

NEW MEXICO HIGHLANDS UNIVERSITY

**REQUEST FOR PROPOSAL # 23-019
PUBLICATION SOFTWARE SERVICES
NIGP Commodity Code 71510,71535**

<p>This Request for Proposal is to establish a contract for publication software for university side use to publish Student Handbook Graduate Handbook, Human Resources and other publications that New Mexico Highlands University is in need of producing.</p>			
<p>Date Request for Proposal Issued: Friday, March 17, 2023</p>		<p>Date and Time Request for Proposal Is Due: Prior to 2:00 pm local time on Wednesday, April 19, 2023</p>	
<p>NMHU Point-of-Contact: Aaron Flure Director of Purchasing</p>	<p>Email: aflure@nmhu.edu</p>	<p>Phone Number: (505) 454-3053</p>	<p>Fax Number: (505) 454-3109</p>

RFP CONDITIONS

New Mexico Highlands University (hereinafter called “NMHU”) is seeking responses (hereinafter called “Proposal”) for the performance of publication software services (hereinafter called “Services”) requested in this Request for Proposal Number 23-019, its attachments and subsequent addendums (hereinafter called “RFP”). You/your firm’s (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 also reserves the right to cancel this RFP in whole or in part at any time if it is in its best interests. An award will not be based solely on the lowest fee; instead it will be based on several weighted criteria, as provided herein.

The successful Offeror(s) (hereinafter called “Contractor”) will enter into a binding agreement (hereinafter “Contract”) with NMHU. A draft of the Contract is included as Attachment 7. 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.

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 the bidding, your point of contact (hereinafter called “POC”) will be limited to Aaron Flure, Director of the Purchasing Department and Jennifer Madrid. They have been designated as the contact person(s) for this RFP. No Offeror may contact any NMHU employee, officer or member of the Board of Regents other than Mr. Flure and Ms. Madrid regarding this RFP through the date of the execution and award of the Contract. Any Offeror who makes such unauthorized contact shall be deemed to have violated the terms and conditions of this RFP and Offeror’s offer may be rejected as a result. Questions regarding the RFP should be submitted in writing via email to the POC. 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 and response 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 or his firm to be bound by them. Only an authorized agent of the Offeror’s company may sign this document.

Name of Firm

Authorized Representative Name Title

Signature Date

Provide point of contact of Offeror:

Name Title

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	Friday, March 17, 2023
Last Day to Submit Requests for Clarification	To be received by 5:00 pm on April 12, 2023
Proposal Submittal Deadline	Prior to 2:00 pm on April 19, 2023
Evaluations of Proposals	Approximately one week
Presentations (if necessary)	Two weeks following evaluation
Notice to Proceed with Negotiations	Approximately one week following completion of evaluations or presentations
Award of RFP and Execution of Contract	Following successful negotiations
Commencement of Services	Date of execution of Contract
Protest Deadline	15 days after award or knowledge of facts pertaining to protest.

SECTION II BACKGROUND AND SCOPE OF WORK

1. BACKGROUND

NMHU is a state-funded institution of higher education primarily serving northeastern New Mexico, but has a diverse student population from throughout the U.S. and from foreign nations. NMHU is in its 128th year with its main campus located in Las Vegas, New Mexico. It currently serves other communities within the state via distance education technologies and satellite campuses.

NMHU offers bachelors and masters degrees in programs such as social work, the sciences, education, business, the arts and many other fields of study. NMHU is an open enrollment university with students from diverse backgrounds.

2. SCOPE OF SERVICES

Provide publication software for university wide use to publish the following publications but not limited to:

- University Catalog
- Student Handbook
- Graduate Handbook
- Human Resources Handbook

3. 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 – WORKFLOW

Provide a description of your system capabilities that will allow customization of the workflow and approval process between departments. Include ability to track changes and description of the visibility of all parties involved (i.e. – Faculty, Administration, etc.).

