



Superintendent  
Michael Hyatt

**PROCUREMENT DEPARTMENT**

Marco Abeita  
Director of Procurement  
(505) 721-1083  
[mabeita@gmcs.k12.nm.us](mailto:mabeita@gmcs.k12.nm.us)

Gallup McKinley County Schools – 640 S. Boardman – Gallup, NM 87301

**Gallup McKinley County Schools  
Request for Proposal RFP – 359 – 19MA  
Wide Area Network (WAN) Services**

Eligible for E-Rate Funds under the Universal Service Program for Funding Year 2019

**RFP - 359 – 19MA**

**Commodity Code(s): 83829, 96218, 91551, 91316**

MAIL TO:

PROCUREMENT OFFICE  
Gallup McKinley County Schools  
640 South Boardman  
Gallup, NM 87301

Attention: Marco Abeita

**FAX and Email Proposals will not be accepted**

RFP NUMBER

**RFP - 359 – 19MA**

REQUEST FOR PROPOSALS ISSUED

Wednesday, November 21, 2018

DUE DATE FOR PROPOSALS

Wednesday, January 9, 2019 @ 2:00 pm MST

Technical Inquiries may be made to Bart Stanley Director of Technology via email  
[bstanley@gmcs.k12.nm.us](mailto:bstanley@gmcs.k12.nm.us)

All inquires and answers will be posted on the GMCS Web Site and the E-Rate Productivity Center (EPC).

[GMCS Procurement Web Site](#)

This will ensure that all vendors will have the same information.  
Please do not call to ask questions.

All inquiries and responses must reference SLD Form **470 Number 190004645**

Failure to include the Form 470 Number will be grounds for disqualification of any response.

## **SCOPE OF SERVICES**

### **North Cloud Schools**

Gallup McKinley County Schools (GMCS) is seeking bids for Leased Lit Fiber Services for the completion of their district Wide Area Network (WAN). The ultimate goal of the district is to provide increased connectivity to these schools in as cost effective a manner as possible. The district prefers a connection that is 1Gbps or greater (up to 10 Gbps), but is willing to consider any solution that provides an increase from the current 100 Mbps fiber connections provided by Frontier Communications. The district is seeking bids for the following sites:

- **GMCS District Office (Network Operations Center)** at 640 South Boardman, Gallup. NM 87301.
- **Crownpoint Elementary School** at # 1 Codetalker Dr., Crownpoint, NM 87313 (35.6963226, -108.1099046) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Crownpoint Middle School** at #1 Eagle Dr., Crownpoint, NM 873313 (35.6963226, -108.1099046) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Crownpoint High School** at #1 Eagle Dr., Crownpoint, NM 873313 (35.6963226, -108.1099046) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Navajo Elementary School** at 123 Cedar Ave., Navajo, NM 87328 (35.8705715, -109.0320897) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Navajo Middle School** at West Walnut Ave., Navajo, NM 87328 (35.9142122, -109.0460157) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Navajo Pine High School** at West Walnut Ave., Navajo, NM 87328 (35.8705715, -109.0320897) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Tohatchi Elementary School** at 100 Chuska Rd., Tohatchi, NM 87325 (35.8710292, -108.7507714) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Tohatchi Middle School** at Mid School Lane, Tohatchi, NM 87325 (35.8710292, -108.7507714) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Tohatchi High School** at Cougar Lane N-491, Tohatchi, NM 87325 (35.8710292, -108.7507714) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
- **Twin Lakes Elementary School** at 19 Mi. N Hwy 491, Gallup, NM 87301 (35.5235017, -108.6359587) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)
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- **Tse Yi Gai High School** at 118 Counselor Rd., Pueblo Pintado NM 87013 (35.976678, -107.635918) to Gallup-McKinley County School Office at 640 Boardman Dr., Gallup NM 87301 (35.518286, -108.708079)

The district requires the solution provide connectivity back to the Network Operations Center located in the GMCS Student Support Center at 640 S. Boardman, Gallup, NM 87301. It is desirable that the proposed solution provides connectivity between the schools in the event of an outage at the district's Network Operations Center. Bidders should explain how their solution meets these goals.

Google maps for each location are provided in Appendix A and the Pricing Sheet is provided in Appendix B.

The district is seeking bids for a fully managed, lit fiber service WAN to these locations. Additionally, the district is seeking bids for the Tse Yi Gai High School that has unique geographical challenges. See further details below for a list of services being considered for this site.

**All Schools EXCEPT Tse Yi Gai High School:**

Broadband fiber services provided by Frontier Communications are under a contract that expires June 30, 2020. GMCS is seeking to enter into a new contract for services that provide WAN Connectivity via leased lit fiber. The district intends to select the most cost-effective offering based on the scoring rubric below.

All options can include special construction or one-time E-Rate eligible non-recurring costs as well as E-Rate eligible recurring circuit costs. Bids must clearly indicate whether the quoted prices include all taxes and other charges and credits. If the proposed rate does not include these elements the vendor should provide an estimated tax rate. Based on the bids and both a short term and long term cost effectiveness analysis, Gallup McKinley County Schools will determine which lit fiber service is acceptable.

The new service is planned to begin July 1, 2020. Vendors should explain the timeline for being able to turn up service to the locations. In the event the winning bidder is unable to install the services by July 1, 2020 the district is also considering bids for these services on a month-to-month basis. The new service must be turned up to the schools no later than December 31, 2020.

**Tse Yi Gai High School ONLY:**

GMCS is currently using 4 T1 lines provided by Frontier Communications to provide voice and data for

Tse Yi Gai High School. That service is augmented with a satellite connection from Hughes Net to improve service. The T1 lines provide approximately 6Mbps connection and the Hughes Net 2<sup>nd</sup> Generation 250 Plan provides a maximum download speed of 25Mbps and an upload speed of 3Mbps.

The preferred solution is for the respondent to run infrastructure or service from the school to the Network Operations Center located in the GMCS Student Support Center at 640 S. Boardman, Gallup, NM 87301. At present, Tse' Yi' Gai High School does NOT have a fiber connection. The District anticipates the successful bidder will need to provide a fiber entrance for this site. However, Bidders are encouraged to visit the site and cautioned to make their own determination for this.

There is currently fiber to Crownpoint, NM via Frontier Communications and the district would consider a solution that would connect Tse Yi Gai to Crownpoint. Crownpoint is approximately 50 miles away from the school at Tse' Yi' Gai. Tse' Yi' Gai High School is approximately 50 miles from Cuba, NM and the district would consider a connection to any provider with a presence in Cuba, NM.

