

STATE OF NEW MEXICO



New Mexico
Secretary of State

SYSTEMS FOR TABULATING BALLOTS and ANCILLARY EQUIPMENT

RFP# 30-370-13-00011

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The New Mexico Secretary of State's office is seeking proposals from qualified Offerors to establish a Price Agreement for certified Voting Systems used to count votes and Ancillary Equipment including but limited to systems designed to meet American with Disability Act ("ADA") and Help Americans Vote Act ("HAVA") requirements for accessible voting.

A qualified Offeror is an Offeror who has submitted an application for certification of its Voting System to the New Mexico Secretary of State.

B. VISION

The Secretary of State's office envisions being able to upgrade and replace existing ballot tabulators and AutoMark ballot marking devices for disabled voters.

C. SUMMARY SCOPE OF WORK

The selected Offeror will provide to the Agency systems for tabulating ballots and/or ADA compliant ballot marking devices. The selected Offeror shall also provide the related software to manage the systems as well as maintenance, training, ballot programming and support for the systems. The systems will be deployed and maintained at 33 county locations throughout the State of New Mexico. The New Mexico Legislature has authorized an initial expenditure for \$6,000,000.00 for this program.

D. SCOPE OF PROCUREMENT

This Request For Proposals (RFP) competitive solicitation shall result in a single source award to one Contractor whose proposal may include one or more subcontractors. Subcontractors may be proposed by multiple Offerors. Payments shall be made to only the Contractor. The Contractor shall be responsible for all contractual performance.

The Agency shall procure Voting Systems and Ancillary Equipment, software, maintenance, training, software upgrades, related professional services that may be required for the deployment, programming, maintenance or operation of the Equipment.

The Contract shall begin on October 1, 2013 or as soon as possible thereafter for a term of three years. The Contract may be extended or renewed based upon mutual agreement of the parties for five (5) additional one-year terms or a portion thereof for the purpose of purchasing additional equipment or services. In accordance with Section 13-1-150 NMSA 1978; the Contract, including all renewals thereof, shall not exceed a total of eight (8) years in duration.

E. PROCUREMENT MANAGEMENT

The Agency has designated Procurement Co-Managers who are responsible for the conduct of this procurement. Questions about this solicitation shall be addressed to either as follows:

Rod Adair
Procurement Co-Manager
Office of the Secretary of State
325 Don Gaspar, Suite 300
Santa Fe, New Mexico 87501
Telephone: (505)827-3613
Fax Number: (505) 827-8081
E-mail: Rod.Adair@state.nm.us

Terry Davenport
Procurement Co-Manager
Office of the Secretary of State
325 Don Gaspar, Suite 300
Santa Fe, New Mexico 87501
Telephone: (505) 470-1428
Fax Number: (505)827-8081
Email: terry.davenport3@state.nm.us

Any inquiries or requests regarding this procurement should be submitted to the Procurement Co-Manager(s) in writing. Offerors may contact ONLY the Procurement Co-Managers. Other state employees and contractors do not have the authority to respond on behalf of the Agency.

F. DEFINITION OF TERMINOLOGY

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

“**Agency**” or “**Procuring Agency**” means the New Mexico Office of Secretary of State.

“**Absentee Ballot**” means a ballot cast by a voter pursuant to the Absent Voter Act, but does not include a ballot cast by an early voter.

“**Ancillary Equipment**” means Equipment that may or may not be an integral part of a Voting System but that can be used as an adjunct to it is considered to a component of the system. Voting System accessories or peripherals are Ancillary Equipment, including any type of system that is designed to print or mark ballots at a polling location. Replacement parts are included.

“**AutoMark**” is a ballot-marking system designed to provide autonomy to voters who are blind, visually impaired, or have a disability or condition which makes it difficult to traditionally mark a ballot.

“**Ballot**” means a system for arranging and designating for the voter the names of candidates, constitutional amendments and other questions to be voted on and for the marking, casting, or otherwise recording of such votes, and the term includes absentee ballots, provisional paper ballots and all other paper ballots.

“Close of Business” means 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“Contract” means any agreement for the procurement of items of tangible personal property, services or construction derived from an RFP. For this RFP the term “Contract” shall mean “Price Agreement”.

“Contract Manager” means the individual selected by the Agency to monitor and manage all aspects of the contract resulting from this RFP.

“Contractor” means the successful offeror who is awarded a Price Agreement resulting from the RFP.

“Core Team Personnel” means the staff provided by a Contractor or a Subcontractor. Core Team Personnel will include at a minimum a Senior Project Manager, a Customer Service Manager, a Trainer and a Technical Manager and the Offeror’s company executive with the responsibility for the overall performance of the Contract. Core Team Personnel may appear on-site at the Office of the Secretary of State and at the office of the county clerks.

“Deliverable” means any measurable, tangible, verifiable outcome, result, or item that must be produced to complete a Purchase Order or part of a Purchase Order.

“Department of Information Technology” or **“DoIT”** means the New Mexico Department of Information Technology which is responsible for operating the data center and all communications related services for the State of New Mexico. DoIT has the responsibility to review all Solicitations involving any form of information technology for technical sufficiency.

“Desirable “D” or Highly Desirable “HD”—The terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or highly desirable discretionary item or factor (as opposed to “mandatory”). Highly desirable specifications will receive greater consideration during the evaluation of proposals than desirable specifications

“Determination” means the written documentation of a decision of a procurement manager including findings of fact supporting a decision. A determination becomes part of the procurement file to which it pertains.

“DFA” means the Department of Finance and Administration for the State of New Mexico.

“Demonstration” means showing the Evaluation Committee how the proposed tabulating equipment operates and meets the requirements for this RFP using materials and/or data provided by the Finalist Offeror

"Documentation" refers to training materials, manuals, handbooks, maintenance libraries, and other publications listed in the EPS or supplied with software or products listed in the EPS or supplied in connection with services.

"Early Voter" means a voter who votes in person before Election Day and not by mail.

"Employer" means any for-profit or not-for-profit business, regardless of location, that employs one or more persons that qualify as a "New Mexico Employee". Such definition does not include governmental entities.

"Equipment" means Voting Systems and Ancillary Equipment listed in the Contractor's EPS.

"Equipment, Product and Services Schedule or "EPS" refers to a complete list, grouped by major product categories, of the hardware, software, services, media and documentation offered by the contractor and filed with the Agency. The EPS contains, at a minimum, the item number, item description and the maximum price or Hourly Rate for each item of Equipment, Product or Service.

"Evaluation Committee" means a body appointed by the Agency management to perform the evaluation of offeror proposals.

"Evaluation Committee Report" means a report prepared by the Procurement Co-Manager(s) and the Evaluation Committee for submission to the Agency management, DoIT and the State Purchasing Agent for approval for Contract award that contains all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

"Finalist" is defined as an offeror who meets all the mandatory specifications of the Request for Proposal and whose score on evaluation factors is sufficiently high to qualify that offeror for further consideration by the Evaluation Committee.

"Hourly Rate" means the rate to be charged to the Agency for services rendered which includes any/all travel, per diem or any other expenses incurred for the performance of services at the Agency headquarters or at the office of a County Clerk or the location for the deployment of Equipment. The hourly rate does not include New Mexico Gross Receipts Tax.

"Interface" means the transmission of data that will allow for efficient and logical interaction with other applicable systems.

"Licensor" means the Contractor or Subcontractor who can grant a software usage license to the Agency.

“Master Deployment Plan” means a mutually agreeable plan for the purchase, deployment of equipment, software, training and related support for both the Agency and the county clerks.

“Mandatory” The terms “must,” “shall,” “will,” “is required,” identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the offeror’s proposal.

“Milestone” means a significant event in a project, usually the completion of a major Deliverable.

“New Mexico Employee” means any resident of the State of New Mexico, performing the majority of their work within the State of New Mexico, for any employer regardless of the location of the employer’s office or offices.

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

"Precinct Board" or "Poll Workers" means the appointed election officials serving in a single precinct, a consolidated precinct, an absent voter precinct or an alternate voting location.

"Price Agreement" means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property (Voting Systems and Products) or Services to the Agency which issues a Purchase Order in accordance with Section 13-1-71, NMSA 1978.

“Prime Contractor” means a Contractor who has full responsibility for coordinating, controlling and fulfilling of all aspects and requirements set forth in Purchase Order including equipment or services provided or performed by any Subcontractor(s). The Prime Contractor will be the sole point of contact with the Agency relative to Contract performance, shall be the signatory to the Contract, and is responsible for the overall performance of the Contract.

“Procurement Co-Manager” means the person or designee authorized by the Agency to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

“Procurement Distribution List” means a list for potential Offerors who have submitted “Acknowledgement of Receipt of Request for Proposals Form” found in Appendix A. The Procurement Distribution List will be used for the distribution of written responses to questions and any RFP amendments.

“Procurement Library” means a repository of documents and/or links to documents that contain information the Agency believes may be helpful for the Offeror for the preparation of a Responsive Proposal.

“Product” shall mean Software source or object code, ballot programming, system technical documentation, user documentation, training materials or other items of tangible personal property developed by or delivered by the Contractor to the Agency or County Clerk under the terms and conditions of the Contract.

“Professional Services” means the definition in Procurement Code Section 13-1-76 NMSA 1978 as further defined by the April 25, 2007 memorandum titled “Professional Services Determination” issued by the State Purchasing Agent. For this RFP Professional Services includes ballot programming required for the operation of the accepted Voting System(s).

“Program Manager” means and executive-level Agency employee who has the overall responsibility for planning, coordinating and managing the deployment and the operation of the Voting System(s) throughout the State of New Mexico.

“Provisional Ballot” means the paper ballots used pursuant to Sections 1-12-7.1, 1-12-8 or 1-12-25.2 NMSA 1978.

“Purchase Order” means the document issued by the Agency that directs the Contractor to deliver items of tangible personal property or services in accordance with 13-1-177 NMSA 1978. For this Agreement the purchase order shall include but not be limited to the name of the location where the Equipment and Products are to be deployed, the type and number of Equipment units and/or Products to be installed, the number of personnel to be trained, a detail task list to be performed, the cost of the Equipment, Products and Services plus the timeframe for the installation the names of the Core Team Personnel or support personnel who will be supporting the deployment plus the acceptance criteria. Purchase Orders may also be issued for the performance of preventative maintenance or calibration of the Equipment.

“Request for Proposals” or **“RFP”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Responsive Offer or Responsive Proposal” means an offer or proposal that conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

“Responsible Offeror” means an offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources production, or service facilities, personnel, service reputation, and experience are adequate to

make satisfactory delivery of the services or items of tangible personal property described in the proposal.

“Services” as defined by the April 25, 2007 memorandum titled “Professional Services Determination” issued by the State Purchasing Agent refers to “Equipment installation, preventative maintenance, inspection, calibration and repair” as well a training and educational services.

“SHARE” means the State of New Mexico’s PeopleSoft enterprise resource planning (ERP) system. SHARE combines the state’s accounting, human resource, payroll, and purchasing functions into an integrated statewide system. The Agency uses Share for its accounting system.

“Software” means the Voting System operating system software as well as software required for the transmission or reporting of voting data.

“State (the State)” means the State of New Mexico.

“State Purchasing Agent” or **“SPA”** means the purchasing agent for the State of New Mexico or a designated representative.

“Voter” means any qualified elector, federal qualified elector or overseas voter who is registered under the provisions of the Election Code.

“Voting Convenience Center” or **“VCC”** means a polling location in a consolidated precinct which has ballots available for any voter in the applicable county; has at least one optical scan tabulator programmed to read every ballot style in the applicable county; has at least one voting system available to assist disabled voters to cast and record their votes; has sufficient space for at least five voters to simultaneously and privately mark their ballots with at least one wheelchair accessible space; has a secure area for storage of preprinted ballots or for storage of paper ballot stock and a system designed to print ballots at a polling location; has a signature roster or an electronic equivalent approved by the voting machine certification committee; is in a location accessible and compliant with the federal Americans with Disabilities Act of 1990; is convenient and accessible to voters of the consolidated precinct, is centrally located and does not result in delays for voters in the voting process.

“Voting System” means a combination of mechanical, electromechanical, or electronic equipment, including software and firmware required to program and control the equipment, that is used to cast and count votes, and also including any type of system that is designed to print or mark ballots at a polling location. For the purpose of this RFP voting tabulators, tabulator software and firmware, ADA certified ballot marking devices and Ancillary Equipment is included.

“Voting Systems Certification Committee” means the committee appointed pursuant to Section 1-9-7.5 NMSA 1978 to review written test reports and findings of the secretary of

state on the certification, recertification, and decertification of Voting Systems in the State of New Mexico.

“Work Products” means the documented results of the Scope of Work activities developed and reviewed per the requirements stated within a Purchase Order. One or more work products collectively form a deliverable. Work products may include but not be limited to presentation materials, training presentations and/or related training materials, ballot programming, system testing materials, system operating instructions and any other directly related documents.

G. BACKGROUND INFORMATION

The Secretary of State's office, through its Bureau of Elections, is charged with efficient administration and conduct of elections in the State of New Mexico. The Bureau of Elections supervises all elections covered by the New Mexico Election Code.

The New Mexico Election Code requires the Secretary of State's office to provide to the county clerk of each county a "sufficient number of voting systems as required by the Election Code for the conduct of primary and general elections." (NMSA 1978, § 1-9-7). The Voting Systems which are the subject of this request are those systems that are a "combination of mechanical, electromechanical or electronic equipment, including software and firmware required to program and control the equipment that is used to cast and count votes." (NMSA 1978, § 1-9-1). The voting systems include "equipment that is not an integral part of the system but that can be used as an adjunct to it." (id)

It is the goal of the Secretary of State's office to receive proposals for Voting Systems designed to tabulate ballots and record votes in order to replace the current Election Systems & Software Model 100 and Model 650 tabulators, and related software and firmware that current Model 100 and Model 650 tabulators, and related software and firmware that were purchased in 2006. The existing tabulators and their firmware and software component systems are considered "legacy" systems which are being phased out by the vendor. New systems purchased pursuant to this RFP will be expected to meet high standards for accuracy and reliability of data, and security and production of election results.

H. PROCUREMENT LIBRARY

The Procurement Manager has established a Procurement Library. The library contains information listed below:

1. <http://www.generalservices.state.nm.us/spd/pregulations.html>
Procurement Code Regulations, 14.1 NMAC.
2. <http://www.sos.state.nm.us/>
New Mexico Secretary of State

3. <http://www.nmonesource.com/NMPublic/gateway.dll/?f=templates&fn=default.htm>
New Mexico Election Code, Article 9, Voting Machines, Sections 1-9-7.7, 1-9-7.8, 1-9-7.9, 1-9-7.10 and 1-9-7.11.
4. <http://www.nmcounties.org/nmcounties.html>
New Mexico County Seats

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and the Conditions Governing the Procurement.

A. SEQUENCE OF EVENTS

The Procurement Co-Managers will make every effort to adhere to the following schedule:

	<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1.	Issuance of the RFP	Agency/ Purchasing Division	06/14/13
2.	Pre-Proposal Conference	Agency/ Potential Offerors	06/21/13
3.	Distribution List Response	Potential Offerors	06/21/13
4.	Post Presentation/Demonstration Agenda on Agency Web Page	Agency	06/21/13
5.	Deadline To Submit Additional Written Questions	Potential Offerors	06/25/13
6.	Response to Written Questions/RFP Amendments	Agency	07/02/13
7.	Submission of Proposal	Offerors	07/30/13
8.	Proposal Evaluation	Evaluation Committee	07/31/13 – 08/09/13
9.	Selection and Notification of Finalists	Agency	08/13/13
10.	Best and Final Offers from Finalists	Offerors	08/20/13
11.	Proposal Presentation and Demonstrations by Finalists	Offerors	08/21/13 – 08/22/13
12.	Optional Site Visit	Agency	08/27/13
13.	Finalize Contract	Agency/ Offeror	08/28/13 – 08/29/13
14.	Contract Award	State Purchasing Agent	09/13/13
15.	Protest Deadline	Offerors	Fifteen days after award
16.	Contract Initiation	Agency/Contractor	10/01/13

B. EXPLANATION OF EVENTS

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

1. Issuance of the RFP

This RFP is being issued on the date indicated in the Sequence of Events by the Agency and the Purchasing Division of the General Services Department. The RFP and amendments, if any, plus the answers to questions may be downloaded from the following Agency web site.

http://www.sos.state.nm.us/Voter_Tabulators.aspx

In addition, the RFP and amendments, if any, may be downloaded from the following Purchasing Division web site for potential Offerors under the tab “Active Bids and Proposals”.

<http://www.generalservices.state.nm.us/statepurchasing/>

2. Pre-Proposal Conference

A pre-proposal conference will be held on the date indicated in the Sequence of Events beginning at 1:00 PM Mountain Daylight Time at the following location:

Room Number: 305
State Capitol
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

Potential Offerors are encouraged to submit written questions in advance of the conference to Terry Davenport, Procurement Co-Manager, (See Section I, Paragraph (E) via email. The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All non- legal written questions will be unofficially addressed at the conference. The answers to such questions are not official until they are distributed in writing to the potential Offerors named on the Procurement Distribution List.

A public log will be kept of the names of potential Offerors that attended the pre-proposal conference. Copies of this log may be obtained from the Procurement Co-Manager, after the conclusion of the conference.

Attendance at the pre-proposal conference is **not** a prerequisite for submission of a proposal. However, attendance at the conference is highly recommended.

3. Distribution List Response

Potential Offerors should hand deliver or return by facsimile or by registered or certified mail the “Acknowledgement of Receipt of Request for Proposals Form” that

accompanies this document (See Appendix A) to have their organization placed on the Procurement Distribution List. The form should be signed by an authorized representative of the organization, dated, and returned to the Procurement Co-Manager by Close Of Business on the date indicated in the Sequence of Events.

The Procurement Distribution List will be used for the distribution of written responses to questions and any RFP amendments.

Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror's organization name shall not appear on the distribution list.

4. Post Presentation/Demonstration Agenda

To ensure that Finalist Offerors have an equal opportunity for adequate preparation, the Proposal Presentation/Demonstration agenda will be posted on the Agency's web site http://www.sos.state.nm.us/Voter_Tabulators.aspx on June 21, 2013. Potential Offerors may download the documents in preparation for their potential selection as a Finalist Offeror. The demonstration agenda identifies the functions to be performed during the demonstration. This material will be the foundation for the evaluation of the demonstration phase of this procurement. The Evaluation Committee may, at its option, request that a Finalist Offeror demonstrate any function, product, or system capability included in the Offeror's proposal. Offerors are encouraged to provide data or documents that may be required to demonstrate proposed Equipment or Software functions.

5. Deadline to Submit Additional Written Questions

Potential Offerors may submit additional written questions as to the intent or clarity of this RFP until close of business on the date indicated in the Sequence of Events. All written questions shall be delivered to Terry Davenport, Procurement Co-Manager, (see Section I, Paragraph E) via email with the questions contained in an attached MS Word 2007 or 2010 document.

6. Response to Written Questions/RFP Amendments

Written responses to written questions and any RFP amendments will be distributed on or before the date indicated in the Sequence of Events or as soon as possible to all potential Offerors whose organization name appears on the procurement distribution list. An Acknowledgement of Receipt Form will accompany the distribution package. The form should be signed by the Offeror's representative, dated, and hand-delivered or returned by facsimile or by registered or certified mail by the date indicated thereon. Failure to return this form shall constitute a presumption of receipt and withdrawal from the procurement process. Therefore, the Offeror's organization name shall be deleted from

the procurement distribution list. The questions and answers will also be published on the same web page containing the RFP and amendments.

All of the submitted legal recommended changes and/or questions may or may not be answered by the date in the schedule.

Additional written requests for clarification of distributed answers and/or amendments must be received by the Procurement Co-Managers via email no later than seven (7) days after the answers and/or amendments were issued.

7. Submission of Proposals

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION NO LATER THAN 2:00 PM MOUNTAIN TIME ON THE DATE INDICATED IN THE SEQUENCE OF EVENTS. Proposals received after this deadline will not be accepted. The date and time will be recorded on each proposal. Proposals must be addressed and delivered to the following address:

Terry Davenport
Procurement Co-Manager
**SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY EQUIPMENT
RFP#30-370-13-00011**
State Purchasing Division, General Services Department
Joseph M. Montoya State Office Building, Room 2016
1100 St. Francis Drive
Southwest Corner of St. Francis Drive and Cordova Road
Santa Fe, New Mexico 87505

Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the “**SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY EQUIPMENT RFP#30-370-13-00011**”.

