

**NEW MEXICO HIGHLANDS UNIVERSITY**

**REQUEST FOR PROPOSAL # 23-017**

**PAYROLL SERVICES**

**NGIP: 20987, 97248**

<p><b>NMHU is seeking proposals from experienced and qualified companies to provide services and method to gather end of course feedback from students, sort and analyze the information gathered, and deliver it to faculty in a secure way.</b></p>			
<p><b>Date Request For Proposal</b> <b>23-017</b> <b>Issued: March 15, 2023</b></p>		<p><b>Date and Time Request for Proposal Is Due:</b> <b>Prior to 2:00 pm local time on Thursday</b> <b>April 13, 2023</b></p>	
<p><b>NMHU Point-of-Contact:</b> <b>Mr. Aaron Flure</b> <b>Director of Purchasing</b></p>	<p><b>Email:</b> <b>aflure@nmhu.edu</b></p>	<p><b>Phone Number:</b> <b>(505) 454-3053</b></p>	<p><b>Fax Number:</b> <b>(505) 454-3109</b></p>

**RFP CONDITIONS**

New Mexico Highlands University (hereinafter called “NMHU”) is seeking responses (hereinafter called “Proposal”) for the services as requested in this Request for Proposal Number 23-017, its attachments and subsequent addendums (hereinafter called “RFP”). You/your companies’ (hereinafter called “Offeror”) Proposal is to provide responses to all of the requirements set forth within the RFP.

NMHU may accept Proposals, in whole or in part that most closely meets all the criteria described herein. NMHU reserves the right to cancel this RFP in whole or in part at any time if it is in its best interests of the University and/or if the State appropriation for this project to the university does not transpire. An award will be based on several weighted criteria, as provided herein. Proposals may not be withdrawn from Offeror for ninety (90) calendar days after the actual date of the closing.

The successful Offeror(s) (hereinafter called “Contractor”) will enter into a binding agreement (hereinafter “Contract”) with NMHU. Offeror may recommend changes, deletions or additions to the Contract, however NMHU will determine if they will be in its best interest to accept any of those recommendations. A draft of the Contract is included as Attachment 7.

For definitions or clarifications to terms, refer to Section VII of this document.

**ACCEPTANCE OF TERMS AND CONDITIONS OF RFP FORM**

During the period of offer, your point of contact (hereinafter called “POC”) will be limited to Mr. Aaron Flure, Director of the Purchasing Department and Paula Bustamante, Buyer. He has been designated as the contact person for this RFP. No Offeror may contact any NMHU employee, officer or member of the Board of Regents other than Mr. Flure regarding this RFP through the date of the execution and award of the Contract. Any Offerors who makes such unauthorized contact shall be deemed to have violated the terms and conditions of this RFP and Offeror’s Proposal may be rejected as a result. Questions regarding the RFP should be submitted in writing via email to the POC at [aflure@nmhu.edu](mailto: aflure@nmhu.edu) Any question, statement or response from the POC or other individual from NMHU that is not submitted and responded to in writing will not be incorporated into the Contract, RFP & attachments and addendums. NMHU will not be responsible for any misinterpretations, discrepancies or contradictory information that Offeror may claim if correspondences for clarification are not submitted to and received in writing. Every effort will be made to respond to your questions within a timely manner. The question(s) and response(s) will be shared with all Offerors, with personal information removed to ensure anonymity.

By signing below, Offeror signifies that he understands all of the terms and conditions of this RFP, its Attachments and all subsequent addendums and agrees to cause himself/herself or his/her firm to be bound by them. Only an authorized agent of the Offeror’s company may sign this document.

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Name of Firm Tax Identification No.

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Authorized Representative Name Title

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Signature Date

**Provide point of contact of Offeror:**

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Name Title

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Mailing Address

---

Telephone Number(s) Fax Number

---

Email Address

## SECTION I GENERAL INFORMATION

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### PROPOSAL SCHEDULE

#### ALL DATES AND TIMES ARE SUBJECT TO CHANGE

Issuance of RFP	March 15, 2023
Last Day to Submit Requests for Clarification	5:00 PM, April 05, 2023
Proposal Submittal Deadline	2:00 PM on April 13, 2023
Receipt/Screening of Proposals	April 13, 2023 (tentative)
Evaluation of Proposals	Approximately (1) weeks, From Receipt of Proposals
Presentations (If applicable)	Finalists will be scheduled within approximately two weeks of Submittal Deadline
Negotiations, if Required	TBD
Conclusion of Negotiation, Final Offer Due	TBD
Award of Contract	TBD
Award of Purchase Order	TBD
Protest Period	TBD
Performance Start	TBD

## **SECTION II PURPOSE AND SPECIFICATIONS**

### **1. PURPOSE**

NMHU is seeking proposals from experienced and qualified companies to provide services and method to gather end of course feedback from students, sort and analyze the information gathered, and deliver it to faculty in a secure way.

## **SECTION III SCOPE OF WORK**

Scope of work is providing services for NMHU to be able to utilize a Student Course Feedback system that integrates with NMHU systems, meets reporting, accessibility and question design and administration requirements. This will include but is not limited to services and functions described in Section IV.

## **SECTION IV GENERAL TERMS AND CONDITIONS**

### **1. LENGTH OF PROPOSAL**

Offerors are required to keep their proposal within fifty (50) pages. Double –sided printed pages will count for two (2) pages. The following will not count towards the limit of fifty (50) pages:

- 1.) Tab Dividers, provided that the text or graphics on the dividers are only the tab numbers and section titles;
- 2.) Acceptance of Terms and Conditions of RFP Form (page 2 of this document);
- 3.) Addenda Acknowledgement Form (Attachment 1);
- 4.) Supplier Conflict of Interest and Debarment/Suspension Certification Form (Attachment 2);
- 5.) Campaign Contribution Disclosure Form (Attachment 3);
- 6.) New Mexico Business Preference Form (Attachment 4), if applicable;
- 7.) Resident Veterans Preference Form (Attachment 5), if applicable;
- 8.) Cost of System/Service (Submit in a separate envelope if submitting by mail or in person. If submitting via VendorRegistry.com, submit as separate document titled “Cost”)

**Any response that exceeds the referenced page limitation shall have a deduction of 10 points taken from each evaluation committee member’s Technical Proposal score.** If there are any questions regarding format requirements, please contact the NMHU Procurement Contact prior to submission of Documents.

**2. SUBMITTALS AND ORGANIZATION OF PROPOSAL**

RFP to be organized in the following order. Respond to all questions and sections in the following Tabs.