Other wireless solutions including satellite would also be considered. GMCS is open to the most cost effective solution to provide broadband connectivity to the school. The district may be willing to allow a vendor to place a micro-wave tower on district property to facilitate service to this location.

The district would be willing to consider a solution that required multiple vendors to partner together to deliver the service.

While not ideal the district would also be willing to consider a solution that offered a direct Internet connection to the school.

The new service is being planned to begin after July 1, 2019. The district will continue with existing services until the new service is available. The district desires the service to be turned up to the school no later than June 30, 2019.

GMCS is seeking five] options for bids. Respondents may bid one, two, or all five options. The first option is a fully managed, lit fiber service to this location. The second option is a connection to Crownpoint. The third option is a connection to Cuba. The fourth option is a wireless solution including satellite, and the fifth option is a direct Internet connection to the school. Ultimately, the district is willing to consider any solution that increases the connectivity to this site.

All options can include special construction or one-time E-rate eligible non-recurring costs as well as E-rate eligible recurring circuit costs. Based on the bids and both a short term and long term cost effectiveness analysis, Gallup McKinley County Schools will determine which, if any, of the lit service, microwave, or direct internet connection is acceptable.

**SEQUENCE OF EVENTS**

The Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1. Issue RFP	District	November 21, 2018
2. Pre Proposal Conference	District	November 27, 2018 1:00 PM MST Student Support Center 640 S. Boardman
2. Deadline to submit Questions	Potential Offerors	December 5, 2018 (COB)
3. Response to Written Questions	Procurement Manager	December 12, 2018 (COB)
<b>4. Submission of Proposal</b>	<b>Potential Offerors</b>	<b>January 9, 2019 2:00 PM (Local Time)</b>
5. Recommendation of Award to Governing Board	District/ Finalist Offerors	January 28, 2019
6. Protest Deadline	District	February 13, 2019
7. File 471 (Deadline Mid-March)	District	March 20, 2019

**A. EXPLANATION OF EVENTS**

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

1. Issuance of RFP

This RFP is issued by the District in accordance with the provisions of Sections 13-1-111 and 13-1-117 NMSA 1978, and General Government Administration Procurement Regulations NMAC 1.4.1.29 through 1.4.1.47.

2. Deadline to Submit Written Questions

This is the date and time set for submitting written questions regarding the RFP document and procurement process to the Procurement Manager.

3. Response to Written Questions

This is the date and time set by the Procurement Manager to issue a response to written questions regarding the RFP procuring document or the procurement process. The Procurement Manager may issue amendments to the RFP document as deemed necessary

4. Submission of Proposal

This is the date and time that has been set for the submission of Proposals. Late Proposals *will not* be accepted. It is the Offeror’s responsibility to ensure that Proposals arrive at the appointed date and time. Proposals may be delivered early to avoid any possible delay of the submission. The documents shall be in a

sealed container with the RFP number and opening date indicated on the bottom left hand side of the container as follows:

Gallup-McKinley County School District No.1  
Attn: Procurement Office  
Marco Abeita, CPPB (505) 721-1083

If Mailed: P.O. Box 1318; Gallup, New Mexico 87305  
If Hand Delivered: 640 S. Boardman Drive, Gallup, New Mexico 87301

**RFP-359-19MA Wide Area Network (WAN) Services**

**PROPOSALS RECEIVED AFTER THE DEADLINE SHALL BE CONSIDERED NON-RESPONSIVE.**

Proposal submittals shall be date and time-stamped by the District office that is designated to receive proposals. A public log will be kept of the names and submittal times of all Offerors who submitted proposals.

The Procurement Manager shall review the proposals for completeness and compliance with the mandatory requirements prior to distribution to the Evaluation Committee. If any proposal submitted is deemed non-responsive, the Offeror will be notified in writing of such determination which will include the right of the Offeror to protest the decision. The Procurement Manager shall designate a witness to be present during the opening of the proposals. The witness and Procurement Manager shall sign the "List of Offerors" for the procurement file.

5. Recommendation of Award to Board of Education

The Procurement Manager shall prepare a procurement report and a recommendation to the Board for award of the Project that shall include the ranking of all Offerors.

6. Protest Deadline

The protest period for **award** of the contract shall begin the day after the date of the Notice of Award. This date shall be determined by the Procurement Manager. In conformance with §13-1-172, NMSA 1978 any Offeror who is aggrieved in connection with the award of a contract may protest to the Procurement Manager. The protest must be submitted **in writing** within fifteen (15) calendar days after knowledge of the facts or occurrences giving rise to the protest to:

Marco Abeita, Director of Procurement  
P.O. Box 1318  
Gallup, NM 87305  
(505) 721-1083

The 15-day protest period shall begin on the day following the date of written notice of action from the District. Protests must include the name and address of the protestant, the solicitation number, and a statement of grounds for protest, including appropriate supporting exhibits. Protests received after the deadline will not be accepted.

**B. GENERAL REQUIREMENTS**

**1. Acceptance of Conditions Governing the Procurement**

Potential Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

**2. Incurring Cost**

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

**3. Prime Contractor Responsibility**

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

**4. Subcontractors/Consent**

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

**5. Amended Proposals**

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

**6. Offeror's Rights to Withdraw Proposal**

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

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

**7. Proposal Offer Firm**

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

8. Disclosure of Proposal Contents

- A. Proposals will be kept confidential until negotiations and the award are completed by the District. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
- B. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
- C. Confidential data is restricted to:
  - 1. confidential financial information concerning the Offeror's organization;
  - 2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
  - 3. PLEASE NOTE: The price of products offered or the cost of services proposed **shall not be designated** as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the State Purchasing Division or the District shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

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

12. Legal Review

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

In the event Offeror's forms or parts of forms are included as an attachment, Offeror agrees that, in the event of inconsistencies or contradictions, the terms and conditions of this solicitation document shall supersede and control over those contained in the Offeror's forms regardless of any statement to the



contrary in an Offeror's form(s) or proposal. Notwithstanding the preceding sentence, the District reserves the right to consider the Offeror's additional terms and conditions and negotiate as necessary and applicable to the category of goods, services, or combination of goods and services offered by the Consultant in response to this RFP. Unless the District specifically agrees in an express written amendment of this solicitation, terms and conditions on Offeror's forms shall be of no effect.

### 13. Governing Law

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

### 14. Basis for Proposal

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

### 15. Contract Terms and Conditions

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

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

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

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an **explicit agreement** by the Offeror that the contractual terms and conditions contained herein are **accepted** by the Offeror.

### 16. Deviations

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

17. Offeror Qualifications

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

18. Right to Waive Minor Irregularities

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

19. Change in Contractor Representatives

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

20. Notice of Penalties

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

21. District Rights

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

22. Cost Adjustments

Pursuant to 13-1-161, NMSA 1978, Price Adjustments, the District hereby agrees to review a request by an Offeror awarded a contract to an adjustment in hourly rates at the end of a contract period, prior to the extension of the contract awarded for a consecutive year. Contractor(s) must provide detailed documentation and assessment as to the reasons for the request for an increase in price. The District will evaluate the request and write a determination to allow negotiations, or deny an adjustment to costs pertaining to consulting services proposed and agreed upon in the agreement.

23. Right to Publish

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

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of the State of New Mexico.

25. Indemnification

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

26. Confidentiality

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

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

27. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

28. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the District, the Offeror acknowledges that the version maintained by the District shall govern. Please refer to: [GMCS Procurement Web Site](#).

29. New Mexico Employees Health Coverage

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.

- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <http://www.insurenewmexico.state.nm.us/>.
- D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

### 30. Campaign Contribution Disclosure Form

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

### 31. Letter of Transmittal

Offeror's proposal must be accompanied by the Letter of Transmittal Form located in Attachment E which must be completed and signed by an individual person authorized to obligate the company. The letter of transmittal MUST:

- 1. Identify the submitting business entity.
- 2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
- 3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
- 4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.
- 5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
- 6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.
- 7. Identify the following with a check mark and signature where required:
  - a. **Explicitly** indicate acceptance of the Conditions Governing the Procurement stated in Section II. C.1;
  - b. **Explicitly** indicate acceptance of Section V of this RFP; and
  - c. Acknowledge receipt of any and all amendments to this RFP.
- 8. Be signed by the person identified in para 2 above.

### 32. Pay Equity Reporting Requirements

- A. If the Offeror has ten (10) or more employees OR eight (8) or more employees in the same job classification, Offeror must complete and submit the required reporting form (PE10-249) if they are awarded a contract. Out-of-state Contractors that have no facilities and no employees working in New Mexico are exempt if the contract is directly with the out-of-state contractor and fulfilled directly by the out-of-state contractor, and not passed through a local vendor.

- B. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Offeror must also agree to complete and submit the required form annually within thirty (30) calendar days of the annual bid or proposal submittal anniversary date and, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract.
- C. Should Offeror not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, Offeror must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.
- D. Offeror must also agree to levy these reporting requirements on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Offeror must further agree that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, offer will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement.

### 33. Disclosure Regarding Responsibility

- A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any State Agency, District or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
  - 1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, State Agency, District or local public body;
  - 2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
    - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
    - b. violation of Federal or state antitrust statutes related to the submission of offers; or
    - c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
  - 3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
  - 4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
    - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

- b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
  - c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any Federal Agency, State Agency, District or local public body.)
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Contractor shall provide immediate written notice to the State Purchasing Agent or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
- D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the State Purchasing Agent or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

#### **34. Requirement for Bid Security**

Bid security shall be required for construction contracts when the price is estimated to exceed twenty-five thousand dollars (\$25,000). Bid security in an amount equal to at least five percent of the amount of the bid shall be a bond provided by a surety company authorized to do business in this state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the State Agency, District or a local public body.

## **RESPONSE FORMAT AND ORGANIZATION**

### **NUMBER OF RESPONSES**

Offerors shall submit only one proposal in response to this RFP. See Paragraph B for the number of copies of the offer required. Multiple offers by one Offeror are not allowed.

#### **A. NUMBER OF COPIES OF RESPONSES**

One (1) ORIGINAL HARD COPY, and three (3) electronic copies (USB Jump Drive) of the proposal containing **ONLY** the Technical Proposal; and the Cost Proposal. ORIGINAL and COPIES shall be in separate labeled binders. **The electronic version/copy can NOT be emailed.**

After award of a contract, all Offerors of record may make arrangements with the District to have their proposal copies returned or picked up. The District shall not be responsible for any shipping or mailing costs to return copies of the proposals. Offerors are cautioned that copies of proposals not arranged to be returned or picked up after thirty (30) days of notification of award, may be disposed of at the District's option/discretion.

#### **1. Hard Copy Responses**

Offeror's proposal must be clearly labeled and numbered and indexed as outlined below, in **Proposal Format**. Proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the binder. Each portion of the proposal (technical/cost) must be submitted in separate binders and must be prominently displayed on the front cover. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

Offerors should deliver:

- **Technical Proposals** – One (1) ORIGINAL HARD COPY, and three (3) electronic copies (USB Jump Drive) of the proposal containing **ONLY** the Technical Proposal; ORIGINAL and COPIES shall be in separate labeled binders. **The electronic version/copy can NOT be emailed.**
  - Proposals containing confidential information **must** be submitted as two separate binders:
    - **Unredacted** version for evaluation purposes
    - **Redacted** version (information blacked out and not omitted or removed) for the public file
- **Cost Proposals** – One (1) ORIGINAL HARD COPY, and three (3) electronic copy (USB Jump Drive) of the proposal containing **ONLY** the Cost Proposal; ORIGINAL and COPY of Cost Proposal shall be in separate labeled binders from the Technical Proposals. **The electronic copy can NOT be emailed.**

The electronic version/copies of the proposal **must** mirror the physical binders submitted. **The electronic version can NOT be emailed.**

- The original, hard copy and electronic copy information **must** be identical. In the event of a conflict between versions of the submitted proposal, the Original hard copy shall govern.

Any proposal that does not adhere to the requirements of this Section and **Response Format and Organization**, will be deemed non-responsive and rejected on that basis.

#### **B. PROPOSAL FORMAT**

All proposals must be typewritten or printed sheet faces of text and/or graphic material on standard 8-1/2" x 11" paper (larger paper, 11" x 17", is permissible for charts, spreadsheets, etc.) and placed in a three (3) binder with labels identifying each section. **If there is any question regarding format requirements they shall be directed to the Procurement Manager's office for clarification, prior to submittal of documents.**

#### **1. Proposal Content and Organization**

Proposals shall contain concise responses to satisfy the requirements of this Request for Proposals with an emphasis on completeness and clarity. Proposals shall follow the same sequence and outline as the Request for Proposals. **Each paragraph or question including associated number shall be restated followed by the Offeror's response to that item.**

**General RFP Submittal Guidelines**

- a. Non-Conforming RFP submittals will be rejected. Please read all instructions carefully.
- b. Evidence of insurance should be included in the proposal in the form of a current Certificate of Insurance

Non-Conforming Proposal

Any proposal deemed non-conforming by the Procurement Manager in regard to format will be considered non-responsive. Offerors shall contact the Procurement Manager to clarify any questions concerning format prior to submission.

Proposal Signature:

Proposal shall include the complete mailing address of the Offeror and shall be signed by an authorized representative of the Offeror by original signature with the signer's name and legal title typed below the signature line. Each proposal shall include the Offeror's Federal Employer's Identification Number or Social Security Number as applicable.

Amendments:

Offeror shall acknowledge receipt of any amendments to this Request for Proposals on Attachment H Failure to acknowledge receipt of any amendments may render the proposal to be non-responsive. Changes to this Request for Proposals shall be issued only by the Procurement Manager in writing.

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

**Technical Proposal (Binder/Volume 1):**

- A. Signed Letter of Transmittal
- B. Table of Contents
- C. Proposal Summary (Optional)
- D. Response to Contract Terms and Conditions
- E. Offeror's Additional Terms and Conditions
- F. Response to Specifications **(except cost information which shall be included in Cost Proposal/Binder 2 only)**
  - 1. Organizational Experience
  - 2. Organizational References
  - 3. Mandatory Specification
  - 4. Desirable Specification
  - 5. Financial Stability - Financial information considered confidential should be placed in the **Confidential Information** binder.
  - 6. Performance/Payment Surety Bond
  - 7. Signed Campaign Contribution Form
- G. Other Supporting Material/Value Added Services (If applicable)
- H. Attachments:
  - Attachment – STATE of NM W-9, Mandatory ([www.nmpsfa.org](http://www.nmpsfa.org))
  - Attachment – Campaign Disclosure Form, Mandatory
  - Attachment – Acknowledgement of terms governing procurement
  - Attachment – Acknowledgment of Receipt of Amendments, Mandatory
  - Attachment - Any Exceptions to Contract Terms & Conditions

Certificate of Insurance – *Mandatory*



*Sample/Example Contract Agreement*

**Cost Proposal (Binder/Volume 2):**

1. Completed Cost Response Form

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates or expenses must occur only in Binder #2 on the cost response form.

The proposal summary may be included by potential Offerors to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

Provide a breakdown of costs to perform the work. Costs proposed should be in direct relationship to the services offered in relation to the Technical Approach and Other Value Added Services. Pricing and cost data shall be provided as described below. By submitting a proposal, the Offeror certifies that its pricing was developed independently and without collusion, communication, consultation, or agreement related to pricing in any manner with other Consultants, competitors or public employees.

The Cost Proposal shall be sealed in an envelope that is identified with the Offeror's name marked "COST PROPOSAL" and must be submitted with the Offeror's proposal. Offerors shall use the Cost Proposal Form included in this document as Attachment G. The Cost Proposal Form shall include required disciplines, overtime, travel, per diem, and reimbursable expenses, for all services requested. Profit and overhead shall be incorporated into the hourly rates.

Each Offeror shall clearly indicate (mark by page, etc.) if elements of this section are requested to be treated as proprietary. The responsible District official will make the final decision if this is to be treated as proprietary.

## Lit Service

The District is seeking guaranteed Lit Transport Bandwidth throughput (upload and download) of 1Gbps upgradable to 10Gbps with Service Level Agreement (SLA) guarantees. SLA minimum requirements are listed below. The solution should be scalable from 1Gbps to 10Gbps in increments of 1Gbps. Although the desired bandwidth is a minimum of 1Gbps, GMCS is willing to consider lower bandwidths if 1Gbps is not available. All respondents must be eligible to participate in the Universal Service Fund's E-rate Support Mechanism as a service provider, and shall provide a valid Service Provider Identification Number assigned by the Universal Service Administrative Company.

The pricing sheet (which is the second worksheet on Attachment A) includes columns for respondents to provide 1Gbps up to 10Gbps or 100Mbps to 1Gbps in increments of 100Mbps between the hub and the school. Price quotes are requested for, a 60month term of service. Prices should be all inclusive. All-inclusive in this case means that all non-recurring costs (NRC) required by the Vendor to commence service are separately listed, clearly indicating any NRCs associated with special construction, and all monthly recurring costs (MRC) for the corresponding circuits should be included in the requisite columns of the pricing sheets. In the case of any NRC special construction charges, Respondents are requested to provide installment payment pricing for the applicants E-rate non-discounted charges, with such installment payments to be paid in equal installments over four years. No increased pricing will be allowed during the term of the quoted NRC and MRC rate in each pricing cell of the spreadsheet.

All Lit Service circuits must support Quality of Service (QoS) and have the ability to apply rate limiting guarantees to specific packet types to ensure Quality of Service at each WAN link. The network must have the ability to support multiple QoS policies and prioritization queues across each link in the WAN to reduce latency and packet loss and guarantee throughput for data, voice, and video.

For lit services the following specifications shall apply:

- Required web portal or local monitoring of all circuits
- Shared management of equipment
- Must provide response time for outages
- Must provide 99.99% guaranteed uptime
- There is no right of provider to limit or throttle the capacity of the circuit at any time for any reason
- Network Latency Commitment <5 milliseconds roundtrip
- Network Jitter Commitment <5 milliseconds
- Bit-Error Rate commitment <0.25% between circuit endpoints
- Mean Time-To-Repair for outages <4 hours

**As part of a proposal submitted, a network diagram displaying the paths to be used to serve each endpoint must be included and three references from current customers equivalent to the size of the District.**

<b>School</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>	<b>Distance (Miles)</b>
Crownpoint Elementary School (35.526072, - 108.779961)	#1 Codetalker Dr.	Crownpoint	NM	87313	55.2
Crownpoint Middle School (35.494186, - 108.818303)	#1 Eagle Dr.	Crownpoint	NM	87313	56.8
Crownpoint High School (35.515267, - 108.770128)	#1 Eagle Dr.	Crownpoint	NM	87313	56.8
Navajo Elementary School (35.498744, - 108.818344)	123 Cedar Ave	Navajo	NM	87328	46.1
Navajo Middle School (35.521825, - 108.732125)	West Walnut Ave	Navajo	NM	87328	46.4
Navajo Pine High School (35.525850, - 108.675772)	West Walnut Ave	Navajo	NM	87328	46.4
Tohatchi Elementary School (35.527244, - 108.715639)	100 Chuska Rd.	Tohatchi	NM	87325	28.4
Tohatchi Middle School (35.521469, - 108.708767)	Mid School Lane	Tohatchi	NM	87325	.28.3
Tohatchi High School (35.517756, - 108.725642)	Cougar Lane N-491	Tohatchi	NM	87325	28.8

Twin Lakes Elementary School (35.525753, -108.691297)	19 Mi N Hwy 491	Gallup	NM	87301	18.5
GMCS Network Operations Center (35.518286,-108.708079)	640 S Boardman	Gallup	NM	87301	0

*Open Fiber Interconnection Policy* - The District prefers that the Vendor support “vendor neutral” or “open interconnection cross connect” requests within their facilities. It is possible that after the initial build, the District will require additional cross connects to District -Owned Fiber or to alternate carriers. Respondents must describe any cross-connect policies and all related cross-connect fees. The District prefers Vendors that build cross-connect costs into the initial purchase arrangement.