TAB 2 – CAPABILITIES OF SOFTWARE SYSTEM

Detail the ability of your system in the following areas and how they are achieved through the customer:

- Searchable web viewing – student facing interface
- Archiving or prior and current year publications
- Ability to change integration to allow addendum to catalog publications

TAB 3 – INTEGRATION

Demonstrate the capability of your software and your processes to integrate with the following components at NMHU:

- Publication of PDF documents on NMHU Website
- Integration with our SIS (Banner) for course/program information

TAB 4 – EXPERIENCE & REFERENCES

Furnish up to three (3) References that Offeror has provided similar services to within the last 5 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. Also provide your experience with providing the services within this RFP Scope of Work with other Institutions of similar nature and size.

TAB 5 – 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.

4. COST PROPOSAL

Provide the cost proposal 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.

SECTION III GENERAL TERMS AND CONDITIONS

1. LENGTH OF PROPOSAL

The Proposal is not to exceed thirty (30) pages. Double –sided printed pages will count for two (2) pages. The following will not count towards page limit:

- A.) Acceptance of Terms and Conditions of RFP Form (page 2 of this RFP);
- B.) Completed RFP attachment forms number 1 through 4; and
- C.) Cover Letter of Proposal

2. PERIOD OF PERFORMANCE

The resultant Contract shall be for a one (1) year term starting on the date of the execution of the Contract. The Contract may be extended for an additional nine (9) years and are to be made in a minimum of one (1) year increments. Extensions must be made in writing and must be signed by authorized representatives of both parties.

3. PRICING

- A.) Offeror may choose to provide their own Fee Proposal in their format; and
- B.) Any revision in rates must be justified and made available for NMHU’s review and potential negotiation at a minimum of ninety (90) days prior to the beginning of each new contract year. Any such approval must be mutually agreed upon by both parties and in writing by authorized representatives of both parties. If both parties cannot come to agreement as of sixty (60) days prior to the end of the existing term the Contract will not be extended for any further terms.

4. PRESENTATIONS

NMHU may choose to invite Offerors to make a presentation and answer questions asked by the evaluation committee. NMHU reserves the right to invite as many Offerors that are in its best interest. Prior to the presentations NMHU may, with adequate time, specify requirements for the presentation and anything that is allowable and unallowable to present and discuss.

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(s) which provides the Services in its best interest and will not make the Award to the Offeror(s) with simply the highest-ranking score. The RFP will be evaluated based on all criteria listed in this RFP, its attachments and its addendums. Failure to meet criteria in any one category is grounds to determine a proposal non-responsive; and
- B.) NMHU reserves the right to negotiate with Offerors. Issuance of an Intent to Negotiate with a Offeror(s) does not guarantee an Award. An Award will be made only after NMHU and Offeror(s) complete successful negotiations and execution of a Contract.

6. 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.

7. REQUIRED AND INFORMATIONAL FORMS

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

8. 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.

SECTION IV EVALUATION COMPONENTS

This section of the RFP contains specifications and other relevant information to be used by Offerors in preparation of their Proposal. Award of a Contract will not be based solely on cost.

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 a 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 comply will be rejected from further consideration. 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.) Workflow of policy program changes from Academics to Registrar. Include processes for tracking And approval of change requests	55 points
2.) Experience and References	10 points
3.) Publication of PDF Catalog Document on NMHU Website	10 points
4.) Integration with our SIS for course/program information	10 points
5.) Searchable web viewing - student facing interface	5 points
6.) Archiving of prior year and current year publications	5 points
7.) Change integration to allow addendum to catalog publications	5 points
TOTAL	<u>100 points</u>

SECTION V. NEW MEXICO BUSINESS PREFERENCE FORM (if applicable)

Points will be awarded based on Offerors 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 as follows:

In addition, to the total points on an RFP, a percentage of additional points must be added for preference award. For example; an RFP has a total value of 100 points. Five proposals are received; one from a resident business (five percent [5%] preference), one from a resident veterans business with an eight percent (8%) preference and three non-resident (no preference) businesses.