**TAB 1 – QUESTION DESIGN AND ADMINISTRATION**

*Explain how your firm can meet the following requirements with your solution.*

1. Departments and Faculty must have the ability to personalize the course feedback experience with their own choice of questions.
2. NMHU must have the ability to delegate control of the timing of evaluations to departments as determined by NMHU.
3. NMHU must have the ability to offer online in-class evaluations to Faculty as an option.
4. NMHU must have the ability to offer paper feedback options based on Faculty or student need.
5. NMHU requires that cascaded questionnaires based on any predetermined flow are supported.
6. NMHU requires that system support both centralized and decentralized approaches so that surveys contain both questions administered university wide as well as questions administered by individual departments.
7. NMHU requires that individual Departments or Faculty have the ability to administer the survey on paper.
8. For Departments or Faculty administering the survey via paper, NMHU requires that faculty are able to download and print survey forms themselves on regular printers.
9. NMHU requires the ability to monitor participation and response rates including advanced analytics such as completion rates, email message tracking, peak activity (days and hours), devices used, location, etc.

**TAB 2 – INTEGRATION**

*Explain how your firm can meet the following requirements with your solution.*

1. NMHU requires full integration with Brightspace for student response forms.
2. NMHU requires full integration with Brightspace for report distribution.
3. NMHU requires the ability to share results with stakeholders via Brightspace.
4. NMHU requires that a popup reminder for students to complete their surveys in Brightspace.
5. NMHU requires that other Brightspace functionalities be leveraged to notify students of surveys (to do list, assignments, announcements, calendar, etc.).
6. NMHU requires that evaluations be completed within the Brightspace UI without opening a new browser tab.
7. NMHU requires that faculty have the ability to launch in-class surveys via Brightspace.

8. NMHU requires that departments have the ability to control the timing of evaluations via Brightspace.

***Answer the following questions regarding your firms' abilities:***

1. Can the system integrate natively with Banner for automation of all course feedback related tasks?
2. How does it leverage demographics tied to students, courses, and instructors to make forms dynamic?
3. How does it automatically handle students dropping courses?
4. How does it handle cross-listed courses?
5. How does it handle a new instructor being added to an existing course during a survey run?
6. How does it handle an instructor being removed from a course during a survey run?
7. In our SIS (Banner), we have courses with different start and end dates. How can we automate things to ensure that we don't need to manually launch surveys?
8. In our SIS (Banner), we have courses of differing durations which will require different launch windows for surveys. How can this be automated using your tool?

**TAB 3 –REPORTING CAPABILITIES**

***Explain how your firm can meet the following requirements with your solution.***

1. NMHU requires that survey results can be aggregated at multiple levels (University, College, School, Department) to report results while maintaining individual Faculty anonymity
2. NMHU requires the ability to show different types of report content for different groups of Faculty
3. NMHU requires the ability to create our own reports not merely select from predetermined options
4. NMHU requires the ability to show different types of report content for different groups of courses
5. NMHU requires the ability to automatically distribute different reports to different audiences
6. NMHU requires the ability to modify/control the report viewer list via a UI
7. NMHU requires the ability to create reports at any level (individual course/Faculty, course, school, department, section, campus, class type, etc.)
8. NMHU requires the ability to compare norms and averages at every level (e.g. course vs department)
9. NMHU requires the ability to display selected statistics (e.g. response count, mean, median, mode, sum total, semi-interquartile, range, standard deviation, etc.)

10. NMHU requires the ability to do time-trend/longitudinal analysis in reports at all levels
11. NMHU requires the ability to show any/all student demographic data from our Banner in reports (graphic and tabular)
12. NMHU requires the ability to cross-tabulate one demographic field against another (e.g. student years of study vs majors)
13. NMHU requires the ability to cross-tabulate demographic fields against response data (e.g. student year of study vs score)
14. NMHU requires the ability to display comments/open ended feedback in selected reports
15. NMHU requires the ability to perform analysis on qualitative/open-text comments (text analysis)
16. NMHU requires the ability to cross-tabulate trend data from comments against demographic data
17. NMHU requires the ability to report paper results separately or together with online results
18. NMHU requires the ability to access reports in PDF format
19. NMHU requires the ability to download data directly from the user interface in a format that easily lends itself to additional analysis (e.g. Excel, SPSS, SAS, etc.)
20. NMHU requires downloadable calculated data in a modifiable format (e.g. Excel, CSV)
21. NMHU requires the ability to allow faculty to perform analysis on demographics and current and historical course related data

**TAB 4 – ACCESSIBILITY**

*Explain how your firm can meet the following requirements with your solution.*

1. NMHU requires that vendors attest that all end-user interfaces are fully compliant with Section 508 (ADA) and WCAG 2.1 (AA) standards
2. NMHU requires that reports be provided indicating that accessibility has been verified externally
3. NMHU requires that students must be able to fill out forms on all mobile browsers without the need to install apps or plugins
4. NMHU requires that students are able to access survey forms on mobile devices without the need to left-right scroll to see the survey
5. NMHU requires that students are able to access survey forms on mobile devices without the need to pinch or zoom to see the survey

**TAB 5 – CUSTOMER SUPPORT**

1. NMHU is in the mountain time zone. Is your support office open during our regular business hours?
2. If off-hour support available during our peak-usage times?

3. Is support included in the maintenance? If so, does it entitle us to unlimited access to technical support?
4. NMHU requires that product support documentation be available online.

**TAB 6 – CUSTOMER SERVICE**

1. Describe support services available pre-implementation, implementation, and post implementation. Please be specific.
2. Does your company offer differentiating Service Level Agreements (SLA)?

**TAB 7 – REFERENCES**

Furnish up to five (5) References that Offeror has provided similar services to within the last 10 years. Provide the organizations name, a contact, telephone number, and a brief description of the items and services provided are required for each reference. Failure to submit the information may result in your proposal being considered as non-responsive. Offeror, by furnishing these references, agrees to allow NMHU to contact any persons and /or organizations listed, and to utilize information obtained in evaluation of the proposal.

**TAB 8 – RFP DOCUMENTS**

Acceptance of Terms and Conditions, Addenda Acknowledgement Form (Attachment 1), Supplier Conflict of Interest and Debarment/Suspension Certification Form (Attachment 2), Campaign Contribution Disclosure Form (Attachment 3), New Mexico Business Preference Form (Attachment 4), if applicable, and Resident Veterans Preference Form (Attachment 5), if applicable.

**3. BASE SYSTEM COST**

Provide the base cost of your system including any recurring costs that are required. This shall be provided in a separate envelope or as separate file if submitted electronically through vendorregistry.com.

**4. CHANGES**

The Purchasing Director may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Purchasing Director shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.