**Description of Proposal**

Respondent will provide a description of their proposal for all lit services. Description will include an overview of the proposal, any deviations from the requested architecture, design or requirements, assumptions made and other details GMCS may find useful or necessary (or could differentiate the solution from a competing proposal).

**Service Level Agreement**

Respondent will provide a description of the proposed services and service levels provided with the lit fiber response. The respondent will provide a proposed Service Level Agreement (SLA) with the RFP response. The proposal may include, but not be limited to, the following services.

- Lit Fiber Network Availability: the provider will make all reasonable efforts to ensure 99.9% network availability of the applicable fiber.
- Network Operations Center: Solution will provide customer support functions including problem tracking, resolution and escalation support management on a 24x7x365 basis. Customer has the right and is encouraged to call concerning any problems that may arise relative to its connection with Vendor provided services.
- Trouble Reporting and Response: Upon interruption, degradation or loss of service, Customer may contact Vendor by defined method with a response based on trouble level. Upon contact from the Customer, the Vendor support team will initiate an immediate response to resolve any Customer issue. Customer will receive rapid feedback on trouble resolution, including potential resolution time.
- Escalation: In the event that service has not been restored in a timely manner, or the Customer does not feel that adequate attention has been allocated, the Customer can escalate the trouble resolution by request. A list of escalation contacts will be provided when implementation schedule is completed.
- Resolution: The Customer will be notified immediately once the problem is resolved and will be asked for verbal closure of the incident.
- Trouble Reporting, Escalation and Resolution: A detail trouble reporting, escalation and resolution plan will be provided to the district.
- Measurement: Vendor stated commitment is to respond to any outage within two (2) hours and a four (4) hour restoration of service. Time starts from the time the Customer contacts Vendor and identifies the problem. Credits for Outages of shortage will be identified.
- Reports: Upon request, an incident report will be made available to the Customer within five (5) working days of resolution of the trouble.
- Link Performance per segment: The service will maintain the proposed Link Performance throughout the term of the contract.

### **Timeline**

For each response, respondents must include a construction roadmap timeline for connection to each School. Preference is given to responses with a service start date of July 1, 2020.

### **Demarcation**

All solutions must terminate service or infrastructure to an existing network closet inside of the designated demarc address specified in the "Addresses" worksheet of the included spreadsheet. Solutions bringing service to the property line but not inside of the demarc address are not acceptable.

Respondent must specify your expected demarc setup included in base fees, e.g. fiber shelf with set-top box CPE and Cat6a handoff.

### **Network Diagram**

For each response, respondents must include a network diagram displaying the paths to be used to serve each endpoint. For self-provisioned fiber responses, respondents must include identification of aerial vs. buried fiber segments, detailed drawings showing fiber and equipment locations, and any other pertinent details.

### **References**

For each response, respondent must provide three (3) references from current or recent customers with projects equivalent to the size of the Gallup McKinley County Schools.

### **Connect America Fund Consideration**

For each school site, the respondent must note whether the address is included in a region where the respondent has already received (or is pending receipt of) funding via the Connect America Fund. In these cases, mention how the NRC or special construction charges have been adjusted considering the other source of funding.

### **Special Construction and Non-recurring Cost**

Respondents providing lit fiber proposals which require an upfront payment may include a special construction cost or non-recurring cost. This upfront payment is considered **special construction** if any new fiber is being installed. If new fiber installation is not necessary, the payment is considered a **non-recurring cost** and must be entered into the pricing sheet accordingly.

New fiber special construction charges for lit service, as defined by the order, include construction, design, engineering and project management. The applicant requests that the respondents consider allowing Gallup McKinley County Schools to pay the non-discount share (share of special construction costs that are the responsibility of the applicant) to be paid in equal annual installments over the four years from Funding Year 2016 to Funding Year 2019 inclusive. Responses must include agreement or non-agreement of this request.

### **Required Notice to Proceed and Funding Availability**

Gallup McKinley County Schools will follow the purchasing policies of the GMCS Board and requirements and procedures of the FCC's E-Rate program as administered by the Universal Service Administrative Company to be eligible for all available funding. The implementation of any associated contracts resulting from this competitive bid process will be dependent on the district's issuance of a written Notice to Proceed. E-Rate funding notification alone will not signify Notice to Proceed. The district will have the right to allow the contract to expire without implementation if appropriate funding does not come available.

**All responding vendors must be a registered vendor with USAC and have a USAC issued Service Provider Identification Number-SPIN. Responding vendors who do not have a USAC issue SPIN must demonstrate reasonable efforts to obtain a SPIN before the service start date.**

### **E-rate Modernization Order Note**

Special construction and service eligibility for reimbursement have changed starting funding year 2016. See the Federal Communications Commission E-rate modernization order 2 (WC Docket No. 13-184) (<https://www.fcc.gov/document/fcc-releases-order-modernizing-e-rate-21st-century-connectivity>) for more information.

### EXISTING VOICE/DATA NETWORK

GMCS currently utilizes two service providers to provide WAN connections to all instructional and non-instructional facilities. Sacred Wind Communications provides the fiber backbone of the WAN connecting 21 sites in Gallup, NM at 1Gbps. One school has a 400MBPS connection, and three sites south of Gallup also have 1Gbps connection provided by Sacred Wind. Eleven sites north of Gallup are connected at 100Mbps through Frontier Communications, Sacred Wind also provides the current link between the Frontier Schools and the GMCS hub.

All schools/sites' geographical layouts are expected to remain relatively static. The awarded Vendor will be responsible for the conduit routing of all required fiber optic cable into each school/site.