Proposals submitted by electronic means or facsimile will not be accepted. The Purchasing Division is located at the southwest corner of the intersection of Cordova Road and St. Francis Drive in Santa Fe, New Mexico.

A public log will be kept of the names of all Offeror organizations that submit proposals. Pursuant to NMSA 1978 §13-1-116, the contents of any proposal shall not be disclosed to competing Offerors prior to contract award.

8. Proposal Evaluation

The evaluation of proposals will be performed by an evaluation committee appointed by Agency management. The evaluation process will take place during the dates indicated

in the Sequence of Events. During this time a Procurement Co-Manager may, at his option, initiate discussion with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

9. Selection and Notification of Finalists

The Evaluation Committee, with Agency management approval, will select and the Procurement Co-Manager will notify the finalist Offerors on the date indicated in the Sequence of Events. Only Finalists Offerors will be invited to participate in the subsequent steps of the procurement. The schedule for the proposal presentations/demonstrations will be determined at this time.

10. Best and Final Offers From Finalists

Finalist Offerors may submit or be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by the date indicated in the Sequence of Events NO LATER THAN 2:00 MOUNTAIN TIME. Best and Final Offers received after this deadline will not be accepted and the Offeror's proposal without amendments shall constitute the final offer for evaluation. The date and time will be recorded on each Best and Final Offer. Finalist offerors shall submit one (1) signed original and seven (7) copies of their Best and Final Offer to the Procurement Co-Manager as follows:

Terry Davenport
Procurement Co-Manager

**SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY EQUIPMENT
RFP#30-370-13-00011**

State Purchasing Division, General Services Department
Joseph M. Montoya State Office Building, Room 2016
1100 St. Francis Drive
Corner of St. Francis Drive and Cordova Road
Santa Fe, New Mexico 87505

Best and Final Offers must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the “**SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY EQUIPMENT RFP#30-370-13-00011**”. Best and Final Offers submitted by electronic means or facsimile will not be accepted. The State Purchasing Division is located at the southwest corner of the intersection of Cordova Road and St. Francis Drive in Santa Fe, New Mexico. Best and final offers may be clarified and amended at the Finalist Offeror's presentation/demonstration.

11. Proposal Presentation/System Demonstration by Finalists

Finalist Offerors will be required to present their proposal and demonstrate their proposed system to the Evaluation Committee. The Procurement Co-Managers will schedule the time for each presentation during the period of the dates indicated in the Sequence of Events. All Offeror presentations will be held in Santa Fe, New Mexico as follows:

Room Number: 305
State Capitol
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

The Agency shall provide a suitable room for the presentation/demonstration. The laptop computer, computer projector, projector screen and wireless internet connection, if needed, shall be provided by the Finalist Offeror in addition to the tabulating Equipment and Software to be demonstrated. Each Offeror will be given a maximum of one-half (1/2) hour for setup and each presentation/demonstration will be limited to three (3) hours in duration plus an additional optional two (2) hours for Evaluation Committee questions and hands-on operation of the Equipment. During this optional period the Evaluation Committee may ask questions regarding any aspect of the Offeror's proposal. It is the obligation of the Offeror to effectively manage their two and one-half hour presentation/demonstration time.

After the presentation/demonstration has been completed, the Offeror will move designated Equipment units including Software to the Office of the Secretary of State where it will be available for a minimum of one week for additional testing by the Staff of the Secretary of State and/or representatives for the County Clerks. After the testing is complete a Procurement Co-Manager will notify the Finalist Offerors to pick up their respective Equipment and Software. During this period to time a designated member of the Evaluation Committee may contact the Finalist Offerors for clarification of Equipment or Software usage instructions, if necessary.

12. Optional Site Visit

If requested, the Finalist Offerors shall make arrangements for a small team of from three (3) to five (5) Agency or County Clerk employees to visit the location where the Voting System has been installed. All expenses for the one-day site visit shall be borne by the Agency. Finalist Offeror representatives shall not accompany the site visit team.

13. Finalize Contract

The Contract will be finalized with the Offeror deemed most advantageous to the Agency by the date indicated in the Sequence of Events or as soon as possible thereafter. In the event that mutually agreeable terms cannot be reached within the time specified, the Agency reserves the right to finalize a Contract with the next most advantageous Offeror without undertaking a new procurement process or to cancel the award.

14. Contract Award

After review of the Evaluation Committee Report, the recommendation of the Agency management and the review and execution of the Contract by Agency management, the State Purchasing Agent will award the Contract on the date indicated in the Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the State Purchasing Agent.

The Contract shall be awarded to the Offeror whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

The Contract is not valid until signed and dated by the State Purchasing Agent.

15. Protest Deadline

Any protest by an Offeror must be timely and in conformance with NMSA 1978 §13-1-172 and applicable procurement regulations. The fifteen (15) day protest period for responsive Offerors shall begin on the day following the Contract award and will end as of Close of Business Mountain Time 15 days after the Contract Award. Protests must be written and must include the name and address of the protestor and the Request for Proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the State Purchasing Agent. The protest must be delivered to the State Purchasing Agent as follows:

**Lawrence O. Maxwell
State Purchasing Agent
Joseph M. Montoya State Office Building, Room 2016
1100 St. Francis Drive
Santa Fe, New Mexico 87505**

Protests received after the deadline will not be accepted.

16. Contract Initiation

The Contract shall be initiated on October 1 2013 or as soon as possible thereafter as per instructions provided by the Program Manager.

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the Procurement Code Regulations, 1.4.1 NMAC.

1. Acceptance of Conditions Governing the Procurement

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 Offeror in preparation, transmittal and presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

3. Contractor Responsibility

Any Contract that may result from the RFP shall specify that the Contractor is solely responsible for the entire performance of Contract with Agency. The Agency will make Contract payments to only the Prime Contractor.

4. Subcontractors

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. The Prime Contractor shall be wholly responsible for the performance of a subcontractor. Subcontractors will not receive Contract payments from the Agency.

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 Agency personnel will not merge, collate, or assemble proposal materials.

6. Offeror's Rights to Withdraw Proposal

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

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, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after receipt of a best

and final offer if one is submitted.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until the Contract Award Notification is issued. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Procurement Co-Managers will not disclose or make public any pages of a proposal on which the Offeror has stamped or imprinted “proprietary” or “confidential” subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspections of the non-confidential portion of the proposal. Confidential data are normally restricted to confidential financial information concerning the Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act [§57-3A-1 to 57-3A-7 NMSA 1978]. 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 Agent 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 procurement in no manner obligates the State of New Mexico or any of its agencies to the purchase of any equipment or services offered until a valid written Contract is awarded by the State Purchasing Agent and the Agency issues a written Purchase Order.

10. Termination

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

11. Sufficient Appropriation

Any Contract awarded as a result of the RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the Contractor. The Agency’s decision as to whether sufficient appropriations and authorizations are available will be accepted by the Contractor as

final.

12. Legal Review

The Agency requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly brought to the attention of the Procurement Co-Manager(s).

13. Governing Law

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

14. Basis for Proposal

Only information supplied by the Agency in writing through the Procurement Co-Manager(s) or in this RFP should be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

The Contract between the Agency and a selected Offeror will follow the format of the Contract template and contain the terms and conditions set forth in Appendix B, "Contract Terms and Conditions." The Agency reserves the right to negotiate with a successful Offeror Contract provisions in addition to those contained in the template. The contents of this RFP, as revised and/or supplemented, and the selected Offeror's proposal will be incorporated into and become part of the Contract.

Should an Offeror object to any of the Agency's terms and conditions, as contained in this Section or in Appendix B, the Offeror shall propose specific alternative language. The Agency may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the Agency and will result in disqualification of the Offeror's proposal.

For any proposed alternative language, Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions that they expect to have included in a Contract negotiated with the Agency.

17. Contract Deviations

Any additional terms and conditions that may be the subject of negotiation will be discussed only between the Agency and the selected Offeror and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

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

19. 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 fail to meet the same Mandatory requirement(s) and/or doing so does not otherwise materially affect the procurement. The exercise of this right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

The Agency reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the opinion of the Agency, meeting its needs adequately.

21. Notice

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

22. Agency Rights

The Agency reserves the right to accept all or a portion of an Offeror's proposal. The Agency reserves the right to purchase Voting Systems, Ancillary Equipment and professional services from authorized contracts or in accordance with applicable provisions of the Procurement Code.

23. Right To Publish

Throughout the duration of this procurement process and Contract term, potential Offerors, Offerors, and the Contractor must secure from the Agency written approval prior to the release of any information that pertains to the potential work or activities

covered by this procurement or the resulting Contract. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or termination of the Contract.

24. Ownership of Proposals

All documents submitted in response to the RFP shall become the property of the Agency and the State of New Mexico with the following exception. Offerors will be provided an opportunity to retrieve any proprietary technical manuals or example work products included in their proposals.

25. Electronic Mail Address

Most of the communication regarding this procurement will be conducted by electronic mail (e-mail). Potential Offerors and Offerors shall provide the Procurement Co- Managers with a valid e-mail address on the Letter of Transmittal Form, Appendix E, to receive this correspondence.

26. Use of Electronic Versions of the RFP

This RFP is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the Agency, the version maintained by the Agency shall govern.

27. Campaign Contribution Disclosure Form.

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

28. Letter of Transmittal

Each proposal shall be accompanied by a letter of transmittal (Please Refer to Appendix E). CAUTION: The proposal shall be binding without restriction. Offerors shall not include language in the Letter Of Transmittal such as "subject to successful negotiation" or words to that effect. The letter of transmittal SHALL follow the format provided and it shall be signed by the appropriate representatives. Failure to follow these instructions shall result in the rejection of the proposal.

29. Disclosure Regarding Responsibility

Any prospective Bidder/ Offeror (hereafter Offeror) and/or any of its Principals who seek to enter into a contract greater than twenty thousand dollars (\$20,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agree to disclose whether they, or any principal of their company:

- A. Are presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.
- B. Have within a three-year period preceding this offer, been convicted of or had civil judgment rendered against them for: 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; violation of Federal or state antitrust statutes related to the submission of offers; or 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.
- C. Are presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with, commission of any of the offenses enumerated in paragraph B of this disclosure.
- D. Have 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.
 - 1. Taxes are considered delinquent if both of 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.
- E. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.
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.

The Offeror shall provide immediate written notice to the Procurement Manager or Buyer if, at any time prior to contract award, the Offeror learns that its disclosure was erroneous when submitting or became erroneous by reason of changed circumstances.

A disclosure that any of the items in this requirement exist will not necessarily result in withholding an award under this solicitation. However, the disclosure

will be considered in the determination of the Offeror's responsibility. Failure of the Offeror to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

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 an Offeror is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

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. 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 Procurement Manager or Buyer. If it is later determined that the Offeror 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.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal.

B. NUMBER OF COPIES

Offerors shall provide the following to the location listed below on or before the closing date and time for receipt of proposals:

1. Binder 1 - One (1) original and eight (8) identical copies of their proposal;
2. Binder 2 - One (1) original and two (2) copies of the response to additional business specifications;
3. Binder 3 - One (1) original and four (4) copies of other supporting materials; and
4. Two (2) labeled Compact Disks (CD) or removable drives (Flash Drive) containing the contents of Binder 1 and Binder 2.

The original binders shall be marked "ORIGINAL".

Terry Davenport
Procurement Co-Manager

**SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY EQUIPMENT
RFP# 30-370-13-00011**

Purchasing Division, General Services Department
Joseph M. Montoya State Office Building, Room 2016
1100 St. Francis Drive
Southwest Corner of St. Francis Drive and Cordova Road
Santa Fe, New Mexico 87505

C. PROPOSAL FORMAT

All proposals must be typewritten on standard 8 ½ x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

1. Proposal Organization

The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

- a. Letter of Transmittal (Binder 1)
- b. Table of Contents (Binder 1)
- c. Proposal Summary (Binder 1)
- d. Response to the following Business Specifications (Binder 1)
 - IV.B.2.a – Offeror's Company Information (Binder 1, Tab A)
 - IV.B.2.b – Offeror's Company Experience (Binder 1, Tab B)
 - IV.B.3 – Technical Specifications (Binder 1, Tab C)
 - IV.B.4 – Resource Requirements/Program Deployment Plan (Binder 1, Tab D)

- IV.B.5 – Certification Testing (Binder 1, Tab E)
- IV.B.6 – Past Performance - Offeror (Binder 1, Tab F)
- IV.B.7 – Core Team Personnel Experience (Binder 1, Tab G)
- IV.B.8 – Past Performance – Core Team Personnel (Binder 1, Tab H)
- e. Response to the following Business Specifications (Binder 2)
 - IV.B.9 – Proposal Presentation/Demonstration Concurrence (Binder 2, Tab A)
 - IV.B.10 – Financial Stability (Binder 2, Tab B)
 - IV.B.11– Cost Response Forms C-1 and C-2 (Binder 2, Tab C)
 - IV.B.12 – Status Reporting (Binder 2, Tab D)
 - IV.B.13 – Source Code (Binder 2, Tab E)
 - IV.B.14 – Completed Campaign Contribution Disclosure Form (Binder 2, Tab F)
 - IV.B.15 – Warranty (Binder 2, Tab G)
 - IV.B.16 – New Mexico Employees Health Coverage (Binder 2, Tab H)
 - IV.B.17 – Pay Equity Reporting (Binder 2, Tab I)
 - IV.B.18 – Resident Business Preference (Binder 2, Tab J)
 - IV.B.19 – Resident Veterans Preference (Binder 2, Tab K)
 - IV.B.20 – Value Added Support (Binder 2, Tab L)
- II.C.15 – Contract Terms and Conditions (Binder 2, Tab M)
- II.C.15 – Offeror’s Terms and Conditions (Binder 2, Tab N)
- f. Technical specifications (Tabulating Equipment and Software), information, documentation, training materials or other proposed work products and other supporting material (Binder 3). **Include documentation and materials that were NOT submitted with the application for certification.**

2. Proposal Content

The CD’s or removable drives shall contain the contents of Binder 1 and Binder 2 in Microsoft Word 2010 format, and it shall be included with the original in Binder 2. Two CDs or two removable drives (Flash Drive) are required.

Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs and expenses must occur only in Binder 2 with the Cost Response Forms.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The proposal summary may be included by Offerors to provide the Evaluation Committee with an overview of the business and technical features 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. Offerors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate tab in Binder 3.

IV. SPECIFICATIONS

A. INFORMATION

1. Agency Resources

For the purpose of preparing proposals, Offerors are to assume that the Agency is providing the following resources to support this program as follows:

- a. The Agency will assign a Program Manager and Contract Manager;
- b. Suitable temporary work space in the conference room or office, if available;
- c. Meeting and/or presentation rooms;
- d. Use of Agency copiers and fax machines;
- e. A technical or election staff member will be available for analysts for the software knowledge transfer portions of the program; and
- f. The Agency intends to provide timely review of Deliverables and status or other reports.

2. Work Performance

For the purpose of preparing proposals, Offerors are to assume that all on-site work will be performed at the Agency headquarters and at Agency approved sites in each of the thirty-three (33) counties in New Mexico. Contractor management staff will be expected to attend scheduled program-related meetings with Program Manager at the Agency headquarters or other location determined by the Program Manager.

3. Time Frame

The Contract will begin on October 1, 2013 or as soon as possible thereafter. The equipment, software and services will be purchased and deployed in accordance with a mutually agreeable Master Deployment Plan.

B. BUSINESS AND TECHNICAL SPECIFICATIONS

1. Instructions

Offerors shall provide a written response and/or a reference to an appropriate paragraph(s) in supporting technical documentation for each specification. The proposal response must follow the order in which the specifications are listed. With the exceptions of the specifications labeled "*DESIRABLE*" in sections IV.B.3 "Technical Specifications"; IV.B.18 "Resident Business Preference", IV.B.19 "Resident Veterans Preference", and IV.B.20 "Value Added Support"; all other specifications are MANDATORY.

2. Offeror's Company Information and Experience

Offerors shall submit company information and a statement of relevant company experience.

- a. Offerors shall include an overview of the company including a summary of the company history. The overview shall include type of organization and the state of origin, the date established, location of headquarters and other offices, number and location of employees and a description of types of services offered.
- b. Offerors must submit a statement of relevant corporate experience within the last five (5) years, including the experience of major subcontractors. The narrative in response to this factor must thoroughly describe the offeror's experience with the providing ballot tabulation systems, and experience in working with the New Mexico election code or New Mexico county clerks.

In this Section, the offeror shall provide the following information (referencing the subsections in sequence) to evidence the offeror's experience in delivering services such as those sought under this RFP:

1. A brief statement of how long the offeror has been performing the services sought under this RFP.
 2. A description of the experience level, technical and application knowledge, and government experience of the corporate technical resources that may be used for the contract.
 3. A list of relevant engagements.
 3. The dates of the period of service, by engagement.
 4. A description of the service provided, by engagement.
 5. A statement of why the offeror believes these engagements constitute relevant company experience for this solicitation.
- c. Offerors shall provide a list of all current contractual relationships with governmental entities within the State of New Mexico and/or those completed within the previous five-year period. The listing should include the contract number, contract term, the name of the State agency or local public body for each relationship.
 - d. The Offeror shall name and describe the use and experience of all proposed subcontractors.

3. TECHNICAL SPECIFICATIONS

The RFP technical specifications are included in this section. Offerors shall place a copy of the published tabulating Equipment and Software technical specifications including a description of their functions and features in Binder 3. Offerors shall provide narrative

responses and/or references to the Binder 3, section and page of technical documents that thoroughly describe how each specification set forth below is addressed. The narratives and/or technical documentation will be evaluated and points awarded accordingly.

a. Tabulator System Requirements

The Offeror shall describe the ability of the proposed Voting System to meet the *MANDATORY* requirements of NMSA 1978 § 1-9-7.7 as set forth in this section. In addition, the Offeror should describe the ability of the proposed system to meet the designated *DESIRABLE* requirements. The Voting Systems certified for use in state elections shall:

1. Serial #: *Mandatory:* have a unique, embedded, internal serial number for r audit purposes; the serial number of a tabulator shall be traceable after election results are uploaded for election night reporting and canvassing.
2. Cover: *Mandatory:* be supplied with a dust-and-moisture-proof cover for transportation and storage purposes; The offeror should describe the durability of the cover and state whether it will protect the units from water damage during storage in the event of water leakage in the storage facility
Desirable: The tabulator units should be supplied with, or have an available option for, a moisture cover that would prevent damage in the event of a significant leak in a county's storage facility
3. Transportability: Offeror should describe the weight and transportability of the units. *Mandatory:* If the net weight of the system, or aggregate of voting device parts, is over twenty pounds, it must have self-contained wheels so that the system can be easily rolled by one person on rough pavement, and can roll through a standard, thirty-inch door frame. Self- contained wheels must be of sufficient construction to withstand years of use;
Desirable: Each tabulator unit should weigh less than 20 pounds.
4. Stand-Alone System: *Mandatory:* Tabulators must be a stand-alone, non-networked election system such that all pre-election, Election Day and post-election events and activities can be recorded and retained on each device;
5. Scalable: *Mandatory:* The proposed systems shall employ scalable technology allowing easy enhancements that meet United States Election Assistance Commission (EAC) standards and state law; (Note: Offeror should describe the process and cost expectations for any upgrades or updates to software or firmware, upgrades to data storage devices, or enhancements to the tabulator systems to address scalability matters as the number of precincts, voters or Voting Convenience Centers increases.) Offeror should describe the number of precincts that can be programmed and reported from a single tabulator and the maximum number of ballots that can be processed and stored by a tabulator.