**5. AWARD**

- A.) In accordance with the State of New Mexico “Procurement Code”, §13-1-28 through §13-1-199 N.M.S.A., NMHU reserves the right to make an Award to the Offeror which provides the services in its best interest and may not make the Award to the Offeror with the lowest fee. The RFP will be evaluated based on all criteria listed in this RFP, its attachments and its addendums; and
- B.) NMHU reserves the right to negotiate with Offerors. Issuance of an Intent to Negotiate with an Offeror does not guarantee an Award. An Award will be made only after NMHU and Offeror complete successful negotiations/clarifications if needed. The *continuation* of an executed Contract is dependent on the acquisition of funding for this project at the beginning of each fiscal year.

**6. PERIOD OF PERFORMANCE**

This Award shall be effective on the date the Contract is signed by duly authorized individuals from NMHU and Contractor. The Award may be for one (1) year from the effective date of the Contract. The Award may be renewed if such renewal is mutually agreed to and found to be in the best interest of NMHU. The Contract shall not exceed ten (10) years including all renewals. Renewals must be mutually agreed upon.

**7. PRESENTATIONS**

NMHU may choose to invite Finalists to make presentations and answer questions asked by the Evaluation Committee. NMHU reserves the right to invite as many Offerors as necessary and for multiple presentations if necessary. Prior to the presentations and with adequate time, NMHU may specify requirements for the presentation.

**8. PROTEST**

In accordance with Section §13-1-172 NMSA 1978, any Offeror who is aggrieved in connection with a solicitation or the award of a contract may protest to the Procurement Director. The protest must be submitted in writing within fifteen (15) calendar days after knowledge of the facts or occurrences giving rise to the protest. Protests must be submitted in written form to:

New Mexico Highlands University Attn: Aaron Flure  
P.O. Box 9000  
Las Vegas, NM 87701 Or [aflure@nmhu.edu](mailto:aflure@nmhu.edu)

The protest letter shall include the name and address of the protestant, the solicitation number, and a statement of the grounds for protest, including appropriate supporting exhibits.

**9. FAILURE TO MEET REQUIREMENTS**

Failure on the part of the Offeror to meet these requirements shall constitute a material breach of Contract, upon which the University may terminate this agreement in accordance with the provisions listed below or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the University shall be repaid by Contractor upon demand.

**10. AUTHORIZED AGENT**

Contractor agrees that the performance of all Services required under the terms and conditions of the RFP, addendums, Proposal and subsequent changes to the Contract are to be subject to the direction of NMHU or person designated by NMHU. Such person designated by NMHU shall be the Authorized Agent representative of NMHU.

All Services are to be performed only after the Authorized Agent has given approval to perform the Services. All information or direction desired or required by the Contractor for the performance of his Services hereunder shall be obtained from said Authorized Agent and representative.

**11. CONTRACT DOCUMENT**

- A.) The Contract between the Contractor and NMHU shall contain substantially the terms and conditions found in Attachment 7, which is hereby incorporated by reference. Additionally, this RFP, its Attachments, Addendums and subsequent changes shall be incorporated in the Contract with the successful Contractor;
- B.) Offeror may offer changes to the terms and conditions of the attached Contract and shall do so in writing and provided within its Proposal. NMHU is not obligated to accept any of the proposed changes, however it reserves the right to accept and negotiate some or all of the changes if it is determined that it is in its best interest;
- C.) The Contractor's signature on the “**ACCEPTANCE OF TERMS AND CONDITIONS OF RFP FORM**” (page 2 of this document) signifies a full understanding of all the terms and conditions of the RFP, its attachments and subsequent addendums; and
- D.) Services may commence when the NMHU Purchasing Department issues a purchase order to the Contractor.

**12. INVOICING AND PAYMENTS**

Upon certification and acceptance of services, and if applicable, NMHU will issue initial payment within thirty (30) calendar days of agreed upon payment schedule. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked;

- a. Reference the Purchase Order number on the Invoice; and
- b. Invoices are to be sent to:

New Mexico Highlands University  
Attn: Accounts Payable  
P.O. Box 9000  
Las Vegas, NM 87701

**13. NEW MEXICO LAW PREVAILS**

The place of performance of any resultant Contract of this RFP shall be the State of New Mexico. This Contract shall be construed, interpreted and enforced according to the laws of the State of New Mexico, and all claims and disputes shall be brought in the State courts of the State of New Mexico.

**14. USE OF CONTRACT**

New Mexico law allows other governmental entities within the State of New Mexico to contract, in accordance with §13-1-129 NMSA 1978, for services with the Contractor under the terms contained in the Agreement. Should that occur, NMHU will not be a party to any engagements entered into pursuant to this paragraph. Contractual engagements accomplished under this provision will be solely between the Contractor and the subject governmental entity.

**15. REQUIRED AND INFORMATIONAL FORMS**

- A.) The following are to be **completed and submitted** with your Proposal:
- 9.) Acceptance of Terms and Conditions of RFP Form (page 2 of this document);
  - 10.) Addendum(s) Acknowledgement Form (Attachment 1);
  - 11.) Supplier Conflict of Interest and Debarment/Suspension Certification Form (Attachment 2);
  - 12.) Campaign Contribution Disclosure Form (Attachment 3);
  - 13.) New Mexico Business Preference Form (Attachment 4), if applicable;
  - 14.) Resident Veterans Preference Form (Attachment 5), if applicable.
- B.) Informational Documents
- 1.) Advertisement (Attachment 6)
  - 2.) Draft Sample Contract (Attachment 7)

## SECTION V EVALUATION COMPONENTS

This section of the RFP contains specifications and other relevant information to be used by Offeror in preparation of their Proposal.

Offerors shall ensure that all the information required herein be submitted with their Proposal. All information provided should be verifiable by documentation requested by NMHU. Failure to provide all information, inaccuracy or misstatement may be sufficient cause for rejection of the Proposal or rescission of the Contract. Offerors are encouraged to provide any additional information describing any additional abilities.

All responsive Proposals will be reviewed independently by each member of the evaluation committee. Their evaluations will be based on the Proposal as a whole and will be scored solely on the requirements, data, information and related responses to the RFP.

### SELECTION CRITERIA

All Proposals shall be reviewed for compliance with the mandatory requirements as stipulated within this RFP and procurement statutes. Proposals found not to be in compliance will be rejected from further consideration. NMHU will determine if the Proposal is in compliance. Proposals which are not rejected will then be evaluated based upon the following weighted criteria. There is a maximum number of one-hundred (100) points that may be awarded.

