5 Cost (See Table 1)

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

$$\frac{\text{Lowest Responsive Offeror's Cost}}{\text{Each Offeror's Cost}} \times \text{Available Award Points}$$

10. C.6 & C.7. New Mexico/Native American Resident Preferences

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

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

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

B. New Mexico/Native American Resident Veteran Preference

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

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II.B.6.
3. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores may be selected as finalist Offerors, based upon the proposals submitted. In accordance with §13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the State taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.11). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

APPENDIX A

REQUEST FOR PROPOSAL

Disability Evaluation Services
RFP# 24-352-0815-02412

ACKNOWLEDGEMENT OF RECEIPT FORM

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

The information below will be used for all correspondence related to the Request for Proposal. Only one contact per Offeror is permitted.

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:

To: Renada Peery-Galon

E-mail: Renada.Peery-Galon@erb.nm.gov

Subject Line: Disability Evaluation Services RFP# 24-352-0815-02412

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

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

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

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

The following definitions apply:

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

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

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

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

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

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

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

Name(s) of Applicable Public Official(s) if any: _____

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature Date

Title (position)

--OR--

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

Signature Date

Title (Position)

APPENDIX C
SAMPLE CONTRACT

STATE OF NEW MEXICO SAMPLE CONTRACT

NAME OF AGENCY)

PROFESSIONAL SERVICES CONTRACT # _____

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **NAME OF AGENCY**, hereinafter referred to as the “Agency,” and **NAME OF CONTRACTOR**, hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the General Services Department/State Purchasing Division (GSD/SPD Contracts Review Bureau).

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the following work:

2. Compensation.

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

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

(—OR—)

(CHOICE – MULTI-YEAR)

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of _____ dollars (\$ _____) in FYXX (USE FISCAL YEAR NUMBER TO DESCRIBE YEAR; DO NOT USE FY1, FY2, ETC.).

The New Mexico gross receipts tax levied on the amounts payable under this Agreement in FYXX totaling (AMOUNT) shall be paid by the Agency to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FYXX.**

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

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

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency 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 Agency 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 agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

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

4. Termination.

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

B. Notice; Agency Opportunity to Cure.

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

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does

not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

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

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

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

5. Appropriations.

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

6. Status of Contractor.

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

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency. 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.

9. Release.

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

10. Confidentiality.

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

11. Product of Service -- Copyright.

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

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any 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 NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a

substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;

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

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

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

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

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

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

13. Amendment.

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

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt

of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

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

17. Applicable Law.

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

18. Workers Compensation.

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

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the General Services Department/State Purchasing Division 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

20. 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 Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

21. New Mexico Employees Health Coverage.

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

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

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

22. Invalid Term or Condition.

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

23. Enforcement of Agreement.

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

24. Notices.

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

To the 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.

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

By: _____
Agency

Date: _____

By: _____
Agency's Legal Counsel – Certifying legal sufficiency

Date: _____

By: _____
Agency's Chief Financial Officer

Date: _____

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

By: _____
Taxation and Revenue Department

Date: _____

This Agreement has been approved by the GSD/SPD Contracts Review Bureau:

By: _____
GSD/SPD Contracts Review Bureau

Date: _____

APPENDIX D

COST RESPONSE FORM

Description	Type	Quantity	Cost per Item

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

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

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

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

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

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

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

(includes all labor, materials, equipment, transportation, fees and taxes to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

APPENDIX E

LETTER OF TRANSMITTAL FORM

APPENDIX E

Letter of Transmittal Form

Please complete this form in its entirety. Failure to **sign and/or submit** this form will result in the disqualification of Offeror's proposal.

Disability Evaluation Services RFP# 24-352-0815-02412

1. Identify the following information for the submitting organization:

Offeror Name	
Mailing Address	
Telephone	
FED TIN#	
NM BTIN#	

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

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

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

3. Will any subcontractor/s be used in the performance of any resultant contract? (Select one):

No.
 Yes. Identify subcontractor/s: _____

4. Will any other entity/-ies (such as a State Agency, reseller, etc., that is not a subcontractor identified in #3 above) be used in the performance of any resultant contract? (Select one)

No.
 Yes. Identify entity/-ies: _____

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

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

Sign: _____ Date: _____

(Must be signed by the individual identified in item #2.A, above.)

APPENDIX F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

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

Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.2. The business reference, if it chooses to respond, is required to email its response to the Organizational Reference Questionnaire directly to: Renada.Peery-Galon@erb.nm.gov by 3:00 P.M. MST/MDT on September 29, 2023 for inclusion in the evaluation process. The Questionnaire and information provided will become a part of the submitted proposal. Businesses/Organizations providing references may be contacted for validation of content provided therein.

**Disability Evaluation Services RFP # 24-352-0815-02412
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:**

(Name of Offeror)

This form is being submitted to your company for completion as a reference for the organization listed above. Submit this Questionnaire to the New Mexico Educational Retirement Board via e-mail at:

Name: Renada Peery-Galon
Email: Renada.Peery-Galon@erb.nm.gov

Forms must be submitted no later than 3:00 P.M. MST/MDT on September 29, 2023, and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings. The comments you provide will help the State evaluate the above-referenced Offeror’s service history, successful execution of services and evidence of customer/client satisfaction.

For questions or concerns regarding this form, please contact the **Procurement Manager** at Renada.Peery-Galon@erb.nm.gov. When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

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

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?

COMMENTS:

2. How would you rate this firm's knowledge and expertise?

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

COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?

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

COMMENTS:

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

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

COMMENTS:

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

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

COMMENTS:

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

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

Name: _____ Rating: _____

Name: _____ Rating: _____

Name: _____ Rating: _____

Name: _____ Rating: _____

COMMENTS:

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

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

COMMENTS:

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

COMMENTS:

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

COMMENTS:

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

COMMENTS: