

NEW MEXICO HIGHLANDS UNIVERSITY (“NMHU”) REQUEST FOR PROPOSAL # 920 ARCHITECTURAL ON-CALL SERVICES

Services: For architectural firms to provide services on an on-call basis.			
Date RFP Issued: Friday, March 4, 2011		Date RFP Is Due: Thursday, March 17, 2011 at 1:30 pm MST	
NMHU Sole Point-of-Contact: Michael Saavedra Director of Purchasing	Phone Number: (505) 454-3053	Fax Number: (505) 454-3109	Email: mjasaavedra@nmhu.edu

RFP CONDITIONS

This Request for Proposal (“RFP”) is not a contract, nor an offer. Your company’s (“Proposer”) response (“Proposal”) to this RFP does not grant any rights as a result of the response whatsoever. New Mexico Highlands NMHU (“NMHU”) will accept the offer for the services (“Services”) that most closely meets **all** the criteria described herein, not simply the lowest price. NMHU may accept or reject any Proposal in whole or in part, or reject all Proposals. If no Proposal is accepted, NMHU may abandon the work or have the work performed in another manner as NMHU may elect. NMHU reserves the right to discontinue negotiations at any time prior to the issuance of a Notice of Award, for budgetary or other business reasons. NMHU will not reimburse any of the Proposer’s costs.

NMHU reserves the right to award any and all Services detailed in this RFP. NMHU also reserves the right to award none of the Services if it so elects, and/or the right to make an Award (“Award”) to multiple Proposers. This is not an offer to enter into an exclusive relationship, and NMHU is therefore under no obligation to buy exclusively from the Proposer who is given an Award.

Further, this RFP and your response will be the basis for and be incorporated into the Award between NMHU and the successful Proposer (“Contractor”). Proposals submitted in response to the RFP shall represent a firm offer to contract on the terms and conditions described in such proposals and this RFP. Each representation of fact and promise of future performance therein will be incorporated into the Award as a warranty or covenant. Any statement of fact or promise of future performance that is not intended by the Proposer as a warranty or covenant should be clearly identified.

During the period of the bidding, your point of contact (“POC”) will be limited to Michael Saavedra in NMHU’s Purchasing Department. Mr. Saavedra has been designated as the contact person for this RFP. No Proposer may contact any NMHU employee, officer or member of the Board of Regents other than Michael Saavedra regarding this RFP through the date of the Award. Any Proposer who makes such unauthorized contact shall be deemed to have violated the terms and conditions of this RFP and Proposer’s offer may be rejected as a result. Questions regarding the RFP should be submitted in writing via email to the POC. Every effort will be made to respond to your questions within two (2) business days of their receipt. The question and response will be shared with all Proposers, with personal information removed to ensure anonymity.

Proposal submitted by:

Name	Title	Company	Date
Signature			

Provide point of contact of Proposer:

Name	Title
Mailing Address (City, State, Zip)	
Telephone Number	Fax Number
Email	

(Please sign and return this cover page with your Proposal)

I. GENERAL INFORMATION

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**PROPOSAL SCHEDULE
ALL DATES AND TIMES SUBJECT TO CHANGE**

Issuance of Proposal Packet	March 4, 2011
Last Day to Submit Requests for Clarification	March 10, 2011
Proposal Submittal Deadline	March 17, 2011 at 1:30 pm
Evaluations of Proposals	March 18-24, 2011
Oral Presentations (if necessary)	March 30-31, 2011
Award of Contracts	April 4, 2011 or sooner

II. GENERAL REQUIREMENTS

2 REQUIREMENTS

2.1 Insurance Requirements.

The successful Proposer will be required to maintain the following insurance coverage for the duration of any subsequent procurements and shall provide a Certificate of Insurance, listing NMHU as additional insured with the following language or similar language acceptable to NMHU: **“New Mexico Highlands University (“NMHU”) is recognized as additional insured for all projects issued in accordance with NMHU Request for Proposal number 927.”**.

2.1.1 One Hundred Thousand Dollars (\$100,000) in Worker’s Compensation Insurance

2.1.2 Two Hundred Thousand Dollars (\$200,000) in Commercial General Liability Insurance, or the equivalent, per occurrence. The policy shall include coverage for bodily injury liability, broad form property damage liability, blanket contractual, contractor’s protective, products liability and completed operations. Where applicable, the policy shall include coverage for the hazards commonly referred to as “XCU.”