	<u>Description</u>	<u>Weight</u>
1.	<b>Capabilities of Services Offered</b> NMHU will evaluate the degree of your total capabilities.	<b>35%</b>
2.	<b>Integration &amp; Reporting Capabilities</b> NMHU will evaluate integration of data of proposed services with current and potential systems in addition to the reporting capabilities.	<b>25%</b>
3.	<b>Experience &amp; Qualifications</b> NMHU will evaluate the degree of your firms' qualifications, references, competencies and years of experience completing projects of similar scope.	<b>20%</b>
4.	<b>Implementation and Customer Service</b> NMHU will evaluate support of services through Customer Service and methods of delivery of such services. NMHU will evaluate process of implementation.	<b>10%</b>
5.	<b>Base System Cost</b> NMHU will evaluate the base system cost of your system.	<b>10%</b>

<b>Total</b>	<b>100%</b>
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**\* If Presentations are conducted, an additional 20% will be evaluated for those that are asked to present.** NMHU will evaluate presentations on materials presented.

## SECTION VI SUBMITTAL PROCEDURES

### 1. NUMBER OF PROPOSALS

Offeror is to submit six (6) complete copies of their Proposal when submitting through carrier service or in person. Offeror is to submit one (1) copy when submitting through vendorregistry.com.

### 2. COSTS INCURRED

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

### 3. INSTRUCTIONS

#### A.) Instructions

- 1.) Proposals must be received in the NMHU main campus' Central Receiving Department office (800 National Avenue, Las Vegas, NM 87701) or electronically at vendorregistry.com by the due date and time as listed on page three (3) of this RFP. If a Proposal is late NMHU shall not accept it. Postmarked or estimated delivery dates issued by carriers will not be accepted as received by NMHU.
- 2.) All Proposals must be submitted in a SEALED envelope. Submit Base Cost in a separate envelope. Please write on the outer sealed envelope the following:  
**"Sealed PROPOSAL #23-017 to be received by 2:00 PM on April 13, 2023."**  
Failure to mark the sealed envelope may result in the Proposal being opened early or later and/or the Proposal may be declared non-responsive;
- 3.) NMHU is not responsible for Proposals lost during delivery regardless of means of delivery. Proposals may be accepted if received by NMHU staff and not delivered to the Purchasing Department office only when the error was made by NMHU staff. NMHU will make this determination.
- 4.) Faxed and emailed Proposals shall not be accepted.
- 5.) Proposals will be accepted through vendorregistry.com.

#### B.) DELIVERY MAY BE MADE AS FOLLOWS

- 1.) **If via delivery in person:**  
New Mexico Highlands University  
Post Office – Receiving  
Attn: Purchasing Department-RFP #23-017  
800 National Avenue Las Vegas, NM 87701
- 2.) **If via United States Postal Service FedEx, United Parcel Service or other carrier:**  
New Mexico Highlands University  
Post Office – Receiving  
Attn: Purchasing Department-RFP #23-017  
800 National Avenue Las Vegas, NM 87701

## SECTION VII INSTRUCTIONS TO OFFERORS

### 1. DEFINITIONS AND TERMS

- A.) **Addendum:** a written or graphic instrument issued prior to the opening of Proposals which clarifies, corrects, or changes the RFP. Plural: addenda.
- B.) **Determination:** means the written documentation of a decision of the Purchasing Agent including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
- C.) **Offeror:** any person, corporation, or partnership legally licensed to provide professional services in this state who chooses to submit a Proposal in response to this RFP.
- D.) **Purchasing Agent:** means the person or designee authorized by NMHU to manage or administer a procurement requiring the evaluation of proposals.
- E.) **RFP:** means all documents, including attachments, addendums or other documents incorporated by reference which are used for soliciting Proposals.
- F.) **Responsible Offeror:** means a 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 described in the RFP.
- G.) **Responsive Proposal:** means a Proposal which conforms in all material respects to the requirements set forth in the RFP. Material respects of a RFP include, but are not limited to; price, quality, quantity or delivery requirements.
- H.) The terms **must, shall, will, is required, or are required**, identify a mandatory item or factor. Failure to comply with a mandatory item or factor may result in the rejection of the Offeror Proposal.
- I.) The terms **can, may, should, preferably, or prefers** identify a desirable or discretionary item or factor.

### 2. RFP DOCUMENTS

- A.) COPIES OF RFPS
  - 1.) A complete set of the RFP shall be used in preparing Proposals; NMHU assumes no responsibility for errors or misinterpretations resulting from the use of an incomplete set of the RFP.
  - 2.) A copy of the RFP shall be made available for public inspection at the Purchasing Office of NMHU.
- B.) INTERPRETATIONS
  - 1.) All requests of clarification about the meaning or intent of the RFP shall be submitted in writing and to the POC. The date listed as the deadline for submitting questions is the date of receipt. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
  - 2.) Offerors should promptly notify NMHU of any ambiguity, inconsistency, or error, which they may discover upon examination of the RFP.
- C.) ADDENDA

- 1.) Addenda will be mailed, by facsimile or emailed to all who are known by NMHU to have received a complete set of RFPs.
- 2.) Each Offeror shall ascertain, prior to or with submitting the Proposal, that the Offeror has received all Addenda issued, and shall acknowledge their receipt in the Proposal transmittal letter (Attachment 1).

**3. PROPOSAL SUBMITTAL PROCEDURES**

**A.) CORRECTION OR WITHDRAWAL OF PROPOSALS**

- 1.) A Proposal containing a mistake discovered before Proposal opening may be modified or withdrawn by an Offeror prior to the time set for Proposal opening by delivering written, telegraphic, or electronic notice to the location designated in the RFP as the place where Proposals are to be received.
- 2.) Withdrawn Proposals may be resubmitted up to the time and date designated for the receipt of Proposals, provided they are then fully in conformance with the RFP.

**B.) REJECTION OR CANCELLATION OF PROPOSALS**

A rejection or cancellation of this RFP may be made in accordance with §13-1-131 N.M.S.A. 1978. NMHU reserves the right to waive irregularities, reject any or all Proposals, cancel this RFP for any reason and at any time, and/or award a Contract that is in its best interests.

**4. CONSIDERATION OF PROPOSALS**

**A.) RECEIPT, OPENING AND RECORDING**

- 1.) Proposals received on time will be opened in the presence of two (2) or more witnesses (NMHU employees), but will not be opened publicly.
- 2.) The contents of all Proposals shall not be disclosed so as to be available to competing Offerors during the negotiation process.