6. Ancillary Equipment: *Mandatory*: The tabulator systems shall have field replaceable ancillary equipment such as printers, power sources, microprocessors, and switch and indicator matrices, that can be replaced by the user or a technician without having to send the entire system to a repair facility; or that is modular and transportable; Offeror must describe all ancillary equipment required to operate the systems being offered and what equipment is included in the price of the systems being offered, as well as any optional ancillary equipment that may be available at additional cost.
7. Public Counter: *Mandatory*: display publicly the number of ballots processed;
8. Results Printing: *Mandatory*: be able to print:
 - a). Zero tape: an alphanumeric printout of the contests, candidates and vote totals when the polls are opened so that the poll workers can verify that the counters for each candidate are on zero;
 - b). Results Tape: an alphanumeric printout of the contests, candidates and vote totals at the close of the polls, which printouts shall contain the system serial number and public counter total;
 - 1) *Desirable*: Offeror should describe the ability to print a precinct level results tape at voting convenience centers, and the largest number of precincts that can be included on a results tape, if any limit exists.
 - 2) *Highly desirable*: Offeror should describe the ability of the system to display the time and date of the opening and closing of the polls on the zero tapes and the results tapes.
 - c). Copies: *Mandatory*: as many copies of the alphanumeric printouts as necessary to satisfy state law;
9. Electronic Data File: *Mandatory*: include a feature to allow reports to be transmitted as an electronic data file. The offeror should describe any point-to-point modem connections or other networking features included in the tabulator system.
10. Lifespan: *Mandatory*: state the useful lifespan of the tabulating equipment and the basis of the statement.
11. Use Counter: *Desirable*: The unit should have a use counter of all of the ballots processed that is not reset per election, as that information may be needed to determine which units may require preventative maintenance.

b. Operational Requirements

The Offeror shall describe the ability of the system to meet the *MANDATORY* requirements of NMSA 1978, § 1-9-7.8 as set forth in this section. In addition, the Offeror should describe the ability of the proposed system to meet the designated *DESIRABLE* requirements. The Voting Systems certified for use in state elections shall:

1. Operating Software: Mandatory: Have internal application software that is specifically designed and engineered for the election application. Describe the components of the software package, including ballot programming, ballot-related and election night reporting and canvassing capabilities. Describe the ability of the software/firmware to report votes by precinct, by machine, and by voting convenience center for New Mexico's voting convenience center model;
 - a. Ballot Programming: Desirable: Offeror should describe:
 - (1) the features and process of the election definition setup software and hardware programming software, including whether the election definition data can be exported and in what type of format;
 - (2) whether the system uses a single interface or multiple interfaces for programming ballots and/or elections. If the system uses multiple interfaces, it is desirable that the software recognize changes throughout the software suite without the need to load different programs to make changes and corrections.
 - (3) the ability of the software to accommodate quick changes to the formatting of text, such as changes from upper case to lower case, or changes in font size;
 - b. Ballot Related: Desirable: Offeror should describe:
 - (1) the ability of the system to retain preferences for design of ballots across multiple elections. It is *desirable* that the software allow for retention of preferences for ballot design across multiple elections.
 - (2) the ability of the software to generate a "test deck" simulating voted ballots and print those ballots to user specifications;
 - (3) the ability of the software to create sample ballots with appropriate "sample" labeling and the ability to create provisional ballots that cannot be read by the tabulator;
 - (4) the ability of the software to reset the tally of election results to zero when testing of removable storage media is conducted, including options for targeting which types of results to reset;
 - (5) the ability of the software to retain optical images of ballots, and to sort and filter optical images of ballots by ballot style, precinct, polling location, contest, candidate for purposes of recounts or post-election audits.
 - (6) The Offeror should describe features that help maintain ballot secrecy while also retaining optical images of all ballots cast.

- c. Election Night Reporting and Canvassing: *Desirable*: Offeror should describe:
- (1) the election night reporting features and functionality in detail, including the capabilities for reporting results at both the county and statewide levels;
 - (2) the ability of the software to provide summary results by precinct, by district, by county, and by race for each vote category, such as: for election day, early voting, absentee voting, and total votes;
 - (3) whether results data can be exported to electronic files and in what electronic format(s);
 - (4) the ability of the software to record a unique identifier, such as a serial number, from each stand-alone tabulator, in the results file;
 - (5) all data elements that are captured in a "results file";
 - (6) any capability in the results reporting software that will produce a warning if the external media storage device has already been read and included in a results file, and what type of data or upload would trigger a warning, such as the unique identifier of the tabulator, or a unique file identifier;
 - (7) the features of the software, firmware or tabulators that will support Voting Convenience Centers and the accurate canvassing of results from voting convenience centers, Specifically, the Offeror should describe the ability of the software to retain results by voting location and individual tabulator, as well as precinct level reporting by the following categories
 - (a) absentee by mail;
 - (b) early;
 - (c) election day;
 - (d) hand tallied ballots,
 - (e) provisional ballots,
 - (f) in lieu of absentee ballot; and
 - (g)UOCAVA ballots (Uniformed and Overseas Citizens Absentee Voting Act).It is *highly desirable* that these categories be available in one election definition/set of data files as opposed to having separate election definitions/sets of data files for absentee results, early voting results, election day results and results totals.
 - (8) the compatibility of the software with all existing versions of Windows; It is *highly desirable* that the software be compatible with Windows 7. It is *desirable* that the software be compatible with Windows 8;

- (9) the security features of the software/firmware which will prevent poll workers from obtaining results prior to the close of the polls *highly desirable*;
 - (10) any web-based functionality of the software, and, if applicable, list any and all web browsers that the software is compatible with. It is *desirable* that any web-based functionality be compatible with Internet Explorer 9, Internet Explorer 10, Mozilla Firefox and Google Chrome;
 - (11) the ability of the software to allow for import of hand tallied ballot totals from a variety of file types, including .asc, .xlsx, .csv, txt. It is *highly desirable* that the software have the ability to import these file types.
 - 2. Diagnostics: *Mandatory*: Include comprehensive diagnostics to ensure that failures do not go undetected; Describe the diagnostic reports and the format provided.
 - 3. Real-Time Clock: *Mandatory*: Have a real-time clock capable of recording and documenting the total time polls are opened; describe the ability of the clock to be reset or altered.
 - 4. Internal Battery Backup: *Mandatory*: Have a self-contained, internal backup battery that powers all components of the system that are powered by AC current, and, in the event of a power outage in the polling place:
 - a. The self-contained, internal backup battery power shall engage with no disruption of operation for at least two hours and with no loss of data; and
 - b. The system shall maintain all vote totals, public counter totals and the internal clock time in the event that the main power and battery backup power fail.
 - c. Offeror shall describe the battery backup system, including any warnings that will be provided to poll workers when the tabulator is operating on battery back-up.
- c. **Removable Media Storage Requirements**
- The Offeror shall describe the ability of the system to meet the *MANDATORY* requirements of NMSA 1978, § 1-9-7.9 as set forth in this section. In addition, Offerors should describe the ability of the proposed system to meet the designated *DESIRABLE* requirements. The Voting Systems certified for use in state elections shall:
- 1. Programmable: *Mandatory*: be programmable with removable storage media devices;
 - a. *Highly desirable*: The removable media storage should be flash-based storage rated at a minimum of 100,000 read/write cycles. USB 2.0 or higher. It is also *highly desirable* that the removable storage media device be able to complete downloading of results

- without interruption when zero votes exist for some precincts or districts.
- b. *Mandatory:* Offerors shall describe the type of removable storage media device to be utilized, including the security, tamper-proofing and redundancy features of the device.
 - c. *Mandatory:* Offerors shall also describe the storage capabilities and limitations.
 - d. *Mandatory:* Offerors shall describe any functional limitations of the removable storage media in terms of storage of elections definitions, results data and ballot image data.
 - e. *Mandatory:* Offerors shall describe the number of precincts that can be programmed on a single removable storage device.
2. Retention of Information: *Mandatory:* contain ballot control information, summary vote totals, maintenance logs and operator logs on the removable storage media device;
 3. Accuracy of Data: *Mandatory:* ensure that the votes stored on the removable storage media device accurately represent the actual votes cast;
 4. Security: *Mandatory:* be designed so that no executable code can be launched from random access memory;
 5. Operating System: *Mandatory:* have any operating system software stored in nonvolatile memory, which shall include internal quality checks such as parity or error detection and correction codes, and which software shall include comprehensive diagnostics to ensure that failures do not go undetected;
 6. Testing: *Mandatory:* allow for pre-election testing of the ballot control logic and accuracy, with results stored in the memory that is used on election day, and shall be capable of printing a zero-results printout prior to these tests and a results printout after the test;
 7. Audit Trail: *Mandatory:* have internal audit trail capability such that all pre-election, election day and post-election events shall be stored, recorded and recovered in an easy-to-read, printed form and be retained within non-volatile memory that is retained when the system has no external power source;
 8. Remote Transmission of Data: *Mandatory:* possess the capability of remote transmission of election results to a central location only by reading the removable storage media devices once they have been removed from the tabulation device after the poll closing sequence has been completed;
 9. Retention of Data: *Mandatory:* prevent data from being altered or destroyed by report generation or by the transmission of results; and.
 10. Interference with Operation of the Tabulator: *Desirable:* Offeror should describe the effect on the tabulator in the event the removable media storage device fails, specifically detailing whether a storage device failure will result in a system halt on the tabulator. Offeror should describe what

types of failure situations would require tabulator replacement and what type of failure situations would require removable media storage replacement, during an election.

d. Ballot Handling and Processing Requirements

The Offeror shall describe the ability of the proposed system to meet the *MANDATORY* requirements of NMSA 1978, § 1-9-7.10 as set forth in this section. In addition, the Offeror should describe the ability of the proposed system to meet the designated *DESIRABLE* requirements. The Voting Systems certified for use in state elections shall:

1. Ballot Size: *Mandatory*: accept a ballot that is a minimum of eight and 1/2 inches wide and a maximum of twenty-four inches long, in dual or triple columns and printed on both sides;
 - a. *Highly desirable*: The tabulator should be able to read and process a 19" double-sided ballot, with three columns in five seconds or less
2. Ballot Orientation: *Mandatory*: accept a ballot in any orientation when inserted by a voter;
3. Over Votes: *Mandatory*: have the capability to reject a ballot on which a voter has made more than the allowable number of selections in any contest;
4. Ballot styles: *Mandatory*: be designed to accommodate the maximum number of ballot styles or ballot variations encountered in the largest New Mexico election jurisdiction; and
5. Voting Positions: *Mandatory*: be able to read a single ballot with at least four hundred twenty voting positions.
6. Ballot handling: *Mandatory*: The tabulator must have the ability to divert write-in ballots to a separate bin. Describe the ability of the tabulator to properly sort write-in ballots.
 - a. *Highly desirable*: The tabulator should have a read path that can be cleared of a paper jam with minimal effort by the poll official. Offeror should describe the operation of the tabulator after a paper jam has been cleared, and specify whether the tabulator will double-count ballots that have been removed and reinserted after clearing a paper jam.
 - b. *Desirable*: The tabulator should recognize different options of vote selection, such as bubble, check mark or arrow. The Offeror should describe the ability of the system to read vote selection, including a full description of how the tabulator interprets marks within the voting oval, and marks outside the voting oval.
 - c. *Desirable*: The tabulator should properly stack cast ballots in the bin to avoid paper jams and limit the need for poll workers to manually stack or straighten ballots. Offeror should describe the ballot capacity of the bins that should be used by poll workers to

avoid paper jams - i.e. how often must poll workers remove ballots in order to maintain the optimal operation of the tabulator.

- d. *Desirable:* The tabulator should not require the use of a specific type of pen or pencil. Describe the ability of the tabulator to read ballots that have been marked using different types of ink pens or pencils.

- e. **Mandatory Certifications**

Offerors shall include in the proposals copies of all their CURRENT official testing certifications.

4. Resources and Program Deployment Plan

Offeror shall thoroughly describe the resource requirements and program deployment plan.

- a. **Agency Resources**

Offerors shall describe the IT components and technical support that needs to be provided by the Agency or the individual counties in order to support both traditional voting precinct polling places and voting convenience center locations for operation of the proposed system.

- b. **Ballot Programming**

The Offeror shall address whether it proposes to provide for ballot tabulator programming for each election, or whether it proposes that ballot tabulator programming - including ballot creation, programming of removable media storage, creation of PDF files for electronic transmission packets, printing of pre-printed ballots and upload to systems for printing ballots at polling location - be provided by a subcontractor, by the Secretary of State's office, or by individual county clerks' offices. Please describe the Offeror's proposed approach in detail.

- c. **Tabulator Maintenance**

The Offeror shall address whether it proposes to provide for on-going maintenance, including preventative maintenance to be conducted prior to statewide elections, or whether it proposes that preventative maintenance be performed by a subcontractor, or the Secretary of State's office, or local voting machine technicians. Offeror should describe the recommended preventative maintenance items to be completed and the recommended schedule and frequency of this work.

- 1. The Offeror shall address whether it proposes to provide for on-going repairs of any mechanical failures on the proposed systems, or whether it proposes that repairs be performed by a subcontractor, the Secretary of State's office or local voting machine technicians. The Offeror should describe all items to be included in a repair program, and provide a

detailed description of the parties who will provide replacement parts and labor for repairs.

2. The Offeror shall name and describe the use and experience of any proposed subcontractors who will perform any tasks related to the implementation or operation of the proposed voting systems. Additionally, the Offeror should specifically identify the items of maintenance, repair or certification that will be performed by (1) voting machine technicians at a county level; (2) any subcontractor of the Agency or the Offeror; (3) the Secretary of State's office; and (4) the Offeror.

d. Training and Documentation

1. Offerors shall describe the recommended training plan, schedule, and methodology to be used to train the Secretary of State's office and individual county clerks' offices in the operation and technical specifications of the operating the tabulators and using the programming and results software for all phases of elections from pre-election certification of systems to absentee voting, early voting, election day and post-election production of results. Offerors should provide an overview of the training techniques proposed supported by examples of training materials to be used placed in Binder 3 of the proposal. The Secretary of State's office has the responsibility under NMSA 1978, § 1-2-2 to provide for the "education and training of voting machine technicians." Offeror should describe the process and provide the training materials, preferably web based learning materials, for the Secretary of State's office to certify voting machine technicians on the proposed systems.
2. Offerors shall provide a complete description of Equipment and Software user and technical manuals that will be provided with the Voting System or Ancillary Equipment. Technical manuals to be used shall be placed in Binder 3 of the proposal. Offeror should describe their capability to create training materials specific to State needs for certifying voting machine technicians and performing statewide results reporting that can be reused for standard, consist training across the state and for refresh training prior to each statewide election as needed for new personnel.

e. Program Deployment and Support Plan

The State of New Mexico currently uses Election Systems & Software ES&S Model 100 tabulators throughout the state and ES&S Model 650 tabulators in several urban areas. Offerors should propose a three-year plan for replacement of all existing systems in the State. Assume the deployment shall begin on November 15, 2013.

1. In the proposed replacement plan, Offeror should discuss and explain how its proposed systems will cooperate with the existing systems during the transition from the older systems to the new proposed systems.

2. Offeror should state whether its proposed systems could be used within individual counties in conjunction with the older systems, or whether it would propose that individual counties utilize either the older equipment or the newer systems exclusively. Offeror must discuss the interface, if any, between the software/firmware on the older systems and the software/firmware on the propose systems in terms of the ability of the counties and the State to obtain election night results from both the older systems and the proposed systems and compile them in a single results reporting application on election night and following the election for the purpose of canvassing and certification of results.
3. The plan should clearly identify the types of and number of personnel required from the Offeror (including subcontractors) as well as Agency and county clerk resources required to successfully complete the deployment of the systems.
4. The plan should include a complete listing of the tasks that shall be performed and the resource performing the tasks.
5. The plan should include the acceptance criteria and materials to be used by the County to verify and provide a written acceptance of the successful deployment prior to payment.
6. The plan should describe how warranty services will be provided.
7. For the purpose of preparing a response to this specification, please refer to the following Table of the approximate number of voting system tabulators currently in use in the 33 New Mexico counties.

County	Tabulators	Marking Devices
BERNALILLO	540	435
CATRON	14	10
CHAVES	66	53
CIBOLA	31	35
COLFAX	25	21
CURRY	47	42
DE BACA	4	5
DONA ANA	132	115
EDDY	53	44
GRANT	42	38
GUADALUPE	10	6
HARDING	7	4

HIDALGO	12	8
LEA	54	47
LUNA	22	15
LINCOLN	30	22
LOS ALAMOS	31	23
MCKINLEY	84	76
MORA	15	12
OTERO	54	46
QUAY	22	20
RIO ARRIBA	55	46
ROOSEVELT	29	26
SAN JUAN	93	82
SAN MIGUEL	40	36
SANDOVAL	99	80
SANTA FE	110	95
SIERRA	19	13
SOCORRO	35	29
TAOS	47	40
TORRANCE	19	19
UNION	15	10
VALENCIA	46	44
TOTAL	1937	1609

5. New Mexico Certification Testing

Offeror's shall apply for certification testing a pre-requisite for the submission of a proposal. The proposed Voting System must be certified for use in the State of New Mexico by the State Voting System Certification Committee before it may be included for purchase on the EPS.

6. Past Performance - Offeror

Offeror's proposals shall include three (3) external references from clients who are willing to validate the Offeror's past performance on similar contracts and/or engagements especially those engagements in the public sector that have occurred within the past five (5) years. The reference contact person will be expected to complete and

return the Past Performance Questionnaire to the Evaluation Committee within one (1) week from the date the questionnaire is emailed to the recipient. The failure of a reference contact person to return or thoroughly complete the questionnaire will result in a reduction of points awarded for this evaluation factor. The minimum information that shall be provided for each client reference follows:

- a. Name of the contact person;
- b. Name of the company or governmental entity;
- c. Address of the contact person;
- d. Telephone number of contact person;
- e. Email address of the contact person;
- f. A description of the products and services provided and dates the products and services were provided.

At least **ONE** of the references for the proposed support services must be from a site of comparable or larger size where the proposed tabulating equipment and software has been installed and is in current operation. Offerors are encouraged to include additional references that they believe the Evaluation Committee would find helpful in thoroughly evaluating their past performance.

7. Core Team Personnel Experience

- a. Offerors must submit a staff organization chart and the resumes of the Core Team Personnel. The organization chart must include the title, name and experience category for each proposed individual with an accompanying narrative that describes the individual's proposed job duties.
- b. Offerors shall submit resumes of the Core Team Personnel with experience narratives attached thereto should thoroughly document the proposed staff member's knowledge and experience relative to the job duties to be performed, as well as the level of knowledge and experience, as appropriate. Include copies of appropriate professional certifications.
- c. Offerors shall describe any experiences of the proposed core team relevant to any programs of the type, size, and scope of this program. All relevant experiences described must clearly identify dates of the proposed team member's participation on the project. The most recent relevant experience for proposed staff members should be within the last two years of the issue date of this RFP.

8. Past Performance – Core Team Personnel

Offeror's proposals shall include two (2) external references from clients who are willing to validate the Core Team Personnel member's past performance on similar contracts and/or engagements especially those projects in the public sector that have occurred within the past five (5) years. The reference contact person will be expected to complete

and return the Past Performance Questionnaire to the Evaluation Committee within one (1) week from the date the questionnaire is emailed to the recipient. The failure of a reference contact person to return or thoroughly complete the questionnaire will result in a reduction of points awarded for this evaluation factor. The minimum information that shall be provided for each client reference follows:

- a. Name of the contact person;
- b. Name of the company or governmental entity;
- c. Address of the contact person;
- d. Telephone number of contact person;
- e. Email address of the contact person;
- f. A description of the products and services provided and dates the products and services were provided.

At least **ONE** of the references for each member of the Core Team must be from a site of comparable or larger size where the proposed tabulating equipment and software has been installed and is in current operation. Offerors are encouraged to include additional references that they believe the Evaluation Committee would find helpful in thoroughly evaluating their past performance.

9. Proposal Presentation/System Demonstration Concurrence

Finalist Offerors agree to present their proposals and demonstrate their proposed tabulation Equipment and Software to the Evaluation Committee. The Finalist Offerors' proposed Core Team Personnel are expected to conduct their relevant portion of the presentation and Demonstration in person. Finalist Offerors agree to provide the Evaluation Committee the opportunity to interview additional proposed personnel that may be identified in the Finalist Offerors' notification letter. Offerors agree to provide the Evaluation Committee the opportunity to review user and technical manual and/or training materials which will be provided with the Voting System or Ancillary Equipment at the session. **Include documentation and materials that were NOT submitted with the application for certification.**

NOTE: Finalist Offerors shall provide all of the required computer and projection equipment for their proposal presentation as well as the tabulation Equipment and test materials for the Demonstration. After the presentation/demonstration has been completed, the Offeror will move designated tabulation Equipment units including Software and Documentation to the Office of the Secretary of State where it will be available for a minimum of one week for additional testing by the Staff of the Secretary of State and/or representatives for the County Clerks. After the testing is complete a Procurement Co-Manager will notify the Finalist Offerors to pick up their respective Equipment and Software and Documentation.