2.1.3 Two Hundred Thousand Dollars (\$200,000) in Business Automobile Liability Insurance, or the equivalent, per accident with respect to Contractor’s vehicles whether owned, hired, or non-owned, assigned to or used in the performance of any Services.

2.1.4 Two hundred Thousand Dollars (\$200,000) in Umbrella/Excess Liability Insurance liability coverage per occurrence and Five Hundred Thousand Dollars (\$200,000) policy aggregate.

2.1.5 Two Hundred Thousand Dollars (\$200,000) in Errors and Omissions/Professional Liability Insurance. This insurance shall be written on a claims-made or occurrence basis. If written on a claims-made basis, Contractor agrees to maintain Errors and Omissions/Professional Liability insurance for at least three (3) years after this Agreement is terminated.

2.2 Residential Preference

If Proposer has a valid State of New Mexico resident preference certification number list it below.

2.3 Attached Forms for Review and/or To Be Completed.

2.3.1 Advertisement (Attachment 1)

2.3.2 Addendum(s) Acknowledgement Form (Attachment 2)

2.3.3 Supplier Conflict of Interest and Debarment/Suspension Certification Form (Attachment 3)

2.3.4 Campaign Contribution Disclosure Form (Attachment 4)

2.3.5 General Terms and Conditions (Attachment 5)

III SCOPE OF SERVICES AND REQUIREMENTS

3.1 BACKGROUND:

For more than a century, NMHU has served as a leading academic, cultural and economic institution for the communities of Northern New Mexico.

Entering its 117th year, NMHU continues its historic mission as Northern New Mexico's NMHU on its main campus in Las Vegas and centers in Farmington, Roswell, Española/Santa Fe, Rio Rancho/Albuquerque and Raton.

As a student-centered, publicly supported, regionally based, comprehensive NMHU offering programs in liberal arts, sciences and professional disciplines NMHU brings together students from distinctive cultural, socioeconomic, linguistic, geographic, religious, and educational backgrounds. NMHU is committed to programs that focus on its multi-ethnic student body with special emphasis on the rich heritage of Hispanic and Native American cultures that are distinctive to the State of New Mexico and particularly to Northern New Mexico.

To learn more about New Mexico Highlands NMHU “history, campus map, residence and apartment housing, please visit our website www.NMHU.edu

To learn more about San Miguel County and the City of Las Vegas and surrounding area, please visit our city's website www.lasvegasnm.org or <http://lasvegasnewmexico.com>.

3.2 SCOPE OF SERVICES

To provide architectural services, which may include but is not limited to: interior design, furniture packages, landscaping design, master planning in general, architectural design for new construction and renovations, working drawings and complete bidding packages.

3.3 EMPLOYEES

The Contractor and its agents and employees are independent contractors performing services for NMHU and not employees of NMHU. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of vehicles, or any other benefits afforded to employees of NMHU by virtue of the Award. The Contractor agrees not to purport to bind NMHU or the State of New Mexico to any obligation not assumed in the Award by NMHU or the State of New Mexico, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

The Contractor shall reassign any employees from direct contact with customers when requested to do so by NMHU, provided such request shall be made only on the grounds that continued employment in contact with customers would be detrimental to NMHU's overall public relations at its main campus in Las Vegas, New Mexico. NMHU may also

require the Contractor to remove any bookstore employees from the site for cause provided due written notice is given to the Contractor by NMHU.

3.4 EQUAL OPPORTUNITY EMPLOYMENT

NMHU is committed to Equal Opportunity Employment. The Contractor shall comply with Equal Opportunity laws and shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, age, job-unrelated disability, or marital status.

3.5 TAXES

3.5.1 The Contractor shall be solely responsible to pay any and all federal, state and local taxes which may be assessed against the Contractor's equipment or merchandise while in or upon the premises of NMHU, as well as any and all federal, state and local taxes assessed in connection with the operation of its business upon the premises of NMHU.

3.5.2 Current NMHU students currently pay no taxes on purchases of new and used textbooks only. Specify in your Proposal if your company can continue to extend this policy, and if not, explain why. If this practice can be continued explain in your Proposal what NMHU staff must do to coordinate the sharing of enrollment information with your company in real-time. Explain any constraints to this process and potential solutions.

3.5.3 NMHU departments currently pay no taxes on purchases of all items. Specify in your Proposal if your company can continue to extend this policy, and if not, explain why. NMHU is exempt from paying gross receipts taxes and can provide a Non-Taxable Transaction Certificate.

3.6 SECURITY

The Contractor shall be responsible for the control of keys issued by NMHU and the security of those areas provided for the Contractor's use. NMHU shall bear the initial cost of re-keying of locks. The initiating party shall be responsible for additional re-keying initiated by the Contractor or NMHU. Contractor is not allowed to make copies of the keys issued to Contractor. Immediately following completion of Services, Contractor must return all keys to the designated NMHU personnel.

3.7 CUSTOMER AND GUEST RELATIONS

The NMHU campuses regularly have staff, faculty, students and guest on its main campus, branches and sites. Contractor must ensure that its employees are aware that they are to perform Services in a professional manner at all times. If Contractor finds that an employee(s) are not performing Services in a professional manner they must be removed from the job site and are not to perform any additional Services until NMHU personnel have approved the return to Services. If NMHU finds one of Contractor's employees to not be performing Services in a professional manner NMHU will inform the superintendent or supervisor on the site to inform him of the situation. In this event Contractor is to remove its employee from the work site until NMHU personnel approve the employee to return to Work.

3.8 CONFIDENTIALITY

Contractor will not be allowed to give or sell any personal or financial information to subsidiaries, parent companies, and external companies.

3.9 HOURS OF OPERATION

The Contractor shall maintain operations only during the times pre-approved by NMHU personnel. Any deviations must be pre-approved by NMHU personnel.

3.10 AUTHORIZED AGENT OF THE UNIVERSITY

Contractor agrees that the performance of all work required under the terms of this Award is 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 information or direction desired or required by the Contractor for the performance of his work and services hereunder shall be obtained from said authorized agent and representative.

3.11 APPLICABLE LAWS

Contractor represents that the Contractor has familiarized itself with all applicable federal and state laws, local ordinances and regulations and the rules and regulations of all authorities having jurisdiction over the services described herein.

3.12 PROJECT VALUE LIMITS

Procurement through this RFP is not to exceed a total value of two hundred thousand dollars (\$200,000) per project. All labor, reimbursable, materials, equipment rental, per diem & travel and any other costs of a project will be included within the project limit. This project cost does not include the cost of construction.

3.13 USE OF AWARD

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law are authorized to purchase from this agreement, pursuant to §13-1-129 N.M.S.A. 1978.

3.14 TERM

This Award shall be effective on the date this Award is signed by duly authorized individuals from NMHU and Contractor. The Award will be for one (1) calendar year from the effective date. The Award can be renewed if such renewal is mutually agreed to and found to be in the best interest of the NMHU. These renewals would be in one (1) year increments and is not to exceed seven (7) renewal years. The Award shall not exceed eight (8) years including all renewals.

3.15 PAYMENTS

Contractor is to submit invoices to:
NMHU
Attn: Accounts Payable
PO Box 9000

Las Vegas, NM 87701

Terms are net-30.

IV. QUALIFICATION OF EVALUATION COMPONENTS:

This section of the proposal contains specifications and other relevant information to be used by Proposers in preparation of their proposal.

Proposers 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 an award. Proposers are encouraged to provide any additional information describing operational abilities.

4.1 QUALIFICATION COMPONENTS

4.1.1 Related Experience

Discuss briefly prior experience related to the Services NMHU will be expecting from this RFP. The experience has to be in a commercial setting. List the types of services your company can perform that are listed in the Scope of Services. Also list the types of services in the Scope of Services that your company cannot perform. For all staff that may perform Services for NMHU list their certifications and/or licenses and certification and license numbers.

Criteria Weight 30 points

4.1.2 References

Proposer shall submit a minimum of three (3) references from customers of completed services as of the date of the opening of the RFP.

Criteria Weight 5 points

4.1.3 Cost Proposal

Proposer shall provide a rate schedule of hourly rates of staff that will be performing services for projects under this RFP. List any additional charges, such as overhead, travel and any other service. Reimbursables will be charged billed at the cost to Contractor.

Criteria Weight 45 points

4.1.4 Ability to Respond on an “On-Call Basis”

Provide a brief narrative of your ability to respond to services calls that are not “Routine Services” and may include “emergency” services.

Criteria Weight 20 points

100 TOTAL POINTS POSSIBLE

V. INSTRUCTIONS TO PROPOSERS

5.1 DEFINITIONS AND TERMS

- 5.1.1 Addendum:** a written or graphic instrument issued prior to the opening of Proposals which clarifies, corrects, or changes the RFPs. Plural: addenda.
- 5.1.2 Contractor:** means the Successful Proposer receiving an Award.
- 5.1.3 Determination:** means the written documentation of a decision of the procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains (§13-1-52 N.M.S.A. 1978).
- 5.1.4 Proposer:** any person, corporation, or partnership legally licensed to provide professional services in this state, who chooses to submit a proposal in response to this RFPs.
- 5.1.5 Procurement Manager:** means the person or designee authorized by NMHU to manage or administer a procurement requiring the evaluation of proposals.
- 5.1.6 RFPs:** means all documents, including those attached or incorporated by reference, used for soliciting proposals (§13-1-81 N.M.S.A. 1978).
- 5.1.7 Responsible Proposer:** means an Proposer or proposer 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 proposal (§13-1-83 N.M.S.A. 1978).
- 5.1.8 Responsive Offer or Proposal:** means an offer or proposal which conforms in all material respects to the requirements set forth in the RFPs. Material respects of a RFPs include, but are not limited to, price, quality, quantity or delivery requirements (§13-1-85 N.M.S.A. 1978).
- 5.1.9** 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 will result in the rejection of the Proposer's proposal.
- 5.1.10** The terms **can, may, should, preferably, or prefers** identify a desirable or discretionary item or factor.

5.2 RFP DOCUMENTS

5.2.1 COPIES OF RFPS

- 5.2.1.1** A complete set of the RFPs may be obtained from the NMHU Purchasing Office as stated in the RFP Notice. The POC is listed on page one.
- 5.2.1.2** A complete set of the RFPs shall be used in preparing proposals; NMHU assumes no responsibility for errors or misinterpretations resulting from the use of an incomplete set of the RFPs.
- 5.2.1.3** A copy of the RFP shall be made available for public inspection and shall be posted at the Purchasing Office of NMHU.

5.2.2 INTERPRETATIONS

- 5.2.2.1 All questions about the meaning or intent of the RFPs shall be submitted to the Purchasing Agent, NMHU in writing. Replies will be issued by Addenda mailed or delivered to all parties recorded by the Purchasing Agent having received the RFPs. Questions received less than four (4) days prior to the date for opening of proposals will not be answered. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 5.2.2.2 Proposers should promptly notify NMHU of any ambiguity, inconsistency, or error, which they may discover upon examination of the RFPs.

5.2.3 ADDENDA

- 5.2.3.1 Addenda will be mailed, by facsimile or emailed to all whom are known by NMHU to have received a complete set of RFPs.
- 5.2.3.2 Copies of Addenda will be made available for inspection wherever RFPs are on file for that purpose.
- 5.2.3.3 No Addenda will be issued later than four (4) days prior to the date for receipt of Proposals, except an Addendum withdrawing the RFPs or one which includes postponement of the date for receipt of Proposals.
- 5.2.3.4 Each Proposer shall ascertain, prior to submitting the Proposal, that the Proposer has received all Addenda issued, and shall acknowledge their receipt in the Proposal transmittal letter.

5.3 PROPOSAL SUBMITTAL PROCEDURES

5.3.1 SUBCONTRACTORS

- 5.3.1.1 The Proposer shall list and state the qualifications for each Sub-Contractor the Proposer proposes to use for all subcontracted Services.
- 5.3.1.2 The Proposer is specifically advised that any person or other party, to whom it is proposed to award a subcontractor under this proposal, must be acceptable to the NMHU after verification by NMHU of the current eligibility status, including but not limited to suspension or debarment by NMHU.