**B.) PROPOSAL EVALUATION**

- 1.) Proposals shall be evaluated on the basis of demonstrated competence and qualification for the type of Service required, and shall be based on the evaluation factors set forth in this RFP. For the purpose of conducting discussions, proposals may initially be classified as:
  - a.) acceptable, or
  - b.) potentially acceptable, that is, reasonably assured of being made acceptable, or
  - c.) unacceptable (Offeror whose Proposal is unacceptable shall be notified promptly).
- 2.) NMHU shall have the right to waive technical irregularities in the form of the Proposal of the Offeror, which do not alter the price, quality or quantity of the Services.
- 3.) If an Offeror who otherwise would have been issued an Award and Contract, is found not to be a responsible Offeror, a determination that the Offeror is not a responsible Offeror, setting forth the basis of the finding, shall be prepared by the Purchasing Agent. The unreasonable failure of the Offeror to promptly supply information in connection with an inquiry with

respect to responsibility is grounds for a determination that the Offeror is not a responsible Offeror.

4.) Selection Process

a.) The evaluation of Proposals will be performed by an evaluation committee composed of representatives selected by the NMHU. The committee shall evaluate statements of qualifications and performance data submitted by Offerors in regard to the particular request.

b.) The committee will, rank in order of their qualifications which are most qualified to perform the required services:

c.) If Applicable, committee will recommend the finalist(s) for presentation to the committee. The committee along with the Chief Procurement Officer (CPO) will determine the schedule for the presentations. The top-rated Offerors will then be scheduled. The committee may make recommendation to the Purchasing Director as to selection of Offeror. All costs incurred by Offeror for the oral presentations will be borne on Offeror.

C.) NEGOTIATIONS

Offerors submitting Proposals may be afforded an opportunity for discussion and revision of Proposals. Revisions may be permitted after submissions of Proposals and prior to Award for the purpose of obtaining best and final offers. Negotiations may be conducted with responsible Offeror who submit Proposals found to be reasonably likely to be selected for Award.

D.) NOTICE OF AWARD

After Award by NMHU, with reasonable promptness, a written Notice of Award shall be issued by NMHU to the selected Offeror and a letter of non-Award to the unsuccessful Offerors.



**ATTACHMENT 1**

**ADDENDA ACKNOWLEDGEMENT FORM**

**ADDENDUM ACKNOWLEDGEMENT**

In submitting this Proposal, Offeror represents that he has examined copies of all addenda listed below and has incorporated them into his Proposal:

<b>Addendum Number</b>	<b>Date</b>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**ATTACHMENT 2**

**SUPPLIER CONFLICT OF INTEREST AND  
DEBARMENT/SUSPENSION CERTIFICATION FORM**

**Conflict of Interest**

- 1.) No employee or Regent of New Mexico Highlands University has a direct or indirect interest in the Contractor or in the proposed transaction (unless Contractor is a publicly traded company and the employee or Regent's interest is less than one percent (1%) of the Contractor);
- 2.) Contractor neither employs nor is negotiating to employ any NMHU employee or member of the NMHU Board of Regents;
- 3.) Contractor did not participate directly or indirectly in the preparation of specifications upon which the Proposal is made;
- 4.) If the Contractor is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in Contractor, please identify Legislator(s):  
\_\_\_\_\_;
- 5.) List below the name and social security number of any employee of the Contractor or person assisting in the proposed transaction in any way who was a NMHU employee within the preceding twelve (12) month period; and
- 6.) In accordance with NMHU policy, an award cannot be made to a firm in which current or recent (last twelve [12]) NMHU employees have a controlling interest.

**Debarment/Suspension Status**

- 1.) The Contractor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice or proposed debarment from any Agency; and
- 2.) The Contractor agrees to provide immediate notice to New Mexico Highlands University Purchasing Department Buyer in the event of being suspended, debarred or declared ineligible by any department or Federal Agency, or upon receipt of a notice of proposed debarment that is received after the submission of the Proposal but prior to the award of the purchase order or contract.

**Certification**

The undersigned hereby certifies that he/she has read the above Conflict of Interest and Debarment/Suspension Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the Contractor named below.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Name Typed: \_\_\_\_\_ Date: \_\_\_\_\_

Company: \_\_\_\_\_ City \_\_\_\_\_

Address: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

**ATTACHMENT 3**

**CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

Pursuant to the Procurement Code, Sections §13-1-28, et seq., N.M.S.A. 1978 and N.M.S.A. 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective Contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two (2) years prior to the date on which the Contractor submits a Proposal or, in the case of a sole source or small purchase contract, the two (2) years prior to the date the Contractor signs the Contract, if the aggregate total of contributions given by the prospective Contractor, a family member or a representative of the prospective Contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two (2) year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed Award for a proposed Contract pursuant to Section §13-1-181 N.M.S.A. 1978 or a Contract that is executed may be ratified or terminated pursuant to Section §13-1-182 N.M.S.A. 1978 of the Procurement Code if: 1) a prospective Contractor, a family member of the prospective Contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official’s employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

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 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 or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

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

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

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(Completed by State Agency or Local Public Body)

**DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

**(Attach extra pages if necessary)**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title (position)

**--OR--**

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

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title (Position)

**ATTACHMENT 4**

**NEW MEXICO BUSINESS PREFERENCE**

Points will be awarded based on Offeror's ability to provide a copy of a current Resident Business Certificate or Resident Veterans Certificate.

In addition, the attached certification form must accompany any RFP and any business wishing to receive a resident veteran's preference must complete and sign the form.

RFP's are to be evaluated on preference per Sections §13-1-21 or §13-1-22 N.M.S.A. 1978:

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty or perjury that during the last calendar year starting January 1, and ending on December 31, the following to be true and accurate:

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

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

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

**NM RESIDENT PREFERENCE NUMBER OR RESIDENT VETERANS PREFERENCE NUMBER (if applicable):**

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**ATTACHMENT 5**

**RESIDENT VETERANS PREFERENCE CERTIFICATION FORM**

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

**Please check one only**

\_\_\_\_\_ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$6M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

\_\_\_\_\_ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$6M allowing me the 8% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

“I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty or perjury that during the last calendar year starting January 1, and ending on December 31, the following to be true and accurate:

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

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

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

\_\_\_\_\_  
(Signature of Business Representative) \*

\_\_\_\_\_  
(Date)

\*Must be an authorized signatory for the business.

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

**ATTACHMENT 6**

**NEW MEXICO HIGHLANDS UNIVERSITY  
REQUEST FOR PROPOSAL #23-017  
NGIP: 20987, 97248**

NMHU is seeking proposals from experienced and qualified companies to provide services and method to gather end of course feedback from students, sort and analyze the information gathered, and deliver it to faculty in a secure way.

All proposals must be submitted to NMHU's Purchasing Department prior to **2:00 pm** local time on Thursday, April 13, 2023. Proposals received after that time shall not be accepted. Proposals shall not be opened publicly.

All proposals shall comply with the New Mexico Procurement Code, and applicable federal, State and local laws.