A statement of concurrence is required from the Offeror

10. Financial Stability

- a. Offerors shall submit copies of their organization's independently-audited financial statements for the preceding three (3) years. The financial statement submitted must be solely for the Offeror. If independently audited financial statements do not exist for the Offeror, the Offeror shall state the reason and, instead, submit sufficient information (e.g. Dun & Bradstreet Report, unaudited financial reports, bank statements) to enable the Evaluation Committee to determine the financial stability of the Offeror.
- b. The submissions shall include the audit opinion, the balance sheet, statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist for the Offeror, the offeror shall state the reason and instead submit sufficient information to enable the Evaluation Committee to determine the financial stability of the Offeror. Financial statements and company sensitive information provided may be marked confidential.
- c. Offerors shall provide a statement as to whether there is any pending litigation against the Offeror which may impair the Offeror's performance in a Contract under this RFP. Likewise, Offerors must provide a statement as to whether the Offeror or any of the Offeror's employees, agents, independent contractors, or subcontractors assigned to the project have been convicted of, pled guilty to, or pled *nolo contendere* to any felony, and if so provide an explanation with relevant details.
- d. The Evaluation Committee reserves the right to require the Offeror to submit additional financial information it believes is necessary to complete its evaluation.

11. Cost Specifications

Offerors shall complete and submit with their proposals the Proposal Cost Response Form, Appendix C-1 based upon the following instructions and Appendix C-2. Offerors proposed Equipment, Products and Services Schedule.

- a. Appendix C-1 instructions and information
Complete C-1 cost response form and submit it with the proposal.
- b. Appendix C-2 instructions and information
The Agency may purchase Equipment, Products and Services that are included on the Contractor's approved EPS. The hourly rates contained in the EPS shall include any and all travel, per diem, fringe benefits and any overhead costs for (1) delivery of the proposed voting systems to individual New Mexico counties, (2) training of county clerks and Agency personnel in the use of the voting systems,

including training on the software and firmware associated with the system, (3) preventative maintenance performed by Contractor; (4) repairs performed by Contractor which is not covered by warranty, and (5) on-going support before, during and after elections. These activities may be performed at the Agency headquarters and at the designated County Clerk locations throughout New Mexico. Training may be performed on a regional basis. Applicable New Mexico Gross Receipts Taxes will be added to each Purchase Order issued.

The Equipment and Product pricing **shall remain fixed for the duration of the initial three-year term of the Contract. Service rates may be adjusted subject to mutual acceptance after the second year of the initial term of the Contract. A statement of concurrence is required.**

12. Status Reporting

After a Purchase Order has been issued, the Contractor shall provide a formal written bi-weekly status report delivered to the Program Manager. The format shall be approved by the Program Manager prior to issuance of the first (1st) status report. The status reports shall include, but not be limited to, the following:

- a. Overall completion status of each outstanding Purchase Order in terms of the approved work plan and schedule;
- b. Accomplishments during the period.
- c. Upcoming Milestones, completed Milestones, slipping Milestones;
- d. Problems encountered and proposed/actual resolutions;
- e. What is to be accomplished during the next reporting period;
- f. Issues that need to be addressed;
- g. Updated purchase order time line showing percentage completed, high-level tasks assigned, completed and remaining and Milestone variance;
- h. Agency, county and Contractor resources required for activities during the next time period;
- i. A list of the Work Products that will be produced, if any.

A statement of concurrence is required from the Offeror.

13. Source Code:

The Offeror is required to comply with NMSA 1978, § 1-9-7.11 to place the source code that operates the voting system in escrow, such that it is accessible to the Agency in the event that the Offeror ceases to be a business or to support the Voting System. A statement of concurrence is required from the Offeror.

14. Completed Campaign Contribution Disclosure Form

The Offeror shall complete the Campaign Contribution Disclosure Form and submit a copy with their proposal. This must be completed whether or not an applicable contribution has been made. (See Appendix D)

15. Warranty

Offerors are advised that in accordance with Article 11, Paragraph B of Appendix B, “Contract Terms and Conditions”, the warranty period for Equipment shall be a minimum of four (4) years from the date of system acceptance. The warranty period of Software shall be a minimum of three (3) years from the date of system acceptance. Warranty services shall be performed at no cost to the Agency. A Statement of concurrence is required from the Offeror.

16. New Mexico Employees Health Coverage Form

The Offeror shall agree with the terms and submit a signed New Mexico Employees Health Coverage Form with the submittal of their proposal. (See Appendix G)

17. Pay Equity Reporting Requirements

The Offeror shall agree with the terms and submit a statement of concurrence with their proposal. (See Appendix H)

18. Resident Business Preference

Pursuant to Section 13-1-21 and Section 13-1-22 NMSA 1978 a resident business possessing a valid Resident Business Certificate shall receive 5% (50 Points). The Offeror’s proposal must contain a copy of the Resident Business Preference certificate issued by the New Mexico Taxation and Revenue Department in order to qualify for the preference points.

19. Resident Veterans Preference

Pursuant to Section 13-1-21 and Section 13-1-22 NMSA 1978 a resident veteran may submit a valid Resident Veterans Preference Certificate in the proposal. The resident veteran shall receive up to 10% (100 Points). The Offeror’s proposal must contain a copy of the Resident Veterans Preference Certificate issued by the New Mexico Taxation and Revenue Department in order to qualify for the preference points.

20. Value Added Support

Offerors are encouraged but not required to propose optional equipment, software or services that may be useful for the Agency in the fulfillment of its duties and responsibilities, enhance the efficiency or improve in some way the performance of the Agency. Describe the equipment, software or services. Describe how the Agency may use the value added support and the related charges for its use. For example: is any type of equipment buy-back program offered? If so, please describe.

V. EVALUATION OF PROPOSALS

A. EVALUATION POINT SUMMARY

The following is a summary of Section IV specifications identifying points assigned to each item. These weighed factors will be used in the evaluation of the offeror proposals. Only finalist offerors will receive points for the proposal presentation and demonstration.

<u>Specifications:</u>	<u>Maximum Points:</u>
IV.B.2 Offeror's Company Information and Experience	
IV.B.2.a Offeror's Company Information	Pass/Fail
IV.B.2.b Offeror's Company Experience	50
IV.B.2.c Contractual Relationships	Pass/Fail
IV.B.2.d Tabulator Programming	Pass/Fail
IV.B.2.e Use of Subcontractors	Pass/Fail
IV.B.3 Technical Specifications	
IV.B.3.a Tabulator System Requirements	25
IV.B.3.b Operational Requirements	80
IV.B.3.c Removable Media Storage Requirements	30
IV.B.3.d Ballot Handling and Processing Requirement	30
IV.B.3.e Mandatory Certifications	Pass/Fail
IV.B.4 Resources and Deployment Plan	
IV.B.4a Agency Resources	Pass/Fail
IV.B.4.b Ballot Programming	Pass/Fail
IV.B.4.c Tabulator Maintenance	Pass/Fail
IV.B.4.d Training And Documentation	60
IV.B.4.e Program Deployment and Support Plan	60
IV.B.5 Certification Testing	Pass/Fail
IV.B.6 Past Performance - Offeror	50
IV.B.7 Core Team Personnel Experience	
IV.B.7a Organization Chart / Duties	Pass/Fail
IV.B.7b Resumes/Experience Narratives	50
IV.B.7c Similar Program Experience	15
IV.B.8 Past Performance – Core Team Personnel	50
IV.B.9 Proposal Presentation/Demonstration Concurrence	Pass/Fail
IV.B.9 Proposal Presentation/Demonstration Performance	150
IV.B.10 Financial Stability	Pass/Fail
IV.B.11 Grand Total Cost	350
IV.B.12 Status Reporting	Pass/Fail
IV.B.13 Source Code	Pass/Fail
IV.B.14 Completed Campaign Contribution Disclosure Form	Pass/Fail

IV.B.15	Warranty	Pass/Fail
IV.B.16	New Mexico Employees Health Coverage Form	Pass/Fail

IV.B.17 Pay Equity Reporting	<u>Pass/Fail</u>
SUBTOTAL	1000
ADDITIONAL OPTIONAL POINTS	
Points will be awarded based on Offerors ability to provide a copy of a current Resident Business Certificate OR Resident Veterans Certificate	
IV.B.18 Resident Business Preference	50
IV.B.19 Resident Veterans Preference	100
IV.B.20 Value Added Support	<u>No Points</u>
GRAND TOTAL	1,100

B. EVALUATION FACTORS

A maximum of 1,000 points plus an optional 100 points for qualifying preferences be awarded based upon the quality and thoroughness of the Offeror's response to each of the valuation factor as follows.

1. **IV.B.2.a Offeror's Company Information** – The required information has been provided – Pass/Fail
- 2 **IV.B.2.b Offeror's Company Experience** – Up to 50 points may be awarded based on evaluation of the Offeror's experience and success in providing, implementing and supporting Voting Systems and Ancillary Equipment.
3. **IV.B.2.c Contractual Relationships** – Pass/Fail – Current and previous contractual relationships identified.
4. **IV.B.2.d Tabulator Programming** – Pass/Fail – A thorough response is required.
5. **IV.B.2.e Use of Subcontractor(s)** - Pass/Fail – A thorough response is required.
6. **IV.B.3.a Tabulator System Requirements** – Up to 25 points will be awarded based upon the thoroughness and applicability of the response that clearly documents how the Desirable requirements have been addressed. The response to each specification will be evaluated and awarded points accordingly.
7. **IV.B.3.b Operational Requirements** – Up to 80 points will be awarded based upon the thoroughness and applicability of the response that clearly documents how the Desirable requirements have been addressed. The response to each specification will be evaluated and awarded points accordingly.
8. **IV.B.3.c Media Storage** - Up to 30 points will be awarded based upon the thoroughness and applicability of the response that clearly documents how the Desirable requirements

have been addressed. The response to each specification will be evaluated and awarded points accordingly.

9. **IV.B.3.d Ballot Handling and Processing** – Up to 30 points will be awarded based upon the thoroughness and applicability of the response that clearly documents how the Desirable requirements have been addressed. The response to each specification will be evaluated and awarded points accordingly.
10. **IV.B.3.e Certifications** - Pass/Fail – A thorough response is required.
11. **IV.B.4a Agency Resources**- Pass/Fail – A thorough response is required.
12. **IV.B.4b Ballot Programming** - Pass/Fail – A thorough response is required.
13. **IV.B.4c Tabulator Maintenance** - Pass/Fail – A thorough response is required
14. **IV.B.4.d Training and Documentation**
 - a. **Training** - Up to 40 points will be awarded based upon the thoroughness and applicability of the proposed training that will be provided by the Offeror to the Secretary of State's office and individual county clerks' offices including their voting machine technicians in the technical operation and use of the Proposed System.
 - b. **User and Technical Documentation** – Up to 20 points will be awarded based upon the thoroughness and applicability of the system, user and training materials provided. The manuals and other technical or user materials that were not submitted with the certification application will be reviewed at the Finalist Offeror's presentation/demonstration session.
15. **IV.B.4f Program Deployment and Support Plan** – Up to 60 points will be awarded based upon and evaluation of the quality of Offeror's deployment plan, including but limited to how well is organized, the level of detail, how contingencies are addressed, the efficiency of the plan, the use of Offeror, county, Agency resources, and quality control.
16. **IV.B.5 Certification Testing** - Pass/Fail – A thorough response is required
17. **IV.B.6.b Past Performance - Offeror** – Up to 50 points may be awarded based upon an evaluation of Offeror's performance for previous clients receiving similar equipment products and services to those proposed by the Offeror for this Contract based upon the responses to the Past Performance Questionnaires and reference telephone calls, if required.
18. **IV.B.7.a Organization Chart/Duties** - Pass/Fail – A thorough response is required.

- 19. IV.B.7.b Core Team Personnel Experience** – Up to 50 points may be awarded for relevant experience of Core Team Personnel based upon the resumes and experience narratives submitted.
- 20. IV.B.7.c Similar Program Experience** Up to 15 points may be awarded for relevant Core Team Personnel experience on similar systems or programs.
- 21.IV.B.8 Past Performance – Core Team Personnel** – Up to 50 points may be awarded based upon an evaluation of Core Team Personnel’s performance for previous clients receiving similar equipment products and services to those proposed by the Offeror for this Contract based upon the responses to the Past Performance Questionnaires and reference telephone calls, if required.
- 22. IV.B.9 Proposal Presentation/Demonstration Concurrence** – Pass/Fail – A statement of concurrence is included in Offeror’s proposal.
- 23. IV.B.9 Proposal Presentation/Demonstration Performance** - Up to 150 points may be awarded for a presentation of the proposal and Demonstration of the tabulating equipment to the Evaluation Committee. The demonstrated knowledge and ability of Core Team Personnel plus the quality, ease of use of the proposed equipment will be the primary evaluation criteria.
- 24. IV.B.10 Financial Stability** – Pass/Fail – Based upon an assessment of the adequacy of the Offeror’s financial resources to successfully complete the requirements of the Contract.
- 25. IV.B.11 Grand Total Cost** - The evaluation of each offeror’s cost proposal will be conducted using the following formula:
- $$\frac{\text{Lowest Responsive Offer Grand Total Cost}}{\text{This Offeror's Grand Total Cost}} \times 350 = \text{Points Award}$$
- 26. IV.B.12 Status Reporting** – Pass/Fail – Statement of concurrence is included in the Offeror’s proposal.
- 27. IV.B.13 Source Code** - Pass/Fail - Statement of concurrence is included in the Offeror’s proposal.
- 28. IV.B.14 Completed Campaign Contribution Disclosure Form** - Pass/Fail – Signed form is included in the Offeror’s proposal.
- 29 IV.B15 Warranty** - Pass/Fail – Statement of concurrence is included in Offeror’s proposal.

- 30. IV.B.16 New Mexico Employees Health Coverage Form-** Pass/Fail – Signed form is included in the Offeror’s proposal.
- 31. IV.B.17 Pay Equity Reporting** - Pass/Fail – Statement of concurrence is included in Offeror’s proposal.
- 32. IV.B.18 Resident Business Preference** – Fifty (50) points will be awarded if the proposal contains a copy the Taxation and Revenue Department’s resident business preference certificate unless a Resident Veterans Preference Certificate is also submitted in which case the higher number of points from the Resident Veterans Preference shall be awarded instead.
- 33. IV.B.19 Resident Veterans Preference** – Up to 100 points will be awarded based on Offerors ability to provide a current Resident Veterans Certificate as follows:
- a. Resident veterans businesses with annual revenues of \$1M or less shall receive 100 points.
 - b. Resident veterans businesses with annual revenues of more than \$1M but less than \$5M shall receive 80 points.
 - c. Resident veterans businesses with annual revenues of more than \$5M shall receive 70 points.
- 34. IV.B.20 Value Added Support** – No Points – Useful information only.

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the mandatory requirements as stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Co-Managers may contact the Offeror for clarification of the response as specified in Section II, Paragraph B7.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section II, Paragraph C18.
4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible Offerors with the highest scores will be selected as Finalist Offerors based upon the proposals submitted. Finalist Offerors who are asked or who choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from proposal presentations and Proposed System demonstrations will be added to the previously assigned points to attain final scores.

5. The Responsible Offeror whose proposals is most advantageous to the Agency, taking into consideration the evaluation factors in Section V, will be recommended for Contract award to the State Purchasing Agent as specified in Section II, Paragraph B12. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDICES

APPENDIX A. ACKNOWLEDGMENT OF RECEIPT FORM

**SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY
EQUIPMENT RFP#30-370-13-00011**

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix I.

The acknowledgement of receipt should be signed and returned to the Procurement Co-Manager no later than close of business on June 21, 2013. Only potential Offerors who elect to return this form completed with the intention of submitting a proposal will receive copies of all Offeror written questions and the Agency's written responses to those questions as well as RFP amendments if any are issued.

COMPANY: _____

REPRESENTED BY: _____

TITLE: _____ **PHONE NO.:** _____

E-MAIL: _____ **FAX NO.:** _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP CODE:** _____

SIGNATURE: _____ **DATE:** _____

This name and address will be used for all correspondence related to the Request for Proposals.

Company does/does not (circle one) intend to respond to this Request for Proposals.

Acknowledgements must be delivered to the Procurement Co-Manager at the following address:

**Terry Davenport
Procurement Co-Manager
New Mexico Secretary of State's Office
325 Don Gaspar, Suite 300
Santa Fe, New Mexico 87501
505-470-1428
Fax 505-827-8081
terry.davenport3@state.nm.us**

APPENDIX B. CONTRACT TERMS AND CONDITIONS

State of New Mexico

AGENCY PRICE AGREEMENT

SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY EQUIPMENT

Price Agreement No. 30-370-13-00011

THIS Information Technology Agreement (“Agreement” or “Contract”) is made by and between the State of New Mexico, Secretary of State hereinafter referred to as the “Procuring Agency” and **[Insert Contractor Name]**, hereinafter referred to as the “Contractor” and collectively referred to as the “Parties”.

WHEREAS, pursuant to the Procurement Code, NMSA 1978 § 13-1-28 *et. seq*; and Procurement Code Regulations, NMAC 1.4.1 *et.seq*; the Contractor has held itself out as expert in implementing the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as one of the offerors most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of the RFP#30-370-13-00011_ SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY EQUIPMENT and the Contractor’s response to such document(s) are incorporated herein by reference; and

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

ARTICLE 1 – DEFINITIONS

- A. “Acceptance” or “Accepted” shall mean the approval, after Quality Assurance, of all Deliverables by an Executive Level Representative of the Procuring Agency.
- B. “Application Deployment Package” shall mean the centralized delivery of business critical applications including the source code (for custom software), documentation, executable code and deployment tools required to successfully install application software fixes including additions, modifications, or deletions produced by the Contractor.
- C. “Ancillary Equipment” means Equipment that may or may not be an integral part of a Voting System but that can be used as an adjunct to it is considered to a component of the system. Voting System accessories and peripherals are Ancillary Equipment.
- D. “Business Days” shall mean Monday through Friday, 7:30 a.m. (MST or MDT) to 5:30 p.m. except for federal or state holidays.

- E. “Change Request” shall mean the document utilized to request changes or revisions in the Scope of Work – Exhibit A, attached hereto and incorporated herein.
- F. “Chief Information Officer (“CIO”)” shall mean the Cabinet Secretary/CIO of the Department of Information Technology for the State of New Mexico or Designated Representative.
- G. “Confidential Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) that consists of: (1) confidential client information as such term is defined in State or Federal statutes and/or regulations; (2) all non-public State budget, expense, payment and other financial information; (3) all attorney-client privileged work product; (4) all information designated by the Procuring Agency or any other State agency as confidential, including all information designated as confidential under federal or state law or regulations; (5) unless publicly disclosed by the Procuring Agency or the State of New Mexico, the pricing, payments, and terms and conditions of this Agreement, and (6) State information that is utilized, received, or maintained by the Procuring Agency, the Contractor, or other participating State agencies for the purpose of fulfilling a duty or obligation under this Agreement and that has not been publicly disclosed.
- H. “Contract Manager” shall mean a Qualified person from the Procuring Agency responsible for all aspects of the administration of this Agreement. Under the terms of this Agreement, the Contract Manager shall be [Insert Name] or his/her Designated Representative.
- I. “Default” or “Breach” shall mean a violation of this Agreement by either failing to perform one’s own contractual obligations or by interfering with another Party’s performance of its obligations.
- J. “Deliverable” shall mean any verifiable outcome, result, service or product that must be delivered, developed, performed or produced by the Contractor as defined by the Scope of Work. For this Agreement, the deliverable shall be a completed Purchase Order.
- K. “Designated Representative” shall mean a substitute(s) for a title or role, e.g. Contract Manager, when the primary is not available.
- L. “Documentation” refers to manuals, handbooks, maintenance libraries, and other publications listed in the ESS or supplied with software or products listed in the EPS or supplied in connection with services.
- M. “DoIT” shall mean the Department of Information Technology.
- N. “DFA” shall mean the Department of Finance and Administration; “DFA/CRB” shall mean the Department of Finance and Administration, Contracts Review Bureau.
- O. “Equipment” means Voting Systems and Ancillary Equipment listed in the contractor's EPS.
- P. “Equipment, Product and Services Schedule (“EPS”) refers to a complete list, grouped by major product categories, of the hardware, software, services, media and documentation offered by the contractor and filed with the Agency. The EPS contains, at a minimum, the item number, item description and the maximum price or hourly rate for each item of Equipment, Product or Service.
- Q. “Escrow” shall mean a legal document (such as the software source code) delivered by the Contractor into the hands of a third party, and to be held by that party until the

- performance of a condition is Accepted; in the event Contractor fails to perform, the Procuring Agency receives the legal document, in this case, Source Code.
- R. “Enhancement” means any modification including addition(s), modification(s), or deletion(s) that, when made or added to the program, materially changes its or their utility, efficiency, functional capability, or application, but does not constitute solely an error correction.
- S. “Executive Level Representative” shall mean the individual empowered with the authority to represent and make decisions on behalf of the Procuring Agency's executives or his/her Designated Representative.
- T. “GRT” shall mean New Mexico gross receipts tax.
- Q. “Intellectual Property” shall mean any and all proprietary information developed pursuant to the terms of this Agreement.
- U. “Independent Verification and Validation (“IV&V”)” shall mean the process of evaluating a Project and the Project’s product to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an entity independent of the Procuring Agency.
- V. “Know How” shall mean all technical information and knowledge including, but not limited to, all documents, computer storage devices, drawings, flow charts, plans, proposals, records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.
- W. “New Mexico Employee” means any resident of the State of New Mexico, performing the majority of their work within the State of New Mexico, for any employer regardless of the location of the employer’s office or offices.
- X. “Payment Invoice” shall mean a detailed, certified and written request for payment of Services by and rendered from the Contractor to the Procuring Agency. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the Payment Invoice is submitted.
- Y. “Performance Bond” shall mean a surety bond which guarantees that the Contractor will fully perform the Contract and guarantees against breach of contract.
- Z. “Price Agreement” means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property (Voting Systems and Software) or services to the Agency which issues a purchase order in accordance with Section 13-1-71, NMSA 1978.
- AA. “Product” shall mean Software (source or object code), Documentation (system technical documentation, user documentation, training materials) ballot programming, or other items of tangible personal property developed by or delivered from the Contractor to the Agency or County Clerk under the terms and conditions of this Agreement.
- BB “Program” means Secretary of State's multi-year initiative to upgrade and replace existing ballot tabulators and AutoMark ballot marking devices for disabled voters in all of counties of New Mexico. The New Mexico Legislature has authorized an initial expenditure for \$6,000.000.00 for this program. Addition funding requests will be

submitted to the Legislature in the future years. Under the terms of this Agreement the Program is the Tabulating and Ancillary Equipment Program.