5.3.2 CORRECTION OR WITHDRAWAL OF PROPOSALS

- 5.3.2.1 A Proposal containing a mistake discovered before proposal opening may be modified or withdrawn by an Proposer prior to the time set for proposal opening by delivering written, telegraphic, or electronic notice to the location designated in the RFPs as the place where Proposals are to be received.
- 5.3.2.2 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 RFPs.

5.3.3 NOTICE OF AWARD REQUIREMENTS BINDING ON PROPOSER

- 5.3.3.1 In submitting this proposal, the Proposer represents that the Proposer has familiarized himself with the nature and extent of the RFPs dealing with federal, state, and local requirements, local conditions which are a part of these RFPs.

5.3.3.2 Laws and Regulations: The Proposer's attention is directed to all applicable federal and state laws, local ordinances and regulations and the rules and regulations of all authorities having jurisdiction over the services of the Project.

5.3.4 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.

5.4. CONSIDERATION OF PROPOSALS

5.4.1 RECEIPT, OPENING AND RECORDING

5.4.1.1 Proposals received on time will be opened in the presence of two (2) or more witnesses (NMHU employees), but will not be opened publicly.

5.4.1.2 The names of all businesses submitting proposals and the names of all businesses, if any, selected for interview shall be public information. After an award has been made, final ranking and evaluation scores for all proposals shall become public information. (§13-1-120 N.M.S.A. 1978). The contents of any proposal shall not be disclosed so as to be available to competing Proposers during the negotiation process (§13-1-116 N.M.S.A. 1978).

5.4.2 PROPOSAL EVALUATION

5.4.2.1 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:

1) acceptable, **2)** potentially acceptable, that is, reasonably assured of being made acceptable, or **3)** unacceptable (Proposer's whose Proposals are unacceptable shall be notified promptly).

5.4.2.2 NMHU shall have the right to waive **technical irregularities** in the form of the Proposal of the Proposer, which do not alter the quality of the services (§13-1-132 N.M.S.A. 1978).

5.4.2.3 If an Proposer who otherwise would have been issued an Award is found not to be a responsible Proposer, a determination that the Proposer is not a responsible Proposer, setting forth the basis of the finding, shall be prepared by the Purchasing Agent. The unreasonable failure of the Proposer to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination that the Proposer is not a responsible Proposer (§13-1-133 N.M.S.A. 1978). Businesses, which have not been selected, shall be so notified in writing within twenty-one (21) days after an award is made (§13-1-120 N.M.S.A. 1978).

5.4.2.4 Selection Process: §13-1-120 N.M.S.A. 1978

1) 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 businesses in regard to the particular request and

may conduct interviews with and may require public presentation by all businesses applying for selection regarding their qualifications, their approach and their ability to furnish the required services.

- 2) 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.

5.4.3 NEGOTIATIONS (§13-1-122 N.M.S.A. 1978)

5.4.3.1 NMHU designee shall negotiate an Award with the highest qualified business for the services contemplated under this RFP at compensation determined in writing to be fair and reasonable. In making this decision, the designee shall take into account the estimated value of the services to be rendered and the scope, complexity and professional nature of the services.

5.4.3.2 Should the designee be unable to negotiate a satisfactory Award with the business considered to be the most qualified at a price determined to be fair and reasonable, negotiations with that business shall be formally terminated. The designee shall then undertake negotiations with the second most qualified business. Failing accord with the second most qualified business, the designee shall formally terminate negotiations with that business.

5.4.3.3 The designee shall then undertake negotiations with the third most qualified business.

5.4.3.4 Should the designee be unable to negotiate an Award with any of the businesses selected by the committee, additional businesses shall be ranked in order of their qualifications and the designee shall continue negotiations in accordance with this section until an Award is issued.

5.4.4 NOTICE OF AWARD

After award by NMHU, a written notice of award shall be issued by NMHU with reasonable promptness (§13-1-100 and §13-1-108 N.M.S.A. 1978).

5.5. POST-PROPOSAL INFORMATION

5.5.1 PROTESTS

Proposers wishing to submit a protest must comply with §13-1-172 N.M.S.A. 1978 through §13-1-176 N.M.S.A. 1978.

5.5.2 EXECUTION AND APPROVAL OF AWARD

The Award will be executed on the date a “Notice of Award” is issued.