All schools/sites are equipped with a CISCO Layer Three switch in the MDF that includes either a CISCO 3750 or a CISCO 6509 or equivalent equipment.. All IDFs are backbone connected to the MDF via home run single mode fiber with 10gb optics. The preferred handoff from the service provider is single mode fiber.

### INSURANCE REQUIREMENTS

The successful Vendor shall show proof of insurance coverage and amount. Minimum insurance required general and automobile liability, is \$2,000,000.00, (District shall be listed/named as additional insured). Evidence of Workers' Compensation coverage is also required from the successful Vendor.

### ADDITIONAL PRODUCTS OR SERVICES

The District reserves the right to add related products or services to the contract at any time during the contract period. The District will contact the successful Vendor for prices prior to adding any products or services and may, at the District's sole option, accept the quoted prices or purchase elsewhere those products or services concerned.

### PROPOSAL INFORMATION AND EVALUATION PROCESS

Each proposal must be submitted using this document and certification by an appropriate official of the Offeror's firm, must be complete and fully executed when submitted. **If the proposal is not properly signed, it will be considered non-responsive.**

GMCS reserves the right to cancel the entire solicitation or increase, decrease or eliminate any item of the submitted proposal prior to the award or the issuing of purchase orders to the Vendor. The District also reserves the right to reject any, any part of, or all proposals for any reason whatsoever, or to waive any irregularities or informalities in the proposals. Evaluation of Proposals will be determined by the evaluation criteria listed in order of importance below by appropriate officials of GMCS in accordance with the laws, codes, and policies that govern Public School Procurement in Arizona. The evaluation criteria will be as stated below based on **100 total possible points**:

1. Total E-Rate Eligible Cost: The District's primary objective is to secure maximum bandwidth at a minimal cost. Proposal must include any initial (one-time) costs and monthly costs defined by each year for the full contract period, as well as any proposed renewal option. **(35 points)**

2. Total E-Rate Ineligible Cost: The District's primary objective is to secure maximum bandwidth at a minimal cost. Proposal must include any initial (one-time) ineligible costs and monthly ineligible costs defined by each year for the full contract period, as well as any proposed renewal option. **(10 points)**
3. Proposed Solution: Proposal must provide detailed documentation of the scalability of the proposed solution. Specific drawings must be provided for each link used in the proposed solution. Details must be given on the timeframe necessary to upgrade connections if greater bandwidth is desired by the District, whether it is for one or all sites covered in the awarded contract. For lit services, the associated price increases for such upgrade must be detailed; for managed services proposals, Respondents must detail the timeframes and confirm that no additional costs are incurred to increase bandwidth UNLESS such increase necessitates equipment upgrade or replacement. Detailed documentation must be provided on how the Vendor will manage the addition of new schools or other District facilities to the service contract. Details must also be given on how the Vendor will aid the District in making these changes in accordance with E-Rate rules. **(20 points)**
4. Service Level Agreement: Provide a specific Service Level Agreement (SLA) stating the Mean Time Between Failures (MTBF) of the proposed network services. The SLA must include express warranties of guaranteed uptime of the network services to be delivered and response times in the event of any network issue experienced by the school/site. Provide specific information on the monitoring of the services and the time(s) of day the services will be monitored. Vendor must include specific remedies for the school/site in the event the SLA is not upheld during the term of the contract by the service provider. Any exceptions to the District's contract terms must be included in the SLA for review by the District's Legal Department. **(15 points)**
5. Vendor Summary and Responsiveness of Proposal: Vendor must include a list of all projects for school districts within the last 36 months similar in scope of services for this RFP to include but not limited to Client name and contact information, summary of project, timeline and completion date of project, issues/challenges/highlights of project, and any other pertinent information deemed appropriate for this RFP. Vendor must complete all required forms, provide requested information, and provide an electronic copy of proposal. **(15 points)**
6. E-Rate Clauses: Provide documentation on the position of the Vendor if E-Rate funding were to no longer exist from the Schools and Libraries Program of the Universal Service Fund. Vendor must provide documentation indicating their knowledge of and ability to work within the E-Rate environment to maximize funding opportunities and ensure the earliest project completion. Documentation must be provided on how the Vendor prefers to deal with E-Rate Forms 771k 472 and 486. **(5 points)**

The Evaluation Team will evaluate each proposal individually based on the above listed criteria. The Evaluation Team will then come to a consensus score for each criterion above for each responsive proposal received. Then, in accordance with E-Rate rules, a determination will be made regarding the most cost effective lit fiber solution. A recommendation for award of contract will then be forwarded to the Governing Board.

**GALLUP McKinley COUNTY SCHOOLS  
CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

**“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 of 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.

**GALLUP-McKINLEY COUNTY SCHOOL BOARD MEMBERS:**

Current Board Members

Charles Long President  
Michael W. Schaaf, Secretary  
Priscilla Manuelito, Member

Christopher Mortensen, Vice-President  
Kevin Mitchell, Member

Candidates:

Freda E. Joe  
Esther V. Macias

Brenda Chicharello  
Gerald Anthony O’Hara

Former Members

Dr. Bruce Tempest  
Lynn Huenemann  
Sandra D. Jeff

Titus J. Nez  
Joseph Menini



**GALLUP-McKINLEY COUNTY SCHOOLS  
CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

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)

**(THIS FORM SHALL BE COMPLETED AND RETURNED WITH PROPOSAL)**

**GALLUP-McKINLEY COUNTY SCHOOLS  
P.O. BOX 1318  
GALLUP, NM 87305-1318  
(505) 721-1000**

The undersigned certifies that they have read and understands the above general conditions and proposal documents, and that they accept these conditions and submit the attached proposal in full compliance with these conditions, the applicable scope of work, and the contract. I agree that my proposal will remain firm for the period of up to 60 days in order to allow the District adequate time to evaluate the qualifications submitted. Further the undersigned certifies that they are duly authorized to sign, bind, and bid on behalf of the bidding firm.

In submitting this Proposal, the undersigned represents that they have familiarized themselves with the nature and extent of the Request for Proposals dealing with Federal, State and Local requirements which are a part of this solicitation. Further this proposal is made without prior understanding, agreement, connection discussion or collusion with any other person, firm or corporation submitting a proposal for the same product or service. The Offeror will comply with all applicable Federal and State Laws, Local Ordinances and the Rules and Regulations of all Authorities having jurisdiction over this solicitation.