NMHU reserves the right to waive irregularities, reject any or all proposals, cancel this RFP for any reason and at any time, and/or award a contract that is in its best interest. No offeror may withdraw his proposal for ninety (90) calendar days after the actual date of the opening.

RFP 23-017 will be available and solicited through Vendor Registry at: <https://vrapp.vendorregistry.com> **Proposals received after that time will not be accepted**

RFP documents can also be obtained by emailing [rfp@nmhu.edu](mailto:rfp@nmhu.edu).

To register at Vendor Registry, follow three steps below:

1. [www.nmhu.edu/purchasing-department](http://www.nmhu.edu/purchasing-department)
2. Click "Information for Vendors Link"
3. Click Vendor Registration, complete instructions



**Draft Contract**

**ATTACHMENT 7**

***CONTRACT NUMBER 23-017***

Student Feedback Survey Services

**ARTICLE 1 INTRODUCTION**

**THIS AGREEMENT** (hereinafter called “Contract”) is effective as of the date of signing by the last date of signature, hereinafter called “Effective Date”), hereto by and between:

**Firm Information**

\_\_\_\_\_  
Federal Identification Number (FIN):

hereinafter called "Contractor";

and

a State educational institution created in accordance with Article XII, Section 11 of the Constitution of the State of New Mexico:

New Mexico Highlands University  
800 National  
P.O. Box 9000  
Las Vegas, NM 87701

Federal Identification Number: 85-6000406

hereinafter called "NMHU".

**NMHU and Contractor hereinafter agree:**

**RECITALS:** Pursuant to NMHU Request for Proposals 23-017, its attachments and addenda (hereinafter called “RFP”) for student feedback survey services (hereinafter called “Services” or “Work”), NMHU has determined that Contractor’s proposal is in the best interest of NMHU and Contractor is willing to accept assignment under the terms of this Contract.

**1. PREVAILING DOCUMENTS**

To the extent that any provisions of Contractor’s proposal are inconsistent with this Contract and/or the RFP prepared by NMHU, the following order of precedence shall prevail:

- A. This Contract;
- B. The RFP number 22-017 its attachments, and Addendum Number \_\_\_\_\_;
- C. Contractor’s Proposal dated \_\_\_\_\_.

**2. SCOPE OF SERVICES**

To provide services and method to gather end of course feedback from students, sort and analyze the information gathered, and deliver it to NMHU faculty in a secure way.

**3. PERFORMANCE OF SERVICES**

This RFP is not an award to perform all of the Services within the first year of award. This Contract establishes an Agreement for the term of this Contract (refer to Section 1.5 for the term of this Contract). NMHU will request from Contractor to perform Services as funds become available, whether during the first or subsequent years of this Contract.

**4. PERIOD OF PERFORMANCE**

The initial term for this Contract will be for one (1) year. This Contract may be extended if such renewal is mutually agreed to and found to be in the best interest of NMHU. These renewals would be in one (1) year increments and are not to exceed nine (9) renewal years. This Contract shall not exceed ten (10) years including all renewals. Renewals must be mutually agreed upon and made in writing.

## **ARTICLE 2 FINANCIAL AGREEMENTS**

### **1. FINANCIAL ARRANGEMENTS**

Fees for Services to be performed in accordance with this Contract will be in accordance with the attached.

### **2. TAXES**

#### **A. Gross Receipts Taxes**

NMHU is required to pay gross receipts taxes for Services received; and

#### **B. Other taxes**

Contractor shall be solely responsible to pay any and all Federal, State and local taxes which may be assessed against Contractor in its operation.

### **3. INVOICING AND PAYMENTS**

- A. Invoices may be presented following the completion of the Services. NMHU personnel will inspect the locations serviced by Contractor to ensure compliance with the terms and conditions of this Contract;
- B. On all invoices, Contractor shall certify in writing to NMHU under penalty of perjury that all subcontractors working for Contractor and who comprise a portion of the prior application were paid in full within ten (10) days after Contractor received payment from NMHU for such prior Work;
- C. Should the Services be abandoned, postponed, or canceled, Contractor shall be paid for the amount of Work performed through the last day of termination, less any costs incurred by NMHU to correct any deficiencies and any other costs associated with the non-performance. Notice of abandonment, postponement, or cancellation shall be made orally, but shall be confirmed in writing within five (5) days by NMHU; at which time, Contractor shall immediately file with NMHU the final date of Services performed, and issue a final progress report. All payments made in excess of the proportion of Work completed, shall be refunded to NMHU. Costs for additional Work performed by Contractor following the date of the termination will be the sole responsibility of the Contractor;
- D. Upon certification and acceptance of Services NMHU will issue payment no later than thirty (30) days following the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth (30<sup>th</sup>) day from the date that written certification of acceptance is issued, late payment charges may be paid to Contractor on the unpaid balance due at the rate of one and one-half (1½%) per month;
- E. If NMHU finds that any of the Services performed are not acceptable payment will be held on the portion of Work that is unacceptable. If NMHU determines that any portion of the Services are not acceptable it is to submit to Contractor, within thirty (30) days of receipt of written notice from Contractor that payment is requested for Services, provide Contractor a letter of exception explaining the objection to the Services along with details of how Contractor may proceed to provide remedial action; and
- F. Invoices are to include a University provided purchase order number on it and are to be sent to:

New Mexico Highlands University  
Attn: Accounts Payable  
P.O. Box 9000  
Las Vegas, NM 87701

**ARTICLE 3  
GENERAL TERMS AND CONDITIONS**

**1. AMENDMENT**

This Contract shall not be altered, changed, or amended except by an instrument in writing executed by both parties.

**2. NON-EXCLUSIVE CONTRACT**

Contractor agrees that NMHU may employ or utilize similar services during the term of this Contract at the sole option of NMHU.

**3. AUTHORIZED AGENT**

Contractor agrees that the performance of all Services required under the terms and conditions of the RFP, addendums, Proposal and subsequent changes to the Contract are to be subject to the direction of NMHU or person designated by NMHU. Such person designated by NMHU shall be the Authorized Agent representative of NMHU.

All Services are to be performed only after the Authorized Agent has given approval to perform the Services. All information or direction desired or required by the Contractor for the performance of his Services hereunder shall be obtained from said Authorized Agent and representative.

**4. HOURS OF OPERATION**

A. NMHU's standard operating hours are 8 am to 5 pm local time Monday through Friday. The following days are recognized as holidays for NMHU staff:

Dr. Martin Luther King Day; spring break; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; day after Thanksgiving Day; fall break; and New Year's break. All holidays are subject to change.