5.5.3 NOTICE TO PROCEED

NMHU will issue a written Notice to Proceed to the Proposer.

5.5.4 PROPOSER’S QUALIFICATION STATEMENT

Proposer to whom award is under consideration shall submit, upon request, information and data to prove that their financial resources, production or service facilities, personnel, and service reputation and experience are adequate to make satisfactory delivery of the services described in the RFPs (§13-1-82 N.M.S.A. 1978).

5.6 RFP Responses

All proposals must be submitted in a SEALED envelope.

5.7 Number of Proposals

Proposer is to submit four (4) copies of their Proposal.

5.8 Costs Incurred

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

5.9 Packaging

On the outer sealed envelope include the following language:

**"SEALED PROPOSAL #920 TO BE OPENED ON
MARCH 17, 2011 AT 2:00 PM"**

Failure to mark the sealed envelope may result in the proposal being opened early or the proposal may be declared non-responsive

DELIVER TO:

If via hand delivery:

New Mexico Highlands NMHU
Attn: Purchasing Department-RFP #920
903 NMHU Avenue
Las Vegas, NM 87701

If via United States Postal Service:

New Mexico Highlands NMHU
Attn: Purchasing Department-RFP #920
P.O. Box 9000
Las Vegas, NM 87701

If via FedEx, United Parcel Service, or any other carrier:

New Mexico Highlands NMHU
Attn: Purchasing Department-RFP #920
1005 Diamond Avenue
Las Vegas, NM 87701

NMHU is not responsible for lost or late Proposals. Proposals must be received by NMHU in one of the manners listed in section 5.9 of this RFP and must be received by the due date and time as listed on page one of this RFP. Faxed and emailed Proposals will not be accepted.

VI. GENERAL TERMS AND CONDITIONS

6.1 PERSONNEL CONDUCT/COMPLIANCE

Any personnel executing services under the Award, whether they be employed by the Contractor or a subcontractor, while on the premises of NMHU, will conduct him/herself in an acceptable appropriate manner, and comply with all conduct and compliance policies and procedures of NMHU. NMHU reserves the right to request immediate termination of any personnel exhibiting inappropriate mannerisms or non-compliance with these policies and procedures. Additional information on appropriate personnel conduct and compliance with policies and procedures may be obtained from the Director of Human Relations/Affirmative Action Officer: New Mexico Highlands NMHU, 803 National Avenue, Las Vegas, NM Telephone (505) 454-3242.

6.2 LICENSES AND PERMITS

The Contractor must keep him/herself informed of, and adhere to, all laws and ordinances governing any matter related to this move. The Contractor will obtain all necessary licenses and permits, and will be aware of all labor conditions and agreements relating to the work specified in the RFP and shall make all provisions necessary to avoid any disputes which might arise from those conditions and agreements and shall be responsible for any delays, damages or extra cost caused by such disputes.

6.3 SAFETY REQUIREMENTS

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

6.4 INSURANCE

NMHU will execute no Award until the bidder satisfies the insurance requirements of NMHU. The Contractor will be required to provide NMHU with a valid Certificate of Insurance before providing any goods or services to NMHU. NMHU reserves the right to approve any insurance proposed by the Contractor. Refer to Section I, Subsection A of this document for the minimum insurance requirements.

VII AWARD TERMS AND CONDITIONS

7.1 The Award between NMHU and successful Proposer ("Contractor") incorporate the following terms and conditions. If Proposer does not agree to any of these terms and conditions Proposer is to make NMHU aware of the concerns and may provide recommendations for change. These concerns and recommendations are to be stated in a cover letter, which is to be the first page of Proposer's Proposal. NMHU may choose to accept the proposed recommendations, but is not required to do so.

7.1.1 COMPENSATION

The fee for each category of personnel or type of service and the payment of expenses shall be spelled out in the Contract. NMHU will pay gross receipts tax (as applicable to New Mexico State law) when stated and itemized on invoices.

7.1.2 TERMINATION

The Award may be terminated by either of the parties thereto upon written notice delivered to the other party at least six (6) months prior to the end of the initial one year contract or end of any optional renewal. By such termination, neither party may nullify obligations, nor liabilities already incurred for performance or for failure to perform prior to the date of termination. NMHU shall be able to terminate the contract on less or no notice upon material breach by the contractor.