The Offeror further warrants that they are not currently debarred or suspended by any governmental entity, that is presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required un the Agreement. The Offeror certifies that the requirements of the Governmental Conduct Act, §10-16-1 through §10-16-18, NMSA 1978 as amended, regarding Contracting with a public offer or District employee or former District employee have been followed.

_____ Name of Firm	_____ Authorized Signature
_____ Electronic Mail	_____ Name Printed or Typed
_____ Address	_____ Title
_____ Phone	_____ Date
_____ Fax	

**(THIS FORM SHALL BE COMPLETED AND RETURNED WITH PROPOSAL)**

**ATTACHMENT– Sample Contract**

**Gallup McKinley County Schools  
Professional Services Contract # \_\_\_\_\_**

THIS AGREEMENT is made and entered into by and between the \_\_\_\_\_, hereinafter referred to as the "**DISTRICT**," and **NAME OF CONTRACTOR**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below.

IT IS AGREED BETWEEN THE PARTIES:

That the intent and purpose that this Agreement (inclusive of all associated pricing and services) is to established a Price Agreement for \_\_\_\_\_ Services for \_\_\_\_\_ projects on an as-needed basis, for use by, and benefit of E-rate eligible educational entities and libraries of the State of New Mexico (*herein-after referred to as Owner or Owners*).

Attachment i Volume II-Cost Proposal (Price Agreement) submitted with the Contractor’s proposal is attached to this Contract/Pricing Agreement and is incorporating herein and made a part of this Contract/Pricing Agreement by way of this reference.

This \_\_\_\_\_ Pricing Agreements is for FIVE (5) years.

For individual or multiple projects meeting the type and scope of work contained in this Agreement and RFP - 359 – 19MA, the Contractor will be engaged by the Owners via the issuance of a Request for Proposal with a Statement of Work to the Contractors awarded the specific geographical Region/Location named herein-below.

Services under this Agreement will be performed (AT) (WITHIN) (LOCATION)

**1.0 Scope of Work.**

The Contractor shall perform the services as outlined in this Agreement and in accordance with the Terms, Conditions, Requirements, Specifications, Standard, and Services stated in RFP No: \_\_\_\_\_, \_\_\_\_\_ and such other services necessary for or incidental to the performance of this Agreement.

Upon the receipt of a Request for Proposal and the Statement of Work from an Owner the Contractor shall prepare a **Not-To- Exceed Cost Proposal**, for \_\_\_\_\_ services, that includes the

resume of the proposed \_\_\_\_\_, for each specific project in accordance with the terms of this Agreement, the RFP and prevailing statutes and regulations.

Each separate proposal shall be provided to the Owner and PSFA, and shall form the basis of a **Purchase Order** to be issued for the project. The services quoted on each project shall 1) be recommended in detail by the Contractor to the Owner, 2) shall indicate: a) the laborer(s) class for each types of work being performed, b) the salary/wage range, c) the number of hours for the position(s), d) the type of equipment/materials and e) the projected total cost. A submitted proposal may be modified prior to final approval and issuance of the **Purchase Order**. These services may include additional related items required for the project or as requested by the Owner and the PSFA.

The Proposals for each individual projects shall be valid for a minimum period of 90 days from the date the Proposal is Due.

*It is understood that proposals may be prepared well in advance of the actual work commencing. Prior to the start of the observation work, the Contractor may request a change in the assigned staff due to an unforeseen lapse in time, where the proposed staff may have been assigned to a project starting sooner. If, through the contracted period, the a staff member needs to be replaced due to vacations, illnesses or other unforeseen circumstances, the Contractor shall advise the Owners and obtain approval for the replacement.*

The Contractor shall provide all applicable and appropriate Certificates of Insurance for the Project before the commencement of the work.

The Contractor's principal shall possess at least 2 years of hands-on experience in the technical area being serviced. The work to be provided by the consultant includes the following:

A. The Contractor shall perform the following work:

B. Extension Of or Additional Services

Any services exceeding the scope of work and cost of the approved initial **Purchase Order**, shall be mutually agreed-to in advance by the Owner and the Contractor, and shall be authorized by the Owner through an approved **Amendment to the Proposal** prior to the Contractor proceeding with any additional work. Amendments to the Proposal may form the basis of an additional **Purchase Order** to cover additional services, or in an amendment to the existing purchase order, depending on circumstances and approval by the Owner. It is the Contractor's responsibility to inform the Owner in advance and in a timely manner when it is anticipated that the proposal for services will require modifications due to changes in the work. The Owner is not responsible for work performed without the proper documentation and an approved amended purchase document.

**C. Investigation of Site and Project Conditions**

Contractor represents that, prior to submittal of a proposal for any project, it will take steps reasonably necessary to ascertain the nature and location of the Work and that it will investigate and satisfy itself as to the general and local conditions which can affect the Work or its cost. In the event that an Owner furnishes the Contractor with any information about such matters, Contractor acknowledges that any reliance on the information will be at its own risk and that the Owner does not warrant the correctness or accuracy of the information. Contractor represents that it will examine all Contract/Agreement Documents and familiarized itself with the Project, the laws, rules, and regulations relating to the Project; the environmental considerations affecting the Project and the Work; and the character of equipment and facilities needed preliminary to and during Work performance.

No allowance will be made to Contractor for not having made such examination and review, or for requirements which a reasonable examination, inquiry, or review would have disclosed. Except to the extent equitable adjustments may be made for differing site conditions if: (1) the contractor did not know, or could not have known about the actual condition found at the site; (2) the contractor could not reasonably have anticipated the actual condition at the site from inspection or general experience; (3) the actual condition varied from the norm in similar contracting work; (4) the contract indicated the conditions that the contractor could expect to find at the site; (5) the conditions indicated in the contract differed materially from the actual conditions; (6) the actual conditions were reasonably unforeseeable based upon all the information available to the contractor at the time of bidding; (7) the contractor acted as a reasonably prudent contractor in interpreting the contract documents; and (8) the contractor incurred additional costs as a result of the difference between the expected conditions and the actual conditions. Contractor will complete the work for the compensation stated in this Contract/Agreement and assume complete responsibility for the conditions (including subsurface or otherwise latent conditions) existing at the site and its surroundings.

Contractor's obligation hereunder may include but not be limited to the location of all utilities that may affect or interfere with Contractor's Work. Contractor shall obtain all utility locates for all areas of its work and shall fully protect, and as necessary or required, maintain in operation all utilities at all times.