B. Board of Regents meetings and other meetings may be held outside the hours as listed above. Contractor may be required to participate at these meetings as required by NMHU.

**5. CORRECTION OF ERRORS, DEFICIENCIES AND OMISSIONS**

The Contractor agrees to perform work as may be necessary to correct errors, defects, and omissions in the Services required under this Contract, without undue delays and without cost to NMHU. The acceptance of the Services set forth herein by NMHU shall not relieve the Contractor of the responsibility of subsequent correction of such errors.

**6. INDEPENDENT CONTRACTOR**

Contractor and its agents, employees or subcontractors, are independent contractors for all purposes related to this Contract. As such, neither Contractor nor any of its employees shall be entitled to any right or benefit applicable to NMHU employees.

**7. NON-DISCRIMINATION**

Contractor, its employees, and any subcontractors engaged to provide Services shall not discriminate on the basis of race, color, religion, gender, age, national origin, disability, sexual preference, veteran's status, or any other basis prohibited by law.

**9. INSURANCE**

If applicable;

- A. Without limiting any liabilities or any other obligation of Contractor, Contractor shall purchase and maintain (and cause its sub-contractors to purchase and maintain), in a company or companies lawfully authorized to do business in the state of New Mexico, and rated at least A- VIII in the current A.M. Best's, the minimum insurance coverage as follows:
1. Contractor will be required to maintain at Contractor's cost, the minimum following insurance coverage for the duration of this contract and shall provide a Certificate of Insurance, listing NMHU as additional insured with the following language: "New Mexico Highlands University (NMHU) is recognized as an additional insured for NMHU Request for Proposal Number 22-005.
  2. Worker's Compensation insurance sufficient to comply with statutory obligation and to provide benefits for employees with claims of bodily injury or occupational disease (including resulting death) as required by the State of New Mexico and Employer's Liability Insurance for Five Hundred Thousand and 00/100 Dollars (\$500,000). Waiver of Subrogation for Workers' Compensation in favor of New Mexico Highlands University is required;
  3. One million dollars (\$1,000,000) in Commercial General Liability Insurance, or the equivalent, per occurrence and Two Million and 00/100 Dollars (\$2,000,000) in the general aggregate and products/completed operations aggregate (whichever is greater) insuring against any and all liability of the insured with respect to premises and products/completed operations. The policy shall include coverage for bodily injury liability, personal injury, advertising injury and property damage, including product liability insurance, contractual liability and, contractor's protective liability. Where applicable, the policy shall include coverage for the hazards commonly referred to as "XCU.";
  4. No less than One Million and 00/100 Dollars (\$1,000,000) combined single limit for bodily injury and property damage in Business Automobile Liability Insurance, or the equivalent, per accident with respect to Offeror's vehicles whether owned, hired, or non-owned, assigned to or used in the performance of any Services.
- B. The Certificate of Insurance shall be in a format acceptable to NMHU. Such Certificates shall be filed with NMHU and shall also contain the following statements:

**“The Regents of New Mexico Highlands University, New Mexico Highlands University, its elected and appointed officers, boards, commissions, agents and employees are named as an additional insured.”**

And

“The insurance coverage certified herein shall not be cancelled or materially changed except after the insurer endeavors to provide forty- five (45) days written notice to the Owner.” Certificate of Insurance shall be forwarded to:

New Mexico Highlands University  
Attn: Purchasing Department  
P.O. Box 9000  
Las Vegas, NM 87701

- D. The University reserves the right to request and receive certificates of Insurance evidencing the required policies and endorsements within ten (10) Calendar days of the signing of this Contract.
- E. Contracts that require both Business Auto Liability insurance and General liability insurance for scope of services must also carry a Commercial Umbrella policy - No less than One Million and 00/100 Dollars (\$1,000,000) per Occurrence and One Million and 00/100 Dollars (\$1,000,000) in the Aggregate on a follow - form basis.
- F. Failure on the part of the Contractor to meet these requirements shall constitute a material breach of contract, upon which the State of New Mexico, its departments, agencies, boards and commissions may terminate this Contract in accordance with the provisions of this RFP and the resultant Contract, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the State of New Mexico, its departments, agencies, boards and commissions shall be repaid by the Contractor upon demand, or the State of New Mexico, its departments, agencies, boards and commissions may offset the cost of the premiums against any monies due to the Contractor. Costs for coverage broader than those required or for limits in excess of those required shall not be charged to the State of New Mexico, its departments, agencies, boards and commissions. Contractor, NMHU, and their insurer(s) shall waive their rights of recovery against the one another and their employees and officers and, with respect to the Contractor, the State of New Mexico, its departments, agencies, boards, and commissions.

**9. RELEASE**

Contractor shall, upon final payment of the amount due under this Contract, release NMHU, the Regents of NMHU, its officers and employees and the State of New Mexico from liabilities, claims, and obligations whatsoever arising from or under this Contract. Contractor agrees not to purport to bind NMHU or the State of New Mexico to any obligation not assumed in this Contract by NMHU or the State of New Mexico, unless Contractor has express written authority to do so, and then only within the strict limits of that authority.

**10. REPRESENTATIONS**

Each party to this Contract represents and warrants to the other that it has full right, power, and authority to execute this Contract.

**11. AUDITING, ACCOUNTING AND REPORTING**

- A. All records must be retained by Contractor, and accessible to NMHU for a minimum of three (3) years from the date of final payment of the Contract. NMHU reserves the right to audit at any time any aspect of the Services performed by Contractor. Contractor shall keep full, timely and accurate records in accordance with generally accepted accounting practices for all necessary Federal, State, County, and local forms and claims regarding the auditing services, including any of Contractor's Services that NMHU may choose to utilize in the future.
- B. The books, records, documents, and accounting procedures and practices of Contractor relevant to this Contract shall be subject to examination by NMHU. Contractor will:
  - 1. Provide NMHU and/or its auditors reasonable facilities for the examination, copying and audit of the books and records;
  - 2. Make such returns and reports available as required;
  - 3. Attend and answer under oath all lawful inquiries as required by a court of competent jurisdiction;
  - 4. Produce and exhibit such books and records as may be desired to be inspected; and
  - 5. In all things cooperate with NMHU and/or its auditors in the performance of its duties.
- C. NMHU will be informed by Contractor of any schedule of independent audits of Contractor's records and operations. NMHU shall receive a copy of the report of any findings that affect NMHU.