The two resident business preference businesses would receive five (5) points for a maximum of one-hundred and five (105) points and the resident veterans business preference would receive eight (8) points to their already evaluated score, making it possible for the highest score total of one-hundred and eight (108).

“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 veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

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

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

NM RESIDENT PREFERENCE NUMBER OR RESIDENT VETERANS PREFERENCE NUMBER:

Provide a copy of the Certificate with your Proposal

SECTION VI SUBMITTAL PROCEDURES

1. NUMBER OF PROPOSALS

Offeror is to submit **eight (8)** 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) 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. Please write on the outer sealed envelope the following:

**"SEALED PROPOSAL #23-019 TO BE RECEIVED
BY 2:00 PM on April 19, 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; and
- 4.) Faxed and emailed Proposals will 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 #23-019
800 National Avenue
Las Vegas, NM 87701
- 2.) **If via USPS, FedEx, UPS, or other carrier:**
New Mexico Highlands University
Post Office – Receiving
Attn: Purchasing Department-RFP #23-019
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 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 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's 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 whom are known by NMHU to have received a complete set of RFPs.
- 2.) Each Offeror shall ascertain, prior to 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 a 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 a 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 select, rank in order of their qualifications which are most qualified to perform the required services: and may choose to have the finalist(s) make an oral presentation to the committee. The committee will determine the schedule for the oral presentations. 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 Offerors 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 Contractor and a letter of non-Award to the unsuccessful Offerors.

5. 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.

6. GOVERNING LAW

This RFP, its attachments, subsequent addenda and the resultant contract and/or purchase order will be interpreted and governed by the Laws of the State of New Mexico.

ATTACHMENT 1

ADDENDUM 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:

Addendum Number	Date
_____	_____
_____	_____
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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:

(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 as follows:

In addition, to the total points on an RFP, 10% must be added for preference award. For example; an RFP has a total value of 1000 points. Five proposals are received; one from a resident business, one from a resident veteran's business with an 8% preference and three non-resident businesses.

The two preference businesses would receive 50 points and 80 points to their already evaluated score, making it possible for the highest score total 1080.

"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):

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 \$1M 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 \$1M but less than \$5M 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 declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference 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 #23-019
NIGP 71510,71535**

This Request for Proposal is to establish a contract for publication software for university side use to publish Student Handbook Graduate Handbook, Human Resources and other publications that New Mexico Highlands University is in need of producing.

All proposals must be in NMHU's Purchasing Department prior to **2:00 pm** local time on Wednesday, April 19, 2023. Proposals received after that time will not be accepted. Proposals will 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 proposal for ninety (90) calendar days after the actual date of the opening.

RFP 23-019 will be available and solicited through Vendor Registry at: <https://vrapp.vendorregistry.com>.

RFP documents may also be obtained by emailing rfp@nmhu.edu.

To register at Vendor Registry, follow three steps below:

1. www.nmhu.edu/purchasing-department
2. Click "Information for Vendors Link"
3. Click Vendor Registration, complete instructions

Draft Contract

ATTACHMENT 7

CONTRACT NUMBER 23-XXX
Publication Software

ARTICLE 1 INTRODUCTION

THIS AGREEMENT (hereinafter called “Contract”) is effective as of the day of ____, 2023 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 22-005, its attachments and addenda (hereinafter called “RFP”) for Publication Software and 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 23-019 its attachments, and Addendum Number _____;
- C. Contractor’s Proposal dated _____.

2. SCOPE OF SERVICES

Provide publication software for university wide use to publish the following publications but not limited to:

- University Catalog
- Student Handbook
- Graduate Handbook
- Human Resources Handbook

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 (30th) 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 other attorneys or law firms 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.

8. **INSURANCE**

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. 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