7.1.3 STATUS OF CONTRACTOR

The Contractor and its agents and employees are independent contractors performing services for NMHU and not employees of NMHU. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of vehicles, or any other benefits afforded to employees of NMHU by virtue of the Contract.

7.1.4 WARRANTY

The Contractor warrants that the recommendations, guidance and performance of any person assigned under the Contract shall be in accordance with sound professional standards and ethics, and the requirements of the Contract.

7.1.5 ASSIGNMENT AND SUBCONTRACTING

The Contractor shall not assign or transfer any interest in the Contract, nor shall the Contractor subcontract any portion of this Contract without the prior written approval of NMHU.

7.1.6 APPLICABLE LAW

The laws of the State of New Mexico shall govern this Contract.

7.1.7 APPROPRIATIONS

The terms of the Contract are contingent upon sufficient appropriations and allocations being made by the Legislature of New Mexico or other funding agency. If sufficient appropriations and authorization are not made by the Legislature or other funding agency, the Contract shall, notwithstanding any other provisions of the Contract, terminate immediately upon Contractor's receipt of written notice of termination from NMHU. NMHU decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

7.1.8 RECORDS AND AUDITS

The Contractor shall maintain detailed records, which indicate the date, time and nature of services rendered. The records shall be subject to inspection by NMHU, its representatives, and the State Auditor. NMHU, its representatives, and the State Auditor shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of NMHU to recover excessive and/or illegal payments. NMHU, its representatives, and the State Auditor shall have access to and the right to examine and/or audit any directly pertinent records, books, documents and papers of the Contractor involving transactions related to the contract for period of three years after final payment under the Contract.

7.1.9 CONFIDENTIALITY

The relationship between the Contractor and NMHU shall be that of Contractor and Client. Any information and other data developed or acquired by or furnished by the Contractor in the performance of the Contract shall be kept confidential and shall not be available to any individual or organization without the prior written approval of NMHU.

7.1.10 MERGER

The Contract shall incorporate all of the Contracts, covenants and understandings between the parties thereto concerning the subject matter thereof. No prior Contract or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

7.1.11 INDEMNIFICATION

The Contractor shall indemnify and hold harmless NMHU, its officers and employees, against liability, claims, damages, losses or expenses arising out of bodily injury to persons or damage to property caused by, or resulting from, contractor's and/or its employees, own negligent act(s) or omissions(s) while contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under the terms and conditions of this Contract. This save harmless and indemnification clause is subject to the immunities, provisions, and limitation of the tort claims act (§41-4-1, et seq., N.M.S.A. 1978 comp.) and section §56-7-1 N.M.S.A. 1978 comp and amendments thereto.

7.1.12 RELEASE

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

7.1.13 WAIVER

No waiver or any breach of this Contract or any of the terms or conditions thereof shall be held to be a waiver of any other or subsequent breach; nor shall any waiver be valid, alleged, or binding unless the same shall be in writing and signed by the party alleged to have granted the waiver.

7.1.14 PRODUCT OF SERVICE

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

7.1.15 CONFLICT OF INTEREST

The Contractor warrants that he/she 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. The Contractor shall comply with the provisions of Section §10-16-12 N.M.S.A. 1978, which require disclosure to the Office of Secretary of State of amounts received under state contracts when and if such provisions become applicable.

7.1.16 AMENDMENT

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

7.1.17 EQUAL OPPORTUNITY COMPLIANCE/WORKERS' COMPENSATION:

NMHU does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in the employment or the provisions of services. The Contractor and all subcontractors agrees to comply strictly with the policies of NMHU, as well as all Federal and State Laws pertaining to Equal Employment opportunity, including the Americans with Disabilities Act, and will not discriminate against any person or deny any person participation or benefit from the performance of this Contract as a result of any discriminatory action. The Contractor agrees to comply with State Laws and rules applicable to workers'

compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, NMHU may terminate the Contract.

7.1.18 STATE PROCUREMENT STATUTES

Proposer must comply with all state procurement statutes pursuant to §13-1-1 through §13-1-199 N.M.S.A. 1978 and §13-4-1 through §13-4-43 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.

7.1.19 NOTICE

The State of New Mexico Procurement Code, §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.