- CC. "Program Manager" shall mean a Qualified person from the Procuring Agency responsible for the application of knowledge, skills, tools, and techniques to the Program activities to meet the Program requirements from initiation to close. Under the terms of this Agreement, the Program Manager shall be [Insert Name] or his/her Designated Representative.
- DD. "Purchase Order" means the document issued by the Agency that directs the Contractor to deliver items of tangible personal property or services in accordance with 13-1-177 NMSA 1978. For this Agreement the Purchase Order shall include but not limited to the name of the location where the products are to be installed, the type and number of Equipment units and/or products to be installed, the number of personnel to be trained, a detail task list to be performed, the cost of the Equipment, Products and Services plus the timeframe for the installation the names of the Core Team Personnel who will be supporting the installation and/or an election plus the acceptance criteria.
- EE. "Qualified" means demonstrated experience performing activities and tasks with programs.
- FF. "Quality Assurance" shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.
- GG. "Services" shall mean the tasks, functions, and responsibilities assigned and delegated to the Contractor under this Agreement. "Services" includes to equipment maintenance services, installation, educational or related professionals services.
- HH. "State Purchasing Agent (SPA)" shall mean the State Purchasing Agent for the State of New Mexico or his/her Designated Representative.
- II. "State Purchasing Division (SPD)" shall mean the State Purchasing Division of the General Services Department for the State of New Mexico.
- JJ. "Software" shall mean all operating system and application software used by the Contractor to provide the Services under this Agreement.
- KK. "Software" refers to software products listed in the EPS. The term "Software" applies to all parts of Software, including new releases, updates, and modifications of software. For software, the term "purchase" means "license".
- LL. "Software Maintenance" shall mean the set of activities which result in changes to the originally Accepted (baseline) product set. These changes consist of corrections, insertions, deletions, extensions, and Enhancements to the baseline system.
- MM. "Turnover Plan" means the written plan developed by the Contractor and approved by the Procuring Agency in the event that the work described in this Agreement transfers to another vendor or the Procuring Agency.
- NN. "Voting System" means a combination of mechanical, electromechanical, or electronic equipment, including software and firmware required to program and control the equipment, that is used to cast and count votes, and also including any type of system that is designed to mark ballots at a polling location. For the purpose of this RFP voting tabulators, tabulator software and firmware, ADA certified ballot marking devices and Ancillary Equipment is included.

ARTICLE 2 – SCOPE OF WORK

- A. Scope of Work. The Contractor shall perform the work as outlined in Exhibit A, attached hereto and incorporated herein by reference.
- B. Performance Measures. The Contractor shall substantially perform to the satisfaction of the Procuring Agency the Performance Measures set forth in Exhibit A. In the event the Contractor fails to obtain the results described in Exhibit A, the Procuring Agency may provide written notice to the Contractor of the Default and specify a reasonable period of time in which the Contractor shall advise the Procuring Agency of specific steps it will take to achieve these results and the proposed timetable for implementation. Nothing in this Section shall be construed to prevent the Procuring Agency from exercising its rights pursuant to Article 6 or Article 16.
- C. Schedule. The Contractor shall meet the due dates, as set forth in each Purchase Order.
- D. License. Contractor hereby grants Procuring Agency a non-exclusive, irrevocable, perpetual license to use, modify, and copy the Software identified in a Purchase Order.

The right to copy the Software is limited to the following purposes: archival, backup and training. All archival and backup copies of the Software are subject to the provisions of this Agreement, and all titles, patent numbers, trademarks, copyright and other restricted rights notices shall be reproduced on any such copies.

- 1. Contractor agrees to maintain, at Contractor's own expense, a copy of the Software Source Code to be kept by an escrow agent and to list the Procuring Agency as an authorized recipient of this Source Code. The Source Code shall be in magnetic form on media specified by the Procuring Agency. The escrow agent shall be responsible for storage and safekeeping of the magnetic media. Contractor shall replace the magnetic media no less frequently than every six (6) months to ensure readability and to preserve the Software at the current revision level. Included with the media shall be all associated documentation which will allow the Procuring Agency to top load, compile and maintain the software in the event of a Breach.
- 2. If the Contractor ceases to do business or ceases to support this Agreement and it does not make adequate provision for continued support of the Software it provided the Procuring Agency; or, if this Agreement is terminated, or if the Contractor Breaches this Agreement, the Contractor shall make available to the Procuring Agency: 1) the latest available Software program Source Code and related documentation meant for the Software provided or developed under this Agreement by the Contractor and listed as part of the Services; 2) the Source Code and compiler/utilities necessary to maintain the system; and, 3) related

documentation for Software developed by third parties to the extent that the Contractor is authorized to disclose such Software. In such circumstances, Procuring Agency shall have an unlimited right to use, modify and copy the Source Code and documentation.

- E. Source Code. For each maintenance release, the Software shall be updated and shall be kept by an identified escrow agent at the Contractor's expense. The maintenance release shall be in magnetic or digital form on media specified by the Procuring Agency. The escrow agent shall be responsible for storage and safekeeping of the storage media. The Procuring Agency shall be listed with said escrow agent as an authorized recipient of the storage media which shall contain the most recent maintenance release deployment package.
- F. The Procuring Agency's Rights.
1. Rights to Software. Not Applicable. The Parties agree the Procuring Agency does not have ownership rights to the Software.
 2. Rights to Data. Any and all data stored on the Contractor's servers or within the Contractor's custody, in order to execute this Agreement, is the sole property of the Procuring Agency. The Contractor, subcontractor(s), officers, agents and assigns shall not make use of, disclose, sell, copy or reproduce the Procuring Agency's data in any manner, or provide to any entity or person outside of the Procuring Agency without the express written authorization of the Procuring Agency.

ARTICLE 3 - COMPENSATION

- A. Compensation Schedule. The Procuring Agency shall pay to the Contractor based upon fixed prices for each Deliverable, per the EPS outlined in Exhibit A.
- B. Payment. The total compensation under this Agreement shall not exceed [**Insert Dollar Amount**] excluding New Mexico gross receipts tax. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The Parties do not intend for the Contractor to continue to provide Services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Procuring Agency when the Services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for Services provided in excess of the total compensation amount without this Agreement being amended in writing prior to services, in excess of the total compensation amount being provided.

Payment shall be made upon Acceptance of each Deliverable according to Article 4 and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13- 1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days

of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the Procuring Agency no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

- C. Taxes. The Contractor shall be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Contractor by any authority. The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification number(s).

Contractor and any and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the Procuring Agency harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

- D. Retainage. Not Applicable – The Parties agree there is no retainage.
- E. Performance Bond. Not Applicable - The Parties agree there is no Performance Bond

ARTICLE 4 – ACCEPTANCE

- A. Submission. Upon completion of agreed upon Deliverable, Contractor shall submit a Payment Invoice, to the Procuring Agency. Each Payment Invoice shall be for the fixed Deliverable price.
- B. Acceptance. In accord with Section 13-1-158 NMSA 1978, the Executive Level Representative shall determine if the Deliverable has been completed in accordance with the specifications. No payment shall be made for any Deliverable until the individual Deliverable that is the subject of the Payment Invoice has been Accepted, in writing, by the Executive Level Representative. In order to Accept the Invoice, the Executive Level Representative, in conjunction with the Program Manager, will assess the Quality Assurance level of the Deliverable and determine, at a minimum, that the Deliverable:
1. Complies with the Deliverable requirements as defined in Article 2 and Exhibit A;
 2. Complies with the terms and conditions of this Agreement;
 3. Meets the performance measures for the Deliverable(s) and this Agreement;
 4. Meets or exceeds the generally accepted industry standards and procedures for the Deliverable(s); and
 5. Complies with all the requirements of this Agreement.

If the Deliverable is deemed Acceptable under Quality Assurance by the Executive Level Representative or their Designated Representative, the Executive Level Representative will notify the Contractor of Acceptance, in writing, within fifteen (15) Business Days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice.

- C. Rejection. Unless the Executive Level Representative gives notice of rejection within the fifteen (15) Business Day Acceptance period, the Deliverable will be deemed to have been Accepted. If the Deliverable is deemed unacceptable under Quality Assurance, fifteen (15) Business Days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice, the Executive Level Representative will send a consolidated set of comments indicating issues, unacceptable items, and/or requested revisions accompanying the rejection. Upon rejection and receipt of comments, the Contractor will have ten (10) Business Days to resubmit the Deliverable to the Executive Level Representative with all appropriate corrections or modifications made and/or addressed. The Executive Level Representative will again determine whether the Deliverable(s) is Acceptable under Quality Assurance and provide a written determination within fifteen (15) Business Days of receipt of the revised or amended Deliverable. If the Deliverable is once again deemed unacceptable under Quality Assurance and thus rejected, the Contractor will be required to provide a remediation plan that shall include a timeline for corrective action acceptable to the Executive Level Representative. The Contractor shall also be subject to all damages and remedies attributable to the late delivery of the Deliverable under the terms of this Agreement and available at law or equity. In the event that a Deliverable must be resubmitted more than twice for Acceptance, the Contractor shall be deemed as in breach of this Agreement. The Procuring Agency may seek any and all damages and remedies available under the terms of this Agreement and available at law or equity. Additionally, the Procuring Agency may terminate this Agreement.

ARTICLE 5 – TERM

THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND THE STATE PURCHASING AGENT. This Agreement shall terminate on **[Insert Termination Date]**, unless terminated pursuant to Article 6. The Agreement may be extended or renewed based upon mutual agreement of the parties for five (5) additional one-year terms or a portion thereof for the purpose of purchasing additional equipment, products or non-professional services. In accordance with Section 13-1-150 NMSA 1978; the Contract, including all renewals thereof, shall not exceed a total of eight (8) years in duration.

ARTICLE 6 – TERMINATION

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

- B. Appropriations. By the Procuring Agency, if required by changes in State or federal law, or because of court order, or because of insufficient appropriations made available by the United States Congress and/or the New Mexico State Legislature for the performance of this Agreement. The Procuring Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency terminates this Agreement pursuant to this subsection, the Procuring Agency shall provide the Contractor written notice of such termination at least fifteen (15) Business Days prior to the effective date of the termination.
- C. Notice; Agency Opportunity to Cure.
1. Except as otherwise provided in Paragraph (3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.
 2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.
 3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Procuring Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, "Appropriations", of this Agreement.
- D. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE PROCURING AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

ARTICLE 7 – TERMINATION MANAGEMENT

- A. Contractor. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Contractor shall:

1. Transfer, deliver, and/or make readily available to the Procuring Agency property in which the Procuring Agency has a financial interest and any and all data, Know How, Intellectual Property, inventions or property of the Procuring Agency;
2. Incur no further financial obligations for materials, Services, or facilities under the Agreement without prior written approval of the Procuring Agency;
3. Terminate all purchase orders or procurements and any subcontractors and cease all work, except as the Procuring Agency may direct, for orderly completion and transition;
4. Take such action as the Procuring Agency may direct, for the protection and preservation of all property and all records related to and required by this Agreement;
5. Agree that the Procuring Agency is not liable for any costs arising out of termination and that the Procuring Agency is liable only for costs of Deliverables Accepted prior to the termination of the Agreement;
6. Cooperate fully in the closeout or transition of any activities to permit continuity in the administration of Procuring Agency's programs;
7. In the event that this Agreement is terminated due to the Contractor's course of performance, negligence or willful misconduct and that course of performance, negligence, or willful misconduct results in reductions in the Procuring Agency's receipt of program funds from any governmental agency, the Contractor shall remit to the Procuring Agency the full amount of the reduction;
8. Should this Agreement terminate due to the Contractor's Default, the Contractor shall reimburse the Procuring Agency for all costs arising from hiring new Contractor/subcontractors at potentially higher rates and for other costs incurred;
9. In the event this Agreement is terminated for any reason, or upon its expiration, the Contractor shall develop and submit to the Procuring Agency for approval an Agreement Turnover Plan at least ten (10) Business Days prior to the effective date of termination. Such Turnover Plan shall describe the Contractor's policies and procedures that will ensure: (1) the least disruption in the delivery of Services during the transition to a substitute vendor; and (2) cooperation with the Procuring Agency and the substitute vendor in transferring information and Services. The Turnover Plan shall consist of the orderly and timely transfer of files, data, computer software, documentation, system turnover plan, Know How, Intellectual Property and other materials, whether provided by the Procuring Agency or created by the Contractor under this Agreement, to the Procuring Agency, including but not limited to, user manuals with complete documentation, functional technical descriptions of each program and data flow diagrams. At the request of the Procuring Agency, the Contractor shall provide to the Procuring Agency a copy of the most recent versions of all files, software, Know How, Intellectual Property and documentation, whether provided by the Procuring Agency or created by the Contractor under this Agreement.

- B. Procuring Agency. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Procuring Agency shall:
1. Retain ownership of all work products and documentation created pursuant to this Agreement; and
 2. Pay the Contractor all amounts due for Equipment, Products or Services Accepted prior to the effective date of such termination or expiration.

ARTICLE 8 – INDEMNIFICATION

- A. General. The Contractor shall defend, indemnify and hold harmless the Procuring Agency, the State of New Mexico and its employees 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, during the time when the Contractor, its 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) Business Days after it receives notice thereof, notify, by certified mail, the legal counsel of the Procuring Agency, the Risk Management Division of the New Mexico General Services Department, and the DoIT.
- B. The indemnification obligation under this Agreement shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Agreement. Money due or to become due to the Contractor under this Agreement may be retained by the Procuring Agency, as necessary, to satisfy any outstanding claim that the Procuring Agency may have against the Contractor.

ARTICLE 9 – INTELLECTUAL PROPERTY

Contractor hereby acknowledges and grants to the Procuring Agency and the State of New Mexico, a perpetual, non-exclusive, royalty free license to reproduce, publish, use, copy and modify the Intellectual Property and Know How created or conceived pursuant to, or as a result of, performance of this Agreement.

ARTICLE 10 – INTELLECTUAL PROPERTY INDEMNIFICATION

- A. Intellectual Property Indemnification. The Contractor shall defend, at its own expense, the Procuring Agency, the State of New Mexico and/or any other State of New Mexico body against any claim that any product or service provided under this Agreement

infringes any patent, copyright or trademark, and shall pay all costs, damages and attorney's fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against the Procuring Agency based upon Contractor's trade secret infringement relating to any product or Services provided under this Agreement, the Contractor agrees to reimburse the Procuring Agency for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Procuring Agency shall:

1. Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
2. Work with the Contractor to control the defense and settlement of the claim; and
3. Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

B. Procuring Agency Rights. If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

1. Provide the Procuring Agency the right to continue using the product or service and fully indemnify the Procuring Agency against all claims that may arise out of the Procuring Agency's use of the product or service;
2. Replace or modify the product or service so that it becomes non-infringing; or
3. Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the Procuring Agency to the extent such modification is the cause of the claim.

ARTICLE 11 - WARRANTIES

A. General. The Contractor hereby expressly warrants the Deliverable(s) as being correct and compliant with the terms of this Agreement, Contractor's official published specification and technical specifications of this Agreement and all generally accepted industry standards. This warranty encompasses correction of defective Deliverable(s) and revision of the same, as necessary, including deficiencies found during testing, implementation, or post-implementation phases.

B. Equipment. The Contractor warrants that the Equipment will meet published specifications and functions described in Contractor's proposal. The Contractor further warrants that the Equipment provided under this Agreement will meet the applicable specifications for four (4) years after Acceptance by the Executive Level Representative. If the Equipment fails to meet the applicable specifications during the warranty period, the Contractor will correct the deficiencies, at no additional cost to the Procuring Agency, so that the Equipment meets the applicable specifications.

- C. Software. The Contractor warrants that any software or other products delivered under this Agreement shall comply with the terms of this Agreement, Contractor's official published specification(s) and technical specifications of this Agreement and all generally accepted industry standards. The Contractor further warrants that the software provided under this Agreement will meet the applicable specifications for three (3) years after Acceptance by the Executive Level Representative and implementation by the Procuring Agency. If the software fails to meet the applicable specifications during the warranty period, the Contractor will correct the deficiencies, at no additional cost to the Procuring Agency, so that the software meets the applicable specifications.

ARTICLE 12 – CONTRACTOR PERSONNEL

- A. Key Personnel. Contractor's key personnel shall not be diverted from this Agreement without the prior written approval of the Procuring Agency. Key personnel are those individuals considered by the Procuring Agency to be mandatory to the work to be performed under this Agreement. Key personnel shall be:
[Insert Contractor Staff Name(s)]
- B. Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the Procuring Agency. For all personnel, the Procuring Agency reserves the right to require submission of their resumes prior to approval. If the number of Contractor's personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) Business Days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to Procuring Agency approval. The Procuring Agency, in its sole discretion, may approve additional time beyond the ten (10) Business Days for replacement of personnel. The Contractor shall include status reports of its efforts and progress in finding replacements and the effect of the absence of the personnel on the progress of the Project. The Contractor shall also make interim arrangements to assure that the Project progress is not affected by the loss of personnel. The Procuring Agency reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the Procuring Agency, meeting the Procuring Agency's expectations.

ARTICLE 13 – STATUS OF CONTRACTOR

- A. Independent Contractor. The Contractor and its agents and employees are independent contractors performing professional Services for the Procuring Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

- B. Subject of Proceedings. Contractor warrants that neither the Contractor nor any officer, stockholder, director or employee of the Contractor, is presently subject to any litigation or administrative proceeding before any court or administrative body which would have an adverse effect on the Contractor's ability to perform under this Agreement; nor, to the best knowledge of the Contractor, is any such litigation or proceeding presently threatened against it or any of its officers, stockholders, directors or employees. If any such proceeding is initiated or threatened during the term of this Agreement, the Contractor shall immediately disclose such fact to the Procuring Agency.

ARTICLE 14 - CHANGE MANAGEMENT

Contractor may only make changes or revisions within a Deliverable after receipt of written approval by the Executive Level Representative.

ARTICLE 15 – INDEPENDENT VERIFICATION AND VALIDATION

Not Applicable - The Parties agree there is no Independent Verification and Validation.

ARTICLE 16 – DEFAULT/BREACH

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the Procuring Agency and the State of New Mexico may procure the goods or Services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the Procuring Agency and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity.

ARTICLE 17 – EQUITABLE REMEDIES

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the Procuring Agency irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the Procuring Agency, and the Contractor consents to the Procuring Agency's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. Procuring Agency's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that Procuring Agency may have under applicable law, including, but not limited to, monetary damages.