**D. Performance Measures.**

RESERVED

**2. Compensation.**

A. The Owner shall pay to the Contractor in full payment for services satisfactorily performed at the rates reflected in the Contractor’s Final Cost Proposal attached to this Contract. as well as the actual hours, travel, per diem, transportation, and reimbursable expenses expended towards a not-to-exceed proposal and purchase order issued on a project **The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the District when the services provided under a purchase order reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without the purchase order being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties for each project, pursuant to Paragraph 1.0, Scope of Work, and to approval by the Owner/PSFA. All invoices MUST BE received by the District no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.)

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

**3. Term.**

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

Contractors under this Contract are awarded a twelve (12) month Term. The district reserves the right to extend the terms and conditions of this contract for an additional four (4) years in one (1) year increments based on the performance and services rendered under the original agreement.

The “Primary” provider shall be the principal provider of all services associated with the assigned/specified Region(s); however, if the “Primary” is released from its obligations by the District for any reason (prior to the expiration of its tenure), the “Secondary” shall complete the contractual term as outlined in its proposal. In the event the “Secondary” is released from, or is unable to fulfill

the contractual obligations, an “Alternate” shall be selected to complete the term as outlined in its proposal.

The District reserves the right to review Contractor’s performance at any time as it relates to reliability, service, delivery, or invoice discrepancies and possibly elevate the “Secondary” or “Alternate” vendor to the “Primary” position if deemed in the best interest of the District. In the event PSFA is compelled to replace the “Primary” provider with the “Secondary” or “Alternate” due to default on the part of the “Primary”, the District shall have the absolute right to deduct from any monies due the vendor or that may thereafter become due to the contact, the difference between the amount due and the actual cost of services to be replaced or substituted.

Failure by a consultant to provide or perform the services as specified in the Agreement may result in the Contractor being prohibited from doing business with the District for a period up to two years.

**4. Termination/Suspension.**

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

B. Termination Management. Immediately upon receipt by either the District or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the District; 2) comply with all directives issued by the District in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the District shall direct for the protection, preservation, retention or transfer of all property titled to the District and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the District upon termination and shall be submitted to the District as soon as practicable.

C. **Agreement Suspension.** Contractor is required to respond to all RFPs' issued by an Owner under this Agreement. Contractor shall, at minimum, either: 1) Submit a written proposal in accordance with the requirements contained in the RFP; or 2) Provide written notice (Notice of Declination) stating reasonable, realistic, and verifiable basis for its inability to participate in a RFP process.

Failure of a Contractor to submit a proposal, or submit a written notice (Notice of Declination) stating reasonable, realistic, and verifiable basis for its inability to submit a proposal on three (3) occasions during any twelve month period of performance under this agreement shall be considered a material breach of this Agreement and shall entitle the District to suspend or terminate Contractor's participation in this Agreement. (*Reference: Sections 13-1-177 and 13-1-178 NMSA 1978*) The following are examples of Notice of Declination basis:

1. Current workload inhibits the Contractor's ability to ensure appropriate manpower for the required services within the specified period of performance.
2. Contractor is currently working as a contractor/subcontractor at the location requesting the services.
3. Contractor is an affiliate of the contractor performing services at the requested location.

**5. Appropriations.**

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

**6. Status of Contractor.**

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

*Certification.* Contractor shall furnish to Owner(s), upon request, any certification required to be furnished by any provision of this Agreement or Order issued hereunder, including any clauses incorporated by reference herein, and any certificate required by this Agreement, any law, ordinance or regulation with respect to contractor's compliance with the terms and provisions of such law, ordinance, regulation, or this Agreement.



**7. Assignment.**

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

**8. Subcontracting.**

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

**9. Release.**

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

**10. Confidentiality.**

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

**11. Product of Service -- Copyright.**

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

**12. Conflict of Interest; Governmental Conduct Act.**

Contractor represents that its execution and performance of this Agreement does not conflict with or breach any contractual, fiduciary or other duty or obligation to which contractor is bound. Contractor further represents that it will not accept work during the term of this Agreement or any and all Orders issued hereunder which would create an Organizational Conflict of Interest (“OCI”), contractor agrees that it shall not perform any work outside this Agreement, or any Order issued hereunder, that would create to a reasonable business person the appearance of an OCI.

Contractor shall immediately provide notice to PSFA in the event that it discovers any potential, actual or apparent personal or organizational conflict of interest related to or arising out of this Agreement (or any and all Orders issued hereunder). Failure to immediately disclose and adequately avoid or mitigate any OCI shall be considered a material breach of this Agreement and shall entitle PSFA to immediately terminate part or all of this Agreement (or part or all of any and all Orders issued hereunder) for default.

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed. OCI Attachment 2014 is attached to this Contract and is incorporated herein, and is applicable to the RFP and any resulting Agreement/Contract, to the same extent as if it has been set out verbatim in this Article 12.

**13. Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

**14. Merger.**

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

**15. Penalties for violation of law.**

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

**16. Equal Opportunity Compliance.**

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

**17. Governing Law and Venue.**

The laws of the State of New Mexico (without giving effect to its conflict of laws principles) govern all matters arising under this agreement, including all tort claims. The location for any arbitration or venue for any lawsuit arising out of this Agreement or the Work hereunder shall be Albuquerque, New Mexico or, at PFSA's sole discretion, the location of the Project and all proceedings shall be strictly in accordance with the laws of the State of New Mexico. (*Reference: Section 38-3-1 (G) NMSA 1978*)

**18. Workers Compensation.**

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

**19. Records and Financial Audit.**

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

**20. Indemnification.**

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

**21. New Mexico Employees Health Coverage.**

A. If Contractor has, or grows to, seven (7) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a seven (7) month period during the term of the contract, Contractor certifies, by signing this agreement, to:

(1) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

(2) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the

expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or;

(3) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

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

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

<http://www.hsd.state.nm.us/LookingForAssistance/centennial-care-overview.aspx>.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the Contractor reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000, depending on the dollar value threshold in effect at that time.

**22. Invalid Term or Condition.**

If any provision of this Agreement is unenforceable to any extent, the remainder of this subcontract, or any application of that provision to any persons or circumstances other than those as to which it is held unenforceable, will not be affected by that unenforceability and will be enforceable to the fullest extent permitted by law.

**23. Enforcement of Agreement.**

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

**24. Notices.**

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

To the District: [insert name, address and email].

To the Contractor: [insert name, address and email].

**25. Authority.**

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

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year last executed by either party hereto as indicated below.**

By: \_\_\_\_\_  
District

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Contractor

Dated: \_\_\_\_\_

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

NM CRS Number: \_\_\_\_\_