**12. COMPLIANCE WITH LAWS**

Contractor shall be familiar with, have a working knowledge of, and comply with all Federal, State, and local regulations, ordinances, codes and laws having jurisdiction over all Services it provides to NMHU. In addition, Contractor must be familiar with and have experience preparing and filing all required forms, reports, and submittals. The Contractor hereby represents and warrants that:

- A. It is not in arrears with respect to the payment of any monies due and owing the State of New Mexico or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- B. It shall comply with all Federal, State and local laws, regulations and ordinances applicable to its activities and obligations under this Contract;
- C. It shall procure, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this Contract; and
- D. Agrees to operate under and be controlled by the Civil Rights Act of 1964, Title VI, and Executive Order No. 11246.



**13. DISPUTES**

With respect to duties, terms, and conditions over which the parties are in dispute, except as otherwise provided herein, NMHU may elect to attempt to resolve the matter by mediation or arbitration. Resolution in this matter does not preclude NMHU from seeking any possible legal remedy.

**14. TERMINATION OF CONTRACT**

This Contract may be terminated by either of the parties upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations or liabilities already incurred for performance of failure to perform prior to the date of termination.

Services performed by Contractor through the last day prior to termination will be paid by NMHU upon receipt and acceptance of the final invoice. Contractor will not be compensated for any anticipated future work, penalty for termination, or other expenses not performed as Services prior to termination.

**15. NON-APPROPRIATION OF FUNDS**

If NMHU funds are not appropriated or otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the new fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either NMHU's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and NMHU from future performance of the Contract, but not from their rights and obligations existing at the time of termination. NMHU shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract or any portion thereof for each succeeding fiscal period beyond the first. NMHU's determination of funding under this section shall be final and accepted by the Contractor.

**16. SURVIVAL**

NMHU and the Contractor agree that those obligations of the parties which by their terms require performance after termination or expiration of the Contract, shall survive the termination or expiration of this Contract.

**17. CONFIDENTIALITY**

Any information and other data developed or acquired by or furnished to Contractor in the performance of this Contractor shall be kept confidential and shall not be made available to any individual or organization without the prior written approval of NMHU. NMHU will comply with statute §14-2-1 et seq. N.M.S.A. 1978, also known as the "Inspection of Public Records Act", for requests of any records by the public.

**18. PRODUCT OF SERVICE – COPYRIGHT**

Nothing produced, in whole or in part, by Contractor under the terms of this Contract shall be the subject of an application for copyright by or on behalf of Contractor.

**19. CONFLICT OF INTEREST**

Contractor warrants that he has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services required under this Contract. Contractor shall comply with the provisions of Section §10-16-12 et seq. N.M.S.A. 1978, which requires disclosure to the Office of Secretary of State of amounts received under State contracts when and if such provisions become applicable.

**20. STATE PROCUREMENT CODES AND STATUTES**

A. The Contractor is hereby put on notice that the State of New Mexico Procurement Code, Sections §13-1-28 through §13-1-199 N.M.S.A. 1978, imposes civil and criminal penalties for its violation. In addition, the State of New Mexico criminal statutes impose felony penalties for illegal bribe, gratuities and kickbacks.

B. Contractor must comply with all state procurement statutes pursuant to §13-1-1 through §13-1-199 N.M.S.A. 1978, which imposes civil and criminal penalties for code violations. In addition, the New Mexico criminal statutes impose felony/penalties for illegal bribes, gratuities and kickbacks.

**21. NEW MEXICO LAW PREVAILS**

The place of performance of this Contract shall be the State of New Mexico. This Contract shall be construed, interpreted and enforced according to the laws of the State of New Mexico, and all claims and disputes shall be brought in the State courts of the State of New Mexico.

**22. INDEMNIFICATION AND INSURANCE**

A. The Contractor shall indemnify, and hold harmless NMHU, their respective employees, officers and agents from and against all liability, claims, suits or causes of action, losses, damages penalties, fines, fees, costs and demands, including reasonable legal expenses and reasonable attorneys' fees connected therewith, but only to the extent arising out of or resulting from negligent acts of Contractor, its agents, employees, subcontractors in the performance of the Services under this Contract;

B. Contractor agrees not to purport to bind NMHU or the State of New Mexico to any obligation not assumed in this Contract by NMHU or the State of New Mexico, unless Contractor has express written authority to do so, and then only within the strict limits of that authority; and

C. Contractor agrees that it and its subcontractors will maintain general liability, product liability and property damage insurance in reasonable amounts (at least equal to the New Mexico Tort Claims Act limits) covering the above obligation and will maintain workers' compensation coverage covering all employees performing under this Contract on premises occupied by or under the control of NMHU. The liability of NMHU will be subject in all cases to the immunities and limitations of

the New Mexico Tort Claims Act, Sections §41-4-1 et seq. N.M.S.A. 1978, as amended.

**23. OTHER APPLICABLE LAWS**

Any provision required to be included in a purchase order or contract of this type by any applicable and valid executive order, Federal, State or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

**24. SEVERABILITY**

In the event any term or provision of this Contract or any application to any person or circumstance shall be declared prohibited, invalid, or unenforceable to any extent in any jurisdiction, as determined by a court of competent jurisdiction, such term or provision shall, in that jurisdiction, be ineffective only to the extent of such prohibition, invalidity, or unenforceability, or as applied to such persons or circumstances, without invalidating or rendering unenforceable the remaining term or provision hereof or affecting the validity or enforceability of such term or provision in any other jurisdiction or as to other persons or circumstances in such jurisdiction, unless such would effect a substantial deviation from the general intent and purpose of the parties or make a significant change in the economic effect of the Contract on the party benefited by such term or provision.

**25. ASSIGNMENT**

Contractor shall have no right to assign or transfer any of its rights, duties or responsibilities contained in this RFP or subsequent amendments without the prior written approval of NMHU.

**26. USE OF CONTRACT**

New Mexico law allows other governmental entities within the State of New Mexico to contract, in accordance with §13-1-129 NMSA 1978, for services with the Contractor under the terms contained in the Agreement. Should that occur, NMHU will not be a party to any engagements entered into pursuant to this paragraph. Contractual engagements accomplished under this provision will be solely between the Contractor and the subject governmental entity.

**27. ADDRESS FOR NOTICES**

All legal notices required to be given by one party to the other hereunder shall be in writing and shall be addressed as follows:

*If to NMHU:*

New Mexico Highlands University  
Attn: Purchasing Department  
P.O. Box 9000  
Las Vegas, NM 87701

*If to Contractor:*

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**[SIGNATURE PAGE FOLLOWS]**

**ARTICLE 4**

**IN WITNESS THEREOF** the parties signify that they understand and agree to all of the terms and conditions of this Contract and are duly authorized agents of their entity/company with the authority to bind their entity/company to this Contract. This Contract will be considered executed after both parties have completed and signed this page.

**NEW MEXICO HIGHLANDS UNIVERSITY**

**(CONTRACTOR NAME)**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date