ARTICLE 18 - LIABILITY

Contractor shall be liable for damages arising out of injury to persons and/or damage to real or tangible personal property at any time, in any way, if and to the extent that the injury or damage

was caused by or due to the fault or negligence of the Contractor or a defect of any equipment provided or installed, provided in whole or in part by the Contractor pursuant to the Agreement. Contractor shall not be liable for damages arising out of, or caused by, alterations made by the Procuring Agency to any equipment or its installation or for losses caused by the Procuring Agency's fault or negligence. Nothing in this Agreement shall limit the Contractor's liability, if any, to third parties and/or employees of the Procuring Agency or the State of New Mexico, or any remedy that may exist under law or equity in the event a defect in the manufacture or installation of the equipment, or the negligent act or omission of the Contractor, its officers, employees, or agents, is the cause of injury to such person.

ARTICLE 19 – 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 this Agreement's approval authorities.

ARTICLE 20 – SUBCONTRACTING

- A. General Provision. The Contractor shall not subcontract any portion of this Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Agreement, nor shall any subcontracting obligate payment from the Procuring Agency.
- B. Responsibility for subcontractors. The Contractor must not disclose Confidential Information of the Procuring Agency or of the State of New Mexico to a subcontractor unless and until such subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required of the Contractor under this Agreement.

ARTICLE 21 – RELEASE

The Contractor's Acceptance of final payment of the amount due under this Agreement shall operate as a release of the Procuring Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

ARTICLE 22 – CONFIDENTIALITY

Any Confidential Information provided to the Contractor by the Procuring Agency or, developed by the Contractor based on information provided by the Procuring Agency 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 Procuring Agency. Upon termination of this Agreement, Contractor shall deliver all Confidential Information in its possession to the Procuring Agency within thirty (30) Business Days of such termination. Contractor acknowledges that failure to deliver such Confidential Information to the Procuring Agency will result in direct, special and incidental damages.

ARTICLE 23 –CONFLICT OF INTEREST

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, state employee or former state employee have been followed.

ARTICLE 24 - RECORDS AND AUDIT

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of Services rendered during this 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 Procuring Agency, CIO, SPA, and DFA and the New Mexico State Auditor's Office. The Procuring Agency shall have the right to audit billings both before and after payment. Payment for Services under this Agreement shall not foreclose the right of the Procuring Agency to recover excessive or illegal payments.

ARTICLE 25 - AMENDMENT

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto. No amendment shall be effective or binding unless approved by all of the approval authorities.

ARTICLE 26 – NEW MEXICO EMPLOYEES HEALTH COVERAGE

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

- D. For Indefinite Quantity, Indefinite Delivery contracts (state 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.

ARTICLE 27 – NEW MEXICO EMPLOYEES PAY EQUITY REPORTING

- A. The Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this Agreement, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for Agreements up to one (1) year in duration. If Contractor has (250) or more employees Contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for Agreements up to one (1) year in duration. For Agreements that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual Agreements anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the Agreements, whichever comes first. Should Contractor not meet the size requirement for reporting as of the effective date of this Agreement but subsequently grows such that they meet or exceed the size requirement for reporting, Contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.
- B. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than ten percent (10%) of the dollar value of this Agreement if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of this Agreement. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting as of the effective date of this Agreement but subsequently grows such that they meet or exceed the size requirement for reporting, Contractor will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though Contractor itself may not meet the size requirement for reporting and be required to report itself.

- C. Notwithstanding the foregoing, if this Agreement was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

ARTICLE 28 – MERGER/ SCOPE

- A. Severable. The provisions of this Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court or agency or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision.
- B. Merger/Scope. This Agreement incorporates any and all agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this Agreement. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents or assignees shall be valid or enforceable unless embodied in this Agreement.

ARTICLE 29 – NOTICES

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail (return receipt requested), when sent by overnight carrier, or upon telephone confirmation by Contractor to the sender of receipt of a facsimile communication that is followed by a mailed hard copy from the sender. Notices shall be addressed as follows:

For PROCURING AGENCY
Diana J. Duran
State of New Mexico
Secretary of State
325 Don Gaspar, Suite 300
Santa Fe, New Mexico 87503

For CONTRACTOR
[Insert Name of Individual, Position,
Company Name,
E-mail Address,
Telephone Number,
Mailing Address.]

Any change to the Notice individual or the address, shall be effective only in writing.

ARTICLE 30 – GENERAL PROVISIONS

- A. 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, including but not limited to:
1. Civil and Criminal Penalties. 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.
 2. 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 agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, 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.
 3. 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 Procuring Agency.
- B. Applicable Law. The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all such lawsuits arising under or out of any term of this Agreement.
- C. Waiver. 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 expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.
- D. Headings. Any and all headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. Numbered or lettered provisions, sections and subsections

contained herein, refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

ARTICLE 31 - SURVIVAL

The Articles entitled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties shall survive the expiration or termination of this Agreement. Software License and Software Escrow agreements entered into in conjunction with this Agreement shall survive the expiration or termination of this Agreement. Other unexpired agreements, promises, or warranties that will survive the termination of this Agreement are: Equipment and Software warranties.

ARTICLE 32 - TIME

Calculation of Time. Any time period herein calculated by reference to "days" means calendar days, unless Business Days are used; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be the first day following that is not a Saturday, Sunday, or such observed holiday.

ARTICLE 33 – FORCE MAJEURE

Neither party shall be liable in damages or have any right to terminate this Agreement for any delay or Default in performing hereunder if such delay or Default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

ARTICLE 34 – INCORPORATION/ORDER OF PRECEDENCE

Request for Proposals No.30-370-13-00011 and the Contractor's proposal are incorporated by reference into this Agreement and are made a part of this Agreement. In addition, each Purchase Order that is accepted by the Contractor will become a part of the Agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

- (1) the terms and conditions of this document;
- (2) the purchase order;
- (3) the request for proposals;
- (4) the Contractor's Best and Final Offer;
- (5) the contractor's proposal; and
- (6) the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal or included with the delivery of equipment or products).

ARTICLE 35 – SHIPMENT AND RISK OF LOSS

- A. The contractor shall ship all Equipment F.O.B. destination, freight prepaid. Except for loss or damage directly attributable to the negligence of the Agency, the contractor shall bear all risk of loss or damage until the Equipment has been installed by the contractor. Destination charges may either be included in the Equipment price on the EPS, or pre-paid by the contractor and billed as a separate item at actual cost.
- B. Whenever the Procuring Agency does not accept any Equipment and returns it to the contractor, all related Documentation and Software furnished by the contractor shall be returned also. The Contractor shall bear all risk of loss or damage with respect to returned Equipment or products except for loss or damage directly attributable to the negligence of the Procuring Agency.
- C. Unless otherwise agreed upon by the Procuring Agency, the Contractor is responsible for pickup of returned equipment at the Procuring Agency headquarters.

ARTICLE 36 – MAINTENANCE AGREEMENT

The Contractor agrees to provide the agency an opportunity to enter into a preventative maintenance agreement in order for the Procuring Agency to protect its investment and keep its Equipment in good working condition. Preventative maintenance will be performed at the location where the equipment has been deployed.

- A. The Contractor agrees to perform routine preventative maintenance services on any Equipment that was purchased by the Agency under this Agreement. The Contractor agrees to complete such service or repairs on a time and materials basis upon receipt of a valid purchase order.
- B. The Contractor agrees to accept any Equipment that was purchased by the Procuring Agency under this Agreement for service after the warranty has expired. The contractor agrees to complete such service or repairs on a time and materials basis upon receipt of a valid purchase order or under the terms of maintenance agreement.

ARTICLE 37 – PRICE PROTECTION

The contractor shall give the Agency the benefit of any price reduction for any Equipment, Product or Service listed in the EPS throughout the agreement term. The contractor agrees that the Agency shall pay the lower of the EPS price or an advertised promotional discount price, or the volume discounted price for governmental customers for the same volume of purchases under substantially the same terms and conditions.

ARTICLE 38 – CHANGES TO THE EPS

After the initial EPS has been accepted by the Procuring Agency, the Contractor may change the prices for Equipment, Software and Services subject to the following provisions:

- A. The Contractor shall not raise prices for Equipment, Products or Services during the then-current agreement term.
- B. If the contractor lowers the price of any Equipment, Product or Service, the contractor may subsequently raise the price back to the original price but no higher. Published price reductions must be offered to the Procuring Agency at the time of the announced reduction.
- C. The contractor may request permission to add new Equipment, Software or Services to the EPS provided that the pricing is agreed to between the Procuring Agency and the Contractor and the new additions are within the scope of the procurement as defined in the request for proposals. Additions to the EPS must be submitted to the Contract Manager for review and approval. All items added must be deliverable within sixty (60) days of receipt of a purchase order.
- D. Upon ninety (90) days written notice to the Procuring Agency, the Contractor may withdraw any Equipment, Software or Service from the EPS. Once withdrawn, item(s) may not be resubmitted during the then-current Agreement term. Approval of resubmitted items is at the sole discretion of the Procuring Agency.
- E. The Procuring Agency reserves the right to require demonstrations of new products before allowing them to be added to the EPS and to reject products that the Procuring Agency believes to be inappropriate for use by the Agency. All such demonstrations must be conducted in Santa Fe or Albuquerque, New Mexico. The direct expense for such demonstrations is the sole obligation of the Contractor.
- F. All changes to the EPS must be filed with and Accepted by the Contract Manager to become effective.
- G. The Contract Manager shall be responsible for management of the Agreement and the EPS. The Contract Manager shall be responsible for initiating any extensions of the Agreement as described in paragraph 4 of this Agreement.
- H. Voting Systems shall be certified by the New Mexico Certification Committee before they may be placed on the EPS.

ARTICLE 39 – CHANGE IN CONTRACTOR REPRESENTATIVES

The Agency reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the opinion of the Procuring Agency, serving the needs of the Procuring Agency and the State of New Mexico adequately.

ARTICLE 40 – BALLOT PROGRAMMING AND PROCEDURES

Any and all Software programs and/or procedures or related items of tangible personal property developed for the proper operation of the Equipment for tabulating or transmitting votes are the Intellectual Property of the Agency.

ARTICLE 41 – STATUS REPORTING

After a Purchase Order has been issued and for the duration of all Purchase Orders issues thereafter, the Contractor shall provide a formal written bi-weekly status report delivered to the Program Manager. The format shall be approved by the Program Manager prior to issuance of the first (1st) status report. The status reports shall include, but not be limited to, the following:

- A. Overall completion status of each outstanding Purchase Order in terms of the approved work plan and schedule;
- B. Accomplishments during the period.
- C. Upcoming Milestones, completed Milestones, slipping Milestones;
- D. Problems encountered and proposed/actual resolutions;
- E. What is to be accomplished during the next reporting period;
- F. Issues that need to be addressed;
- G. Updated purchase order time line showing percentage completed, high-level tasks assigned, completed and remaining and Milestone variance;
- H. Agency, county and Contractor resources required for activities during the next time period;
- I. A list of the Work Products that will be produced, if any.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____
Diana J. Duran
Secretary of State

By: _____ Date: _____
[Insert Contractor Name]
[Insert Title and Company Name]

By: _____ Date: _____
Kari N. Fresquez

Chief Information Officer for the Office of the Secretary of State

Approved for legal sufficiency:

By: _____ Date: _____
Tania Maestas

Office of the Secretary State General Counsel

By: _____ Date: _____
Kathleen Y. Branchal
Office of the Secretary of State Chief Financial Officer

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:

CRS ID Number: _____

By: _____ Date: _____
Taxation & Revenue Department

Approved as to information technology contractual specifications and compliance with the Department of Information Technology Act, Chapter 9, Article 27 NMSA 1978 and Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico.

By: _____ Date: _____
Darryl Ackley, State CIO and Cabinet Secretary
Department of Information Technology

This Agreement has been approved by the State Purchasing Agent:

By: _____ Date: _____
Purchasing Agent for the State of New Mexico

EXHIBIT A – SCOPE OF WORK

- I. The contractor shall provide private Voting Systems and Services to the Procuring Agency in accordance with the terms of this Agreement. This Agreement is a "price agreement" as defined in Section 13-1-71 NMSA 1978. Accordingly, the Contractor shall provide Voting Systems and Services only upon the issuance of "purchase orders" as defined in Section 13-1-77 NMSA 1978. Purchase Orders may be issued to purchase Equipment, the license for Software and/or Services listed on the contractor's EPS.
- II. The Agency may purchase any product or service listed in the contractor's EPS at the prices stated therein unless a lower price is agreed to between the Procuring Agency and the contractor. Title to equipment shall pass to the Agency upon acceptance.
- III. Performance Measures
Performance measures shall be defined in each Purchase Order.
- IV. Deliverables:
Deliverables shall be defined in each Purchase Order

EQUIPMENT, PRODUCTS AND SERVICE SCHEDULE

APPENDIX C. PROPOSAL COST RESPONSE FORMS

SUMMARY COST RESPONSE FORM C-1

Offeror Name: _____

Instructions

Use the appropriate items and costs contained in the EPS (Cost Response Form C-2) for the following example equipment, software and training deployment with maintenance services. Do not include New Mexico Gross Receipts Tax. Use additional lines if required.

Item	Amount
1. Tabulators: The cost of 331 of the proposed tabulating units	_____
What is the name of the proposed unit? Describe briefly the functions, features and accessories included with each unit: _____	

2. **Shipping/Delivery/Acceptance Testing** - For the purpose of preparing a response to this requirement, Offerors shall assume that each county is to receive 10 (ten) tabulators with delivery to the county's voting system storage facility for each county in New Mexico including acceptance testing at each location. One (1) unit will be deployed to the Office of the Secretary of State.

- | | |
|----------------|-------|
| 1. Bernalillo | _____ |
| 2. Catron | _____ |
| 3. Chaves | _____ |
| 4. Cibola | _____ |
| 5. Colfax | _____ |
| 6. Curry | _____ |
| 7. DeBaca | _____ |
| 8. Dona Ana | _____ |
| 9. Eddy | _____ |
| 10. Grant | _____ |
| 11. Guadalupe | _____ |
| 12. Harding | _____ |
| 13. Hidalgo | _____ |
| 14. Lea | _____ |
| 15. Lincoln | _____ |
| 16. Luna | _____ |
| 17. Los Alamos | _____ |
| 18. McKinley | _____ |

19.	Mora	_____
20.	Otero	_____
21.	Quay	_____
22.	Rio Arriba	_____
23.	Roosevelt	_____
24.	Sandoval	_____
25.	Santa Fe	_____
26.	San Miguel	_____
27.	Sierra	_____
28.	Socorro	_____
29.	San Juan	_____
30.	Taos	_____
31.	Torrance	_____
32.	Union	_____
33.	Valencia	_____
34.	Office of the Secretary of State	_____

Subtotal: _____

Describe the basis for the charges: _____

3. The Cost of User and Technical Manuals for the purchased tabulators: _____

Describe the number manuals provides and the method of delivery: _____

4. Training:

Using the proposed training resources and materials, the Offerors shall provide the cost of the proposed training as follows. Offerors shall assume the training facility will be provided.

1. Location: Farmington, New Mexico
 - Ten Voting Machine Technicians _____
 - Ten County election employees _____
2. Location: Albuquerque, New Mexico
 - Thirteen Voting Machine Technicians _____
 - Ten County election employees _____
 - Three Secretary of State election bureau employees _____

3. Location: Las Cruces, New Mexico
 Ten Voting Machine Technicians
 Ten County election employees

Subtotal: _____

Describe the scope of the training: _____

5. Ballot Programming

Offerors shall propose to provide the cost of ballot programming as follows:

1. Programming of ballot definitions/election definitions/ballot layout in the tabulator software platform- per election _____
2. Programming of removable media storage devices-per election, per removable media storage device _____
3. Production of PDF files of ballots for upload to ballot printing devices at polling locations, and for creation of pre-printed ballots and creation of sample ballots per election _____

Subtotal: _____

Describe the assumptions used to determine the cost of this service: _____

5. Software Licenses:

Offerors shall propose the cost of software licenses as follows:

1. Overall cost of one-time statewide purchase of software/firmware associated with the voting systems _____
2. Costs of each maintenance upgrade to the software/firmware during the contract period _____
3. Number of anticipated software licenses required by the state

for implementation of the proposed system statewide _____

4. Costs of each software license required to accommodate the
number of anticipated licenses required statewide _____

Subtotal: _____

6. Preventative Maintenance:

For the purpose of preparing a response to this requirement, Offerors shall assume that each county has received 10 (ten) tabulators and preventative maintenance and testing is required prior to the June 2013 primary election. Indicate the cost for performing preventative maintenance services at each location.

- | | | |
|-----|------------|-------|
| 1. | Bernalillo | _____ |
| 2. | Catron | _____ |
| 3. | Chaves | _____ |
| 4. | Cibola | _____ |
| 5. | Colfax | _____ |
| 6. | Curry | _____ |
| 7. | De Baca | _____ |
| 8. | Dona Ana | _____ |
| 9. | Eddy | _____ |
| 10. | Grant | _____ |
| 11. | Guadalupe | _____ |
| 12. | Harding | _____ |
| 13. | Hidalgo | _____ |
| 14. | Lea | _____ |
| 15. | Lincoln | _____ |
| 16. | Luna | _____ |
| 17. | Los Alamos | _____ |
| 18. | McKinley | _____ |
| 19. | Mora | _____ |
| 20. | Otero | _____ |
| 21. | Quay | _____ |
| 22. | Rio Arriba | _____ |
| 23. | Roosevelt | _____ |
| 24. | Sandoval | _____ |
| 25. | Santa Fe | _____ |
| 26. | San Miguel | _____ |
| 27. | Sierra | _____ |
| 28. | Socorro | _____ |
| 29. | San Juan | _____ |
| 30. | Taos | _____ |
| 31. | Torrance | _____ |

- | | | |
|-----|----------|-------|
| 32. | Union | _____ |
| 33. | Valencia | _____ |

Subtotal: _____

Describe the scope of the services provided at each location: _____

7. Out of Warranty Equipment Maintenance:

For the purpose of preparing a response to this requirement, Offerors shall assume that each county has received 10 (ten) tabulators and two (2) of them in each county need repairs. Indicate the cost for performing the repairs at each location which will return the units to operational service. Assume the unit component that reads the ballots is malfunctioning.

- | | | |
|-----|------------|-------|
| 1. | Bernalillo | _____ |
| 2. | Catron | _____ |
| 3. | Chaves | _____ |
| 4. | Cibola | _____ |
| 5. | Colfax | _____ |
| 6. | Curry | _____ |
| 7. | DeBaca | _____ |
| 8. | Dona Ana | _____ |
| 9. | Eddy | _____ |
| 10. | Grant | _____ |
| 11. | Guadalupe | _____ |
| 12. | Harding | _____ |
| 13. | Hidalgo | _____ |
| 14. | Lea | _____ |
| 15. | Lincoln | _____ |
| 16. | Luna | _____ |
| 17. | Los Alamos | _____ |
| 18. | McKinley | _____ |
| 19. | Mora | _____ |
| 20. | Otero | _____ |
| 21. | Quay | _____ |
| 22. | Rio Arriba | _____ |
| 23. | Roosevelt | _____ |
| 24. | Sandoval | _____ |
| 25. | Santa Fe | _____ |
| 26. | San Miguel | _____ |
| 27. | Sierra | _____ |
| 28. | Socorro | _____ |

29.	San Juan	_____
30.	Taos	_____
31.	Torrance	_____
32.	Union	_____
33.	Valencia	_____

Subtotal: _____

Describe the scope of the services provided at each location to repair the unit: _____

GRAND TOTAL COST \$ _____

DETAIL COST FORM C-2
EQUIPMENT, PRODUCTS AND SERVICES SCHEDULE
Instructions

Complete the following tables with the actual (discounted) rate or cost for each item of equipment, product or service you will be offering to the Agency.

Labor and Service Hourly Rates Cost Response Form

*Item No.	Service Category**	Name	Location*	Discounted Hourly Rate
1	Senior Project Manager			
2	Customer Service Manager			
3	Trainer			
4	Technical Manager			
5	Ballot Programmer			
6	Service Technician			
7				
8				
9				
10				

* Location where services will be performed – Agency Headquarters, County Clerk Headquarters, Contractors Office

**You may use your comparable job titles

Software Products Cost Response Form

SOFTWARE PRODUCTS TO INCLUDE UPGRADES DISCOUNTED RATE: _____% FROM _____

If there is a charge for the user, technical documentation or training materials, those items shall be included with the software offering.

Add additional service categories as required

*Item No.	Product Number	Product Name	Product Description	# Users	Product Cost at the discounted rate	Annual Product Maintenance Cost at the discounted rate
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

New Mexico Gross Receipts Tax will be added to the invoice.

Hardware Products Cost Response Form

HARDWARE PRODUCTS TO INCLUDE UPGRADES DISCOUNTED RATE:

_____ % FROM _____

If there is a charge for the user, technical documentation or training materials, those items shall be included with the hardware offering.

*Item No.	Product Number	Product Name	Product Description	Product Cost at the discounted rate	Annual Product Maintenance Cost at the discounted rate AFTER WARRANTY
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

11					
12					
13					
14					
15					
11					
12					
13					
14					
15					

Other Optional Offerings or Value Added Services

(please describe)

APPENDIX D. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

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

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

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of

the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

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

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

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

“Prospective contractor” means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

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

Name(s) of Applicable Public Official(s) if any: _____
(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

—OR—

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

Signature

Date

Title (Position)

APPENDIX E. LETTER OF TRANSMITTAL FORM
SYSTEMS FOR TABULATING BALLOTS AND ANCILLARY EQUIPMENT
RFP#30-370-13-00011

The failure to properly complete all of the items in this form will result in the disqualification of the proposal.

1. Identity (Name) and Mailing Address of the submitting organization (s): (Proposed Contractor)

2: Identify the name, title, telephone and fax numbers, and e-mail address of the person authorized by the organization (s) to contractually obligate the organization (s). (Proposed Contractor)

Name _____
Title _____
Telephone Number: _____ Fax Number: _____
Email Address: _____

3. For the person (s) to be contacted for clarifications:

Name _____
Title _____
Telephone Number: _____ Fax Number: _____
E-Mail Address _____

4. List Proposed Subcontractors: _____

On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II, Paragraph C.1.

I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

I acknowledge receipt of any and all amendments to this RFP.

I agree that this proposal is binding and firm for a period of ninety (90) days after the due date for receipt of proposals.

_____, 2012
Name: (Type Name)

Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

APPENDIX F. VOTING SYSTEMS AUTHORITY

1-9-14. Voting systems; authority of the secretary of state to test; certification.

A. The secretary of state shall provide for the testing and evaluation of voting systems designed for the purpose of recording and tabulating votes within polling places in New Mexico. All voting systems certified for use in the state shall be tested by an independent authority and shall comply with all requirements in the Election Code [Chapter 1 NMSA 1978] and the most recent voluntary voting system guidelines adopted by the United States election assistance commission.

B. Any person who has a voting system that is designed for the purpose of recording and tabulating votes within a polling place may apply on or before June 1 of any odd-numbered year to the secretary of state to have the equipment examined and tested for certification. At the time application is made for initial certification, the applicant shall pay for testing each system in an amount that reflects the actual cost of such test. Upon receipt of the application, the secretary of state shall examine and study the voting system to ensure that it complies with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted by the United States election assistance commission. As part of the examination, the secretary of state shall require the system to be independently inspected by persons or testing laboratories technically qualified to evaluate and test the operation and component parts of voting systems and shall require a written report on the results of such testing. The secretary of state may authorize field testing of the equipment in one or more polling places in any state or local government election, provided that such field tests shall be conducted at no cost to the state or any local government. These tests and inspections shall be completed within six months of the date of application.

C. Upon completion of all tests and examination of all written test reports, the secretary of state shall make a written report of the result of the findings and shall file that report, together with the written test reports, in the office of the secretary of state and post them on the secretary of state's web site. The secretary of state shall accept public comment during the twenty-one days following the filing of the written report.

D. Following the period of public comment, the secretary of state shall submit the filed reports and any public comments for consideration by the voting system certification committee. The voting system certification committee shall make recommendations regarding the suitability and reliability of the use of such equipment in the conduct of elections under the Election Code.

E. The voting system certification committee shall recommend that a voting system be certified for use in the state only if it complies with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted by the United States election assistance commission.

F. If the voting system certification committee report finds that the voting system does not comply with all requirements in the Election Code or does not meet federal election standards, the secretary of state shall allow thirty days for an appeal of the findings to be filed or for the deficiencies to be corrected, following which the secretary of state shall report back to the voting system certification committee with a written final report.

G. The voting system certification committee shall reconvene to consider the final report of the secretary of state and shall make final recommendations regarding the suitability and reliability of the use of such equipment in the conduct of elections under the Election Code

H. If the voting system certification committee recommends that the voting system is suitable for use in elections in New Mexico, within thirty days of receiving the recommendation, the secretary of state shall certify or recertify the equipment for use in elections in this state.

I. If the voting system certification committee does not recommend that the voting system for recording and tabulating votes is suitable for use in elections in New Mexico, within thirty days of receiving the recommendation, the secretary of state shall deny the application or decertify the equipment for use in elections in this state.

History: Laws 1983, ch. 226, § 1; 1989, ch. 297, § 1; 1991, ch. 106, § 7; 2001, ch. 233, § 9; 2010, ch. 28, § 17.

APPENDIX G. NEW MEXICO EMPLOYEES HEALTH COVERAGE FORM

1. For all contracts solicited and awarded on or after January 1, 2008: 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:

(a) 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;

(b) 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

(c) 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.

2. 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.

3. 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://insurenwnewmexico.state.nm.us/>.

4. 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, \$500,000 or \$1,000,000.

Signature of Offeror: _____ Date _____

APPENDIX H. PAY EQUITY REPORTING REQUIREMENTS

“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.

“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.

“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, offer must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.

“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.”

APPENDIX I. MANDATORY REQUIREMENTS CHECKLIST

Yes / No	<p><u>Letter of Transmittal</u></p> <p>Each proposal shall be accompanied by a letter of transmittal (Please Refer to Appendix E). CAUTION: The proposal shall be binding without restriction. Offerors shall not include language in the Letter Of Transmittal such as “subject to successful negotiation” or words to that effect. The letter of transmittal SHALL follow the format provided and it shall be signed by the appropriate representatives. Failure to follow these instructions shall result in the rejection of the proposal.</p>
Yes / No	<p><u>Number of Copies</u></p> <p>Offerors shall provide the following to the location listed below on or before the closing date and time for receipt of proposals:</p> <ol style="list-style-type: none"> 1. Binder 1 - One (1) original and eight (8) identical copies of their proposal; 2. Binder 2 - One (1) original and two (2) copies of the response to additional business specifications; 3. Binder 3 - One (1) original and four (4) copies of other supporting materials; and 4. Two (2) labeled Compact Disks (CD) or removable drives (Flash Drive) containing the contents of Binder 1 and Binder 2. <p>The original binders shall be marked “ORIGINAL”.</p>
Yes / No	<p><u>Proposal Organization</u></p> <p>The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.</p> <ol style="list-style-type: none"> a. Letter of Transmittal (Binder 1) b. Table of Contents (Binder 1) c. Proposal Summary (Binder 1) d. Response to the following Business Specifications (Binder 1) <ol style="list-style-type: none"> IV.B.2.a – Offeror’s Company Information (Binder 1, Tab A) IV.B.2.b – Offeror’s Company Experience (Binder 1, Tab B) IV.B.3 – Technical Specifications (Binder 1, Tab C) IV.B.4 – Resource Requirements/Program Deployment Plan (Binder 1, Tab D) IV.B.5 – Certification Testing (Binder 1, Tab E) IV.B.6 – Past Performance - Offeror (Binder 1, Tab F) IV.B.7 – Core Team Personnel Experience (Binder 1, Tab G) IV.B.8 – Past Performance – Core Team Personnel (Binder 1, Tab H) e. Response to the following Business Specifications (Binder 2) <ol style="list-style-type: none"> IV.B.9 – Proposal Presentation/Demonstration Concurrence (Binder 2, Tab A) IV.B.10 – Financial Stability (Binder 2, Tab B) IV.B.11 – Cost Response Forms C-1 and C-2 (Binder 2, Tab C) IV.B.12 – Status Reporting (Binder 2, Tab D) IV.B.13 – Source Code (Binder 2, Tab E) IV.B.14 – Completed Campaign Contribution Disclosure Form (Binder 2, Tab F) IV.B.15 – Warranty (Binder 2, Tab G) IV.B.16 – New Mexico Employees Health Coverage (Binder 2, Tab H) IV.B.17 – Pay Equity Reporting (Binder 2, Tab I) IV.B.18 – Resident Business Preference (Binder 2, Tab J) IV.B.19 – Resident Veterans Preference (Binder 2, Tab K) IV.B.20 – Value Added Support (Binder 2, Tab L) II.C.15 – Contract Terms and Conditions (Binder 2, Tab M) II.C.15 – Offeror’s Terms and Conditions (Binder 2, Tab N) f. Technical specifications (Tabulating Equipment and Software), information,

	documentation, training materials or other proposed work products and other supporting material (Binder 3). Include documentation and materials that were NOT submitted with the application for certification.
Yes/No	<p><u>Proposal Content</u></p> <p>The CD or removable drive shall contain the contents of Binder 1 and Binder 2 in Microsoft Word 2010 format, and it shall be included with the original in Binder 2. Two CD's or removable drives (Flash Drive) are required.</p> <p>Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs and expenses must occur only in Binder 2 with the Cost Response Forms.</p> <p>Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.</p> <p>The proposal summary may be included by Offerors to provide the Evaluation Committee with an overview of the business and technical features 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. Offerors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate tab in Binder 3.</p>
	<p align="center"><i>SPECIFICATIONS</i> <i>(Mandatory)</i></p> <p><u>1. Instructions</u></p> <p>Offerors must provide a written response and/or a reference to an appropriate paragraph(s) in supporting technical documentation for each specification. The proposal response must follow the order in which the specifications are listed. With the sole exceptions of the labeled desirable specifications found in 3 "Technical Specifications" as well as 18 "Resident Business Preference", specification 19 "Resident Veterans Preference" and 20 "Value Added Support" all the specifications are MANDATORY.</p>
Yes / No	<p><u>2. Offeror's Company Information and Experience</u></p> <p>Offerors shall submit company information and a statement of relevant company experience.</p> <p>a. Offerors shall include an overview of the company including a summary of the company history. The overview shall include type of organization and the state of origin, the date established, location of headquarters and other offices, number and location of employees and a description of types of services offered.</p> <p>b. Offerors must submit a statement of relevant corporate experience within the last five (5) years, including the experience of major subcontractors. The narrative in response to this factor must thoroughly describe the offeror's experience with the providing ballot tabulation systems, and experience in working with the New Mexico election code or New Mexico county clerks.</p> <p>In this Section, the offeror shall provide the following information (referencing the subsections in sequence) to evidence the offeror's experience in delivering services such as those sought under this RFP:</p> <ol style="list-style-type: none"> 1. A brief statement of how long the offeror has been performing the services sought under this RFP. 2. A description of the experience level, technical and application knowledge, and government experience of the corporate technical resources that may be used for the contract. 3. The dates of the period of service.

	<p>4. A description of the service provided.</p> <p>5. A statement of why the offeror believes this engagement constitutes relevant corporate experience to this procurement.</p> <p>c. A list, if any of all current contractual relationships with governmental entities within the State of New Mexico or those completed within the previous five-year period. The listing should include the contract number, contract term, the name of the State agency or local public body for each relationship.</p> <p>d. The Offeror shall address whether it proposes to provide for ballot tabulator programming for each election, or whether it proposes that ballot tabulator programming be provided by a subcontractor or by the Secretary of State's office. Please describe approach.</p> <p>e. The Offeror shall name and describe the use and experience of any proposed subcontractors.</p>
Yes / No	<p>3. <u>TECHNICAL SPECIFICATIONS</u></p> <p>The RFP technical specifications are included in this section. Offerors shall place a copy of the published tabulating Equipment and Software technical specifications including a description of their functions and features in Binder 3. Offerors shall provide narrative responses and/or references to the Binder 3, section and page of technical documents that thoroughly describe how each specification set forth below is addressed. The narratives and/or technical documentation will be evaluated and points awarded accordingly.</p> <p>A .Tabulator System Requirements</p> <p>The Offeror shall describe the ability of the proposed Voting System to meet the <i>MANDATORY</i> requirements of NMSA 1978 § 1-9-7.7 as set forth in this section. In addition, the Offeror should describe the ability of the proposed system to meet the designated <i>DESIRABLE</i> requirements. The Voting Systems certified for use in state elections shall:</p> <p>1.<u>Serial #</u>: <i>Mandatory</i>: have a unique, embedded, internal serial number for r audit purposes; the serial number of a tabulator shall be traceable after election results are uploaded for election night reporting and canvassing.</p> <p>2.<u>Cover</u>: <i>Mandatory</i>: be supplied with a dust-and-moisture-proof cover for transportation and storage purposes; The offeror should describe the durability of the cover and state whether it will protect the units from water damage during storage in the event of water leakage in the storage facility</p> <p><i>Desirable</i>: The tabulator units should be supplied with, or have an available option for, a moisture cover that would prevent damage in the event of a significant leak in a county's storage facility</p> <p>3.<u>Transportability</u>: Offeror should describe the weight and transportability of the units.</p> <p><i>Mandatory</i>: If the net weight of the system, or aggregate of voting device parts, is over twenty pounds, it must have self-contained wheels so that the system can be easily rolled by one person on rough pavement, and can roll through a standard, thirty-inch door frame. Self-contained wheels must be of sufficient construction to withstand years of use;</p> <p><i>Desirable</i>: Each tabulator unit should weigh less than 20 pounds.</p> <p>4. <u>Stand-Alone System</u>: <i>Mandatory</i>: Tabulators must be a stand-alone, non-networked election system such that all pre-election, Election Day and post-election events and activities can be recorded and retained on each device;</p> <p>5. <u>Scalable</u>: <i>Mandatory</i>: The proposed systems shall employ scalable technology allowing easy enhancements that meet United States Election Assistance Commission (EAC) standards and state law; (Note: Offeror should describe the process and cost expectations for any upgrades or updates to software or firmware, upgrades to data storage devices, or enhancements to the tabulator systems to address scalability matters as the number of precincts, voters or Voting Convenience Centers increases.) Offeror should describe the number of precincts that can be programmed and reported</p>

	<p>from a single tabulator and the maximum number of ballots that can be processed and stored by a tabulator.</p> <p>6. <u>Ancillary Equipment</u>: <i>Mandatory</i>: The tabulator systems shall have field replaceable ancillary equipment such as printers, power sources, microprocessors, and switch and indicator matrices, that can be replaced by the user or a technician without having to send the entire system to a repair facility; or that is modular and transportable; Offeror must describe all ancillary equipment required to operate the systems being offered and what equipment is included in the price of the systems being offered, as well as any optional ancillary equipment that may be available at additional cost.</p> <p>7. <u>Public Counter</u>: <i>Mandatory</i>: display publicly the number of ballots processed;</p> <p>8. <u>Results Printing</u>: <i>Mandatory</i>: be able to print:</p> <p>a). <u>Zero tape</u>: an alphanumeric printout of the contests, candidates and vote totals when the polls are opened so that the poll workers can verify that the counters for each candidate are on zero;</p> <p>b). <u>Results Tape</u>: an alphanumeric printout of the contests, candidates and vote totals at the close of the polls, which printouts shall contain the system serial number and public counter total;</p> <p>1) <i>Desirable</i>: Offeror should describe the ability to print a precinct level results tape at voting convenience centers, and the largest number of precincts that can be included on a results tape, if any limit exists.</p> <p>2) <i>Highly desirable</i>: Offeror should describe the ability of the system to display the time and date of the opening and closing of the polls on the zero tapes and the results tapes.</p> <p>c). <u>Copies</u>: <i>Mandatory</i>: as many copies of the alphanumeric printouts as necessary to satisfy state law;</p> <p>9. <u>Electronic Data File</u>: <i>Mandatory</i>: include a feature to allow reports to be transmitted as an electronic data file. The offeror should describe any point-to-point modem connections or other networking features included in the tabulator system.</p> <p>10. <u>Lifespan</u>: <i>Mandatory</i>: state the useful lifespan of the tabulating equipment and the basis of the statement.</p> <p>11. <u>Use Counter</u>: <i>Desirable</i>: The unit should have a use counter of all of the ballots processed that is not reset per election, as that information may be needed to determine which units may require preventative maintenance.</p> <p>b. Operational Requirements</p> <p>The Offeror shall describe the ability of the system to meet the <i>MANDATORY</i> requirements of NMSA 1978, § 1-9-7.8 as set forth in this section. In addition, the Offeror should describe the ability of the proposed system to meet the designated <i>DESIRABLE</i> requirements. The Voting Systems certified for use in state elections shall:</p> <p>1. <u>Operating Software</u>: <i>Mandatory</i>: Have internal application software that is specifically designed and engineered for the election application. Describe the components of the software package, including ballot programming, ballot-related and election night reporting and canvassing capabilities. Describe the ability of the software/firmware to report votes by precinct, by machine, and by voting convenience center for New Mexico's voting convenience center model;</p> <p>a. <u>Ballot Programming</u>: <i>Desirable</i>: Offeror should describe:</p> <p>(1) the features and process of the election definition setup software and hardware programming software, including whether the election definition data can be exported and in what type of format;</p> <p>(2) whether the system uses a single interface or multiple interfaces for programming ballots and/or elections. If the system uses multiple interfaces, it is desirable that the software recognize changes throughout the software suite without the need to load different programs to make changes and corrections.</p>
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	<p>(3) the ability of the software to accommodate quick changes to the formatting of text, such as changes from upper case to lower case, or changes in font size;</p> <p>b. <u>Ballot Related</u>; <i>Desirable</i>: Offeror should describe:</p> <p>(1) the ability of the system to retain preferences for design of ballots across multiple elections. It is <i>desirable</i> that the software allow for retention of preferences for ballot design across multiple elections.</p> <p>(2) the ability of the software to generate a "test deck" simulating voted ballots and print those ballots to user specifications;</p> <p>(3) the ability of the software to create sample ballots with appropriate "sample" labeling and the ability to create provisional ballots that cannot be read by the tabulator;</p> <p>(4) the ability of the software to reset the tally of election results to zero when testing of removable storage media is conducted, including options for targeting which types of results to reset;</p> <p>(5) the ability of the software to retain optical images of ballots, and to sort and filter optical images of ballots by ballot style, precinct, polling location, contest, candidate for purposes of recounts or post-election audits.</p> <p>(6) The Offeror should describe features that help maintain ballot secrecy while also retaining optical images of all ballots cast.</p> <p>c. <u>Election Night Reporting and Canvassing</u>; <i>Desirable</i>: Offeror should describe:</p> <p>(1) the election night reporting features and functionality in detail, including the capabilities for reporting results at both the county and statewide levels;</p> <p>(2) the ability of the software to provide summary results by precinct, by district, by county, and by race for each vote category, such as: for election day, early voting, absentee voting, and total votes;</p> <p>(3) whether results data can be exported to electronic files and in what electronic format(s);</p> <p>(4) the ability of the software to record a unique identifier, such as a serial number, from each stand-alone tabulator, in the results file;</p> <p>(5) all data elements that are captured in a "results file";</p> <p>(6) any capability in the results reporting software that will produce a warning if the external media storage device has already been read and included in a results file, and what type of data or upload would trigger a warning, such as the unique identifier of the tabulator, or a unique file identifier;</p> <p>(7) the features of the software, firmware or tabulators that will support Voting Convenience Centers and the accurate canvassing of results from voting convenience centers, Specifically, the Offeror should describe the ability of the software to retain results by voting location and individual tabulator, as well as precinct level reporting by the following categories</p> <p>(a) absentee by mail;</p> <p>(b) early;</p> <p>(c) election day;</p> <p>(d) hand tallied ballots,</p> <p>(e) provisional ballots,</p> <p>(f) in lieu of absentee ballot; and</p> <p>(g) UOCAVA ballots (Uniformed and Overseas Citizens Absentee Voting Act). It is <i>highly desirable</i> that these categories be available in one election definition/set of data files as opposed to having separate election definitions/sets of data files for absentee results, early voting results, election day results and results totals.</p> <p>(8) the compatibility of the software with all existing versions of Windows; It is <i>highly desirable</i> that the software be compatible with Windows 7. It is <i>desirable</i></p>
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	<p>that the software be compatible with Windows 8;</p> <p>(9) the security features of the software/firmware which will prevent poll workers from obtaining results prior to the close of the polls <i>highly desirable</i>;</p> <p>(10) any web-based functionality of the software, and, if applicable, list any and all web browsers that the software is compatible with. It is <i>desirable</i> that any web-based functionality be compatible with Internet Explorer 9, Internet Explorer 10, Mozilla Firefox and Google Chrome;</p> <p>(11) the ability of the software to allow for import of hand tallied ballot totals from a variety of file types, including .asc, .xlsx, .csv, txt. It is <i>highly desirable</i> that the software have the ability to import these file types.</p> <p>2. <u>Diagnostics</u>: <i>Mandatory</i>: Include comprehensive diagnostics to ensure that failures do not go undetected; Describe the diagnostic reports and the format provided.</p> <p>3. <u>Real-Time Clock</u>: <i>Mandatory</i>: Have a real-time clock capable of recording and documenting the total time polls are opened; describe the ability of the clock to be reset or altered.</p> <p>4. <u>Internal Battery Backup</u>: <i>Mandatory</i>: Have a self-contained, internal backup battery that powers all components of the system that are powered by AC current, and, in the event of a power outage in the polling place:</p> <ol style="list-style-type: none"> The self-contained, internal backup battery power shall engage with no disruption of operation for at least two hours and with no loss of data; and The system shall maintain all vote totals, public counter totals and the internal clock time in the event that the main power and battery backup power fail. Offeror shall describe the battery backup system, including any warnings that will be provided to poll workers when the tabulator is operating on battery back-up. <p>c. Removable Media Storage Requirements</p> <p>The Offeror shall describe the ability of the system to meet the <i>MANDATORY</i> requirements of NMSA 1978, § 1-9-7.9 set forth in this section. In addition, Offerors should describe the ability of the proposed system to meet the designated <i>DESIRABLE</i> requirements. The Voting Systems certified for use in state elections shall:</p> <ol style="list-style-type: none"> 1. <u>Programmable</u>: <i>Mandatory</i>: be programmable with removable storage media devices; A <i>Highly desirable</i>: The removable media storage should be flash-based storage rated at a minimum of 100,000 read/write cycles. USB 2.0 or higher. It is also <i>highly desirable</i> that the removable storage media device be able to complete downloading of results without interruption when zero votes exist for some precincts or districts. b. <i>Mandatory</i>: Offerors shall describe the type of removable storage media device to be utilized, including the security, tamper-proofing and redundancy features of the device. c. <i>Mandatory</i>: Offerors shall also describe the storage capabilities and limitations. d. <i>Mandatory</i>: Offerors shall describe any functional limitations of the removable storage media in terms of storage of elections definitions, results data and ballot image data. e. <i>Mandatory</i>: Offerors shall describe the number of precincts that can be programmed on a single removable storage device. <p>2. <u>Retention of Information</u>: <i>Mandatory</i>: contain ballot control information, summary vote totals, maintenance logs and operator logs on the removable storage media device;</p> <p>3. <u>Accuracy of Data</u>: <i>Mandatory</i>: ensure that the votes stored on the removable storage</p>
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	<p>media device accurately represent the actual votes cast;</p> <p>4. <u>Security</u>: <i>Mandatory</i>: be designed so that no executable code can be launched from random access memory;</p> <p>5. <u>Operating System</u>: <i>Mandatory</i>: have any operating system software stored in nonvolatile memory, which shall include internal quality checks such as parity or error detection and correction codes, and which software shall include comprehensive diagnostics to ensure that failures do not go undetected;</p> <p>6. <u>Testing</u>: <i>Mandatory</i>: allow for pre-election testing of the ballot control logic and accuracy, with results stored in the memory that is used on election day, and shall be capable of printing a zero-results printout prior to these tests and a results printout after the test;</p> <p>7. <u>Audit Trail</u>: <i>Mandatory</i>: have internal audit trail capability such that all pre-election, election day and post-election events shall be stored, recorded and recovered in an easy-to-read, printed form and be retained within non-volatile memory that is retained when the system has no external power source;</p> <p>8. <u>Remote Transmission of Data</u>: <i>Mandatory</i>: possess the capability of remote transmission of election results to a central location only by reading the removable storage media devices once they have been removed from the tabulation device after the poll closing sequence has been completed; and</p> <p>9. <u>Retention of Data</u>: <i>Mandatory</i>: prevent data from being altered or destroyed by report generation or by the transmission of results.</p> <p>10. <u>Interference with Operation of the Tabulator</u>: <i>Desirable</i>: Offeror should describe the effect on the tabulator in the event the removable media storage device fails, specifically detailing whether a storage device failure will result in a system halt on the tabulator. Offeror should describe what types of failure situations would require tabulator replacement and what type of failure situations would require removable media storage replacement, during an election.</p> <p>d. Ballot Handling and Processing Requirements</p> <p>The Offeror shall describe the ability of the proposed system to meet the <i>MANDATORY</i> requirements of NMSA 1978, § 1-9-7.10 set forth in this section. In addition, the Offeror should describe the ability of the proposed system to meet the designated <i>DESIRABLE</i> requirements. The Voting Systems certified for use in state elections shall:</p> <p>1. <u>Ballot Size</u>: <i>Mandatory</i>: accept a ballot that is a minimum of eight and 1/2 inches wide and a maximum of twenty-four inches long, in dual or triple columns and printed on both sides;</p> <p>a. <i>Highly desirable</i>: The tabulator should be able to read and process a 19" double-sided ballot, with three columns in five seconds or less</p> <p>2. <u>Ballot Orientation</u>: <i>Mandatory</i>: accept a ballot in any orientation when inserted by a voter;</p> <p>3. <u>Over Votes</u>: <i>Mandatory</i>: have the capability to reject a ballot on which a voter has made more than the allowable number of selections in any contest;</p> <p>4. <u>Ballot styles</u>: <i>Mandatory</i>: be designed to accommodate the maximum number of ballot styles or ballot variations encountered in the largest New Mexico election jurisdiction; and</p> <p>5. <u>Voting Positions</u>: <i>Mandatory</i>: be able to read a single ballot with at least four hundred twenty voting positions.</p> <p>6. <u>Ballot handling</u>: <i>Mandatory</i>: The tabulator must have the ability to divert write-in ballots to a separate bin. Describe the ability of the tabulator to properly sort write-in ballots.</p> <p>a. <i>Highly desirable</i>: The tabulator should have a read path that can be cleared of a paper jam with minimal effort by the poll official. Offeror should describe the operation of the tabulator after a paper jam has been cleared, and specify whether the</p>
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	<p>tabulator will double-count ballots that have been removed and reinserted after clearing a paper jam.</p> <p>b. <i>Desirable:</i> The tabulator should recognize different options of vote selection, such as bubble, check mark or arrow. The Offeror should describe the ability of the system to read vote selection, including a full description of how the tabulator interprets marks within the voting oval, and marks outside the voting oval.</p> <p>c. <i>Desirable:</i> The tabulator should properly stack cast ballots in the bin to avoid paper jams and limit the need for poll workers to manually stack or straighten ballots. Offeror should describe the ballot capacity of the bins that should be used by poll workers to avoid paper jams - i.e. how often must poll workers remove ballots in order to maintain the optimal operation of the tabulator.</p> <p>d. <i>Desirable:</i> The tabulator should not require the use of a specific type of pen or pencil. Describe the ability of the tabulator to read ballots that have been marked using different types of ink pens or pencils.</p> <p>e. Mandatory Certifications Offerors shall include in the proposals copies of all their CURRENT official testing certifications.</p>
Yes / No	<p><u>4. Resources and Program Deployment Plan</u></p> <p>Offeror shall thoroughly describe the resource requirements and program deployment plan.</p> <p>a. Agency Resources Offerors shall describe the IT components and technical support that needs to be provided by the Agency or the individual counties in order to support both traditional voting precinct polling places and voting convenience center locations for operation of the proposed system.</p> <p>b. Ballot Programming The Offeror shall address whether it proposes to provide for ballot tabulator programming for each election, or whether it proposes that ballot tabulator programming - including ballot creation, programming of removable media storage, creation of PDF files for electronic transmission packets, printing of pre-printed ballots and upload to systems for printing ballots at polling location - be provided by a subcontractor, by the Secretary of State's office, or by individual county clerks' offices. Please describe the Offeror's proposed approach in detail.</p> <p>c. Tabulator Maintenance The Offeror shall address whether it proposes to provide for on-going maintenance, including preventative maintenance to be conducted prior to statewide elections, or whether it proposes that preventative maintenance be performed by a subcontractor, or the Secretary of State's office, or local voting machine technicians. Offeror should describe the recommended preventative maintenance items to be completed and the recommended schedule and frequency of this work.</p> <p>1. The Offeror shall address whether it proposes to provide for on-going repairs of any mechanical failures on the proposed systems, or whether it proposes that repairs be performed by a subcontractor, the Secretary of State's office or local voting machine technicians. The Offeror should describe all items to be included in a repair program, and provide a detailed description of the parties who will provide replacement parts and labor for repairs.</p> <p>2. The Offeror shall name and describe the use and experience of any proposed subcontractors who will perform any tasks related to the implementation or operation of the proposed voting systems. Additionally, the Offeror should specifically identify the items of maintenance, repair or certification that will be performed by (1) voting machine technicians at a county level; (2) any subcontractor of the Agency or the Offeror; (3) the Secretary of State's office; and (4) the Offeror.</p> <p>d. Training and Documentation</p>

	<p>1. Offerors shall describe the recommended training plan, schedule, and methodology to be used to train the Secretary of State's office and individual county clerks' offices in the operation and technical specifications of the operating the tabulators and using the programming and results software for all phases of elections from pre-election certification of systems to absentee voting, early voting, election day and post-election production of results. Offerors should provide an overview of the training techniques proposed supported by examples of training materials to be used placed in Binder 3 of the proposal. The Secretary of State's office has the responsibility under NMSA 1978, § 1-2-2 to provide for the "education and training of voting machine technicians." Offeror should describe the process and provide the training materials, preferably web based learning materials, for the Secretary of State's office to certify voting machine technicians on the proposed systems.</p> <p>2. Offerors shall provide a complete description of Equipment and Software user and technical manuals that will be provided with the Voting System or Ancillary Equipment. Technical manuals to be used shall be placed in Binder 3 of the proposal. Offeror should describe their capability to create training materials specific to State needs for certifying voting machine technicians and performing statewide results reporting that can be re-used for standard, consist training across the state and for refresh training prior to each statewide election as needed for new personnel.</p> <p>e. Program Deployment and Support Plan</p> <p>The State of New Mexico currently uses Election Systems & Software ES&S Model 100 tabulators throughout the state, and ES&S Model 650 tabulators in several urban areas. Offerors should propose an eight-year plan for replacement of all existing systems in the State. Assume the deployment shall begin on November 15, 2013</p> <ol style="list-style-type: none"> 1. In the proposed replacement plan, Offeror should discuss and explain how its proposed systems will co-operate with the existing systems during the transition from the older systems to the new proposed systems. 2. Offeror should state whether its proposed systems could be used within individual counties in conjunction with the older systems, or whether it would propose that individual counties utilize either the older equipment or the newer systems exclusively. Offeror must discuss the interface, if any, between the software/firmware on the older systems and the software/firmware on the propose systems in terms of the ability of the counties and the State to obtain election night results from both the older systems and the proposed systems and compile them in a single results reporting application on election night and following the election for the purpose of canvassing and certification of results. 3. The plan should clearly identify the types of and number of personnel required from the Offeror (including subcontractors) as well as Agency and county clerk resources required to successfully complete the deployment of the systems. 4. The plan should include a complete listing of the tasks that shall be performed and the resource performing the tasks. 5. The plan should include the acceptance criteria and materials to be used by the County to verify and provide a written acceptance of the successful deployment prior to payment. 6. The plan should describe how warranty services will be provided. 7. For the purpose of preparing a response to this specification, please refer to the following Table of the approximate number of voting system tabulators currently in use in the 33 New Mexico counties.
Yes / No	<p><u>5. New Mexico Certification Testing</u></p> <p>Offeror's apply for certification testing a pre-requisite for the submission of a proposal.</p>

	The proposed Voting System must be certified for use in the State of New Mexico by the State Voting System Certification Committee before it may be included for purchase on the EPS.
Yes / No	<p><u>6. Past Performance - Offeror</u></p> <p>Offeror's proposals shall include three (3) external references from clients who are willing to validate the Offeror's past performance on similar contracts and/or engagements especially those projects in the public sector that have occurred within the past five (5) years. The reference contact person will be expected to complete and return the Past Performance Questionnaire to the Evaluation Committee within one (1) week from the date the questionnaire is emailed to the recipient. The failure of a reference contact person to return or thoroughly complete the questionnaire will result in a reduction of points awarded for this evaluation factor. The minimum information that shall be provided for each client reference follows:</p> <ol style="list-style-type: none"> Name of the contact person; Name of the company or governmental entity; Address of the contact person; Telephone number of contact person; Email address of the contact person; A description of the products and services provided and dates the products and services were provided. <p>At least ONE of the references for the proposed support services must be from a site of comparable or larger size where the proposed tabulating equipment and software has been installed and is in current operation. Offerors are encouraged to include additional references that they believe the Evaluation Committee would find helpful in thoroughly evaluating their past performance.</p>
Yes / No	<p><u>7. Core Team Personnel Experience</u></p> <ol style="list-style-type: none"> Offerors must submit a staff organization chart and the resumes of the Core Team Personnel. The organization chart must include the title, name and experience category for each proposed individual with an accompanying narrative that describes the individual's proposed job duties. Offerors shall submit resumes of the Core Team Personnel with experience narratives attached thereto should thoroughly document the proposed staff member's knowledge and experience relative to the job duties to be performed, as well as the level of knowledge and experience, as appropriate. Include copies of appropriate professional certifications. Offerors shall describe any experiences of the proposed core team relevant to any programs of the type, size, and scope of this program. All relevant experiences described must clearly identify dates of the proposed team member's participation on the project. The most recent relevant experience for proposed staff members should be within the last two years of the issue date of this RFP.
Yes / No	<p><u>8. Past Performance – Core Team Personnel</u></p> <p>Offeror's proposals shall include two (2) external references from clients who are willing to validate the Core Team Personnel member's past performance on similar contracts and/or engagements especially those projects in the public sector that have occurred within the past five (5) years. The reference contact person will be expected to complete and return the Past Performance Questionnaire to the Evaluation Committee within one (1) week from the date the questionnaire is emailed to the recipient. The failure of a reference contact person to return or thoroughly complete the questionnaire will result in a reduction of points awarded for this evaluation factor. The minimum information that shall be provided for each client reference follows:</p> <ol style="list-style-type: none"> Name of the contact person; Name of the company or governmental entity; Address of the contact person;

	<p>d. Telephone number of contact person;</p> <p>e. Email address of the contact person;</p> <p>f. A description of the products and services provided and dates the products and services were provided.</p> <p>At least ONE of the references for each member of the Core Team must be from a site of comparable or larger size where the proposed tabulating equipment and software has been installed and is in current operation. Offerors are encouraged to include additional references that they believe the Evaluation Committee would find helpful in thoroughly evaluating their past performance.</p>
Yes / No	<p><u>9. Proposal Presentation/System Demonstration Concurrence</u></p> <p>Finalist Offerors agree to present their proposals and demonstrate their proposed tabulation Equipment and Software to the Evaluation Committee. The Finalist Offerors' proposed Core Team Personnel are expected to conduct their relevant portion of the presentation and Demonstration in person. Finalist Offerors agree to provide the Evaluation Committee the opportunity to interview additional proposed personnel that may be identified in the Finalist Offerors' notification letter. Finalist Offerors agree to provide the Evaluation Committee the opportunity to review equipment and software user and technical manuals that will be provided with the Voting System or Ancillary Equipment at the session.</p> <p>NOTE: Finalist Offerors shall provide all of the required computer and projection equipment for their proposal presentation as well as the tabulation Equipment and test materials for the Demonstration. After the presentation/demonstration has been completed, the Offeror will move designated tabulation Equipment units including Software and Documentation to the Office of the Secretary of State where it will be available for a minimum of one week for additional testing by the Staff of the Secretary of State and/or representatives for the County Clerks. After the testing is complete a Procurement Co- Manager will notify the Finalist Offerors to pick up their respective Equipment and Software and Documentation.</p> <p>A statement of concurrence is required from the Offeror.</p>
Yes / No	<p><u>10. Financial Stability</u></p> <p>a. Offerors shall submit copies of their organization's independently-audited financial statements for the preceding three (3) years. The financial statement submitted must be solely for the Offeror. If independently audited financial statements do not exist for the Offeror, the Offeror shall state the reason and, instead, submit sufficient information (e.g. Dun & Bradstreet Report, unaudited financial reports, bank statements) to enable the Evaluation Committee to determine the financial stability of the Offeror.</p> <p>b. The submissions shall include the audit opinion, the balance sheet, statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist for the Offeror, the offeror shall state the reason and instead submit sufficient information to enable the Evaluation Committee to determine the financial stability of the Offeror. Financial statements and company sensitive information provided may be marked confidential.</p> <p>c. Offerors shall provide a statement as to whether there is any pending litigation against the Offeror which may impair the Offeror's performance in a Contract under this RFP. Likewise, Offerors must provide a statement as to whether the Offeror or any of the Offeror's employees, agents, independent contractors, or subcontractors assigned to the project have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony, and if so provide an explanation with relevant details.</p> <p>d. The Evaluation Committee reserves the right to require the Offeror to submit additional financial information it believes is necessary to complete its evaluation.</p>

Yes / No	<p><u>11. Cost Specifications</u></p> <p>Offerors shall complete and submit with their proposals the Proposal Cost Response Form, Appendix C-1 based upon the following instructions and Appendix C-2. Offerors proposed Equipment, Software and Services Schedule.</p> <p>a. <u>Appendix C-1 instructions and information</u> Complete C-1 cost response form and submit it with the proposal.</p> <p>b. <u>Appendix C-2 instructions and information</u> The Agency may purchase Equipment, Products and Services that are included on the Contractor's approved EPS. The hourly rates contained in the EPS shall include any and all travel, per diem, fringe benefits and any overhead costs for (1) delivery of the proposed voting systems to individual New Mexico counties, (2) training of county clerks and Agency personnel in the use of the voting systems, including training on the software and firmware associated with the system, (3) preventative maintenance performed by Contractor; (4) repairs performed by Contractor which is not covered by warranty, and (5) on-going support before, during and after elections. These activities may be performed at the Agency headquarters and at the designated County Clerk locations throughout New Mexico. Training may be performed on a regional basis. Applicable New Mexico Gross Receipts Taxes will be added to each Purchase Order issued.</p> <p>The Equipment and Product pricing shall remain fixed for the duration of the initial three-year term of the Contract. Service rates may be adjusted subject to mutual acceptance after the second year of the initial term of the Contract. A statement of concurrence is required.</p>
Yes / No	<p><u>12. Status Reporting</u></p> <p>After a Purchase Order has been issued, the Contractor shall provide a formal written bi-weekly status report delivered to the Program Manager. The format shall be approved by the Program Manager prior to issuance of the first (1st) status report. The status reports shall include, but not be limited to, the following:</p> <p>a. Overall completion status of each outstanding Purchase Order in terms of the approved work plan and schedule;</p> <p>b. Accomplishments during the period.</p> <p>c. Upcoming Milestones, completed Milestones, slipping Milestones;</p> <p>d. Problems encountered and proposed/actual resolutions;</p> <p>e. What is to be accomplished during the next reporting period;</p> <p>f. Issues that need to be addressed;</p> <p>g. Updated purchase order time line showing percentage completed, high-level tasks assigned, completed and remaining and Milestone variance;</p> <p>h. Agency, county and Contractor resources required for activities during the next time period;</p> <p>i. A list of the Work Products that will be produced, if any. A statement of concurrence is required from the Offeror.</p>
Yes / No	<p><u>13. Source Code:</u></p> <p>The Offeror is required to comply with NMSA 1978, § 1-9-7.11 to place the source code that operates the voting system in escrow, such that it is accessible to the Agency in the event that the Offeror ceases to be a business or to support the Voting System. A statement of concurrence is required from the Offeror.</p>
Yes / No	<p><u>14. Completed Campaign Contribution Disclosure Form</u></p> <p>The Offeror shall complete the Campaign Contribution Disclosure Form and submit a copy with their proposal. This must be completed whether or not an applicable contribution has been made. (See Appendix D)</p>
Yes / No	<p><u>15. Warranty</u></p> <p>Offerors are advised that in accordance with Article 11, Paragraph B of Appendix B, "Contract Terms and Conditions", the warranty period shall be a minimum of three (3)</p>

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	years from the date of system acceptance. Warranty services shall be performed at no cost to the Agency. A Statement of concurrence is required from the Offeror.
Yes / No	<u>16. New Mexico Employees Health Coverage Form</u> The Offeror shall agree with the terms and submit a signed New Mexico Employees Health Coverage Form with the submittal of their proposal. (See Appendix G)
Yes / No	<u>17. Pay Equity Reporting Requirements</u> The Offeror shall agree with the terms and submit a statement of concurrence with their Proposal. (See Appendix H)