

BOARD OF REGENTS
SPECIAL MEETING

MAY 29, 2018

NORTHERN New Mexico College





NOTICE

The Board of Regents of Northern New Mexico College will hold a special meeting on **May 29, 2018 at 10:30AM** at the Northern New Mexico College - Española Campus, Española, New Mexico.

AMENDED FINAL AGENDA ADDING ITEM IV-7 and ITEM VI-2a PUBLISHED AT LEAST 72 HOURS IN ADVANCE OF THE MEETING

- I. CALL TO ORDER**
- II. APPROVAL OF AGENDA**
- III. PUBLIC INPUT**
- IV. VICE PRESIDENT FOR FINANCE & ADMINISTRATION**
 - 1. Summer Hearing Packet – Action Required
 - 2. Bond C – Action Required
 - 3. Resolution – Century Bank Signatories – Action Required
 - 4. Resolution – President’s Discretionary Account – Action Required
 - 5. Resolution – Procurement and Pertaining Regulations – Action Required
 - 6. College of Nursing and Health Sciences and GIS Course Fees – Action Required
 - 7. Resolution – Mileage and Per Diem Act and Appertaining Regulations – Action Required
- V. PROVOST & VICE PRESIDENT FOR ACADEMIC AFFAIRS**
 - 1. Failing Grades – Action Required
 - 2. General Education Requirements – Action Required
 - 3. Retroactive Withdrawal Policy Approval – Action Required
- VI. EXECUTIVE SESSION**
 - (1) Limited personnel matters related to the hiring, promotion, demotion, dismissal, assignment, resignation, or investigation or consideration of complaints or charges against an employee;
 - a. No Items
 - (2) Bargaining strategy preliminary to collective bargaining;
 - a. Staff Collective Bargaining Guidance
 - (3) Threatened or pending litigation subject to the attorney-client privilege in which the College may be a participant; and
 - a. Monument
 - (4) Real estate acquisition or disposal.
 - a. No Items

Pursuant to provisions of NMSA 1978, Section 10-15-1(H)(2)(5)(7)&(8)
- VII. POSSIBLE ACTION ON EXECUTIVE SESSION**
- VIII. ADJOURNMENT**

In accordance with the Americans with Disabilities Act (ADA), physically challenged individuals who require special accommodations should contact the President’s Office at 505-747-2140 at least one week prior to the meeting or as soon as possible.

NEW MEXICO HIGHER EDUCATION DEPARTMENT



SUSANA MARTINEZ
NEW MEXICO GOVERNOR

DR. BARBARA DAMRON
CABINET SECRETARY

2018/FY20 YEARLY CAPITAL PROJECTS SUMMER HEARINGS

Project Submittal Checklist

DEADLINE TO UPLOAD DOCUMENTS IS COB ON JUNE 1, 2018

- 00 - Checklist
- 01 - Submittal Certification (Signed by Governing Board President and Institution President)
- 02 - Project Evaluation Form (One per project)
- 03 - Five-Year Plan for Capital Project Funding
- 04 - I&G Spreadsheet
- 05 - Status of all Active Projects
- 06 - Report of all Closed Projects
- 07 - Five-Year Master Plan

Submittal Instructions:

- Upload each document, including checklist, as a separate file to the HED FTP Site. A subfolder has been created within each IHE folder called "2018 Summer Hearing Documents"
- One (1) original color submittal, three hole punched, must be delivered to NMHED.
- Item 00, 01 and 02 above should be converted to PDF. All other documents need to remain in EXCEL
- If no project request is being submitted, a formal letter signed by the President will need to be uploaded

Printed Name and Title of Contact Person

Email

Signature

Date

NEW MEXICO HIGHER EDUCATION DEPARTMENT



SUSANA MARTINEZ
NEW MEXICO GOVERNOR

DR. BARBARA DAMRON
CABINET SECRETARY

2018 Capital Outlay Summer Hearings

SUBMITTAL CERTIFICATION

Name of Institution: _____

I hereby certify that the five (5) year plan for our institution, included with this submittal, was approved by the Governing Board on _____. I also certify that the proposed capital outlay projects submitted are ranked in priority order, are considered to represent the institutions greatest need, have been developed sufficiently to validate project cost, and if funded, will have a minimum of five percent (5%) of the appropriation incurred within the first six (6) months from the date the Bonds are issued.

Governing Board President (Printed Name)

Institution President (Printed Name)

Governing Board President (Signature)

Institution President (Signature)

Date

Date

NEW MEXICO HIGHER EDUCATION DEPARTMENT



SUSANA MARTINEZ
GOVERNOR

DR. BARBARA DAMRON
CABINET SECRETARY

2018/FY20 YEARLY CAPITAL PROJECTS SUMMER HEARINGS

Project Evaluation Form

Name of Institution: Northern New Mexico College

Location of Project (Attach Aerial Map): Espanola, NM

Project Title: Infrastructure Building/Ground Repairs and Sustainability Initiatives (Campus Wide)

FY20 Priority #: 1

Master Plan Priority #: 1

Total Project Cost: \$ 1,855,000.00

Total Funding Request: \$ 1,855,000.00

Total Match Funding: \$ 0.00

Source of Match Funding:

N/A

Detail of how project cost was determined:

Project Cost was determined by contacting various Contractors to give project estimates for the following projects.

- > Lower AD Bldg.: Restroom Renovation - Phase II
- > GE Bldg.: Science Lab Renovations - Phase II
- > Campus wide: Retaining walls adjacent to parking lots
- > Campus wide: Exterior Paint & Stucco repairs
- > Campus wide: Roofing Repairs
- > Sportsplex: R&R of Bleachers
- > Fire Alarm Upgrade - Phase II

**New Mexico Higher Education
Department**

Complete table below if this project request contains multiple projects or if the project can be phased. List in priority order:

Phase/ Project #	Phase/Project Description	Amount
1	Lower AD Bldg.: Restroom Renovation - Phase II	\$75,000
2	GE Bldg.: Science Lab Renovations - Phase II	\$180,000
3	Campus wide: Retaining walls adjacent to parking lots	\$90,000
4	Campus wide: Exterior Paint & Stucco repairs	\$300,000
5	Campus wide: Roofing Repairs	\$160,000
6	Sportsplex: R&R of Bleachers	\$220,000
7	Fire Alarm Upgrade – Phase II	\$830,000

Project Timeline for single project, multiple projects or phases:

Phase/Project	Start Date (mm/yyyy)	Completion Date (mm/yyyy)
1,2,3,4,5,6, & 7	07/2019	06/2022

If funding has been requested in the past for this project, provide a brief summary to include when it was presented and any changes from original request(s) (Cost, Scope, etc.):

The Projects that were requested in last year's Summer Hearings were

- > Lower AD Bldg.: Restroom Renovation - Phase II
- > GE Bldg.: Science Lab Renovations - Phase II
- > Campus wide: Roofing Repairs

These projects were approved through HED but were vetoed by the Governor in 2018.

We have relooked at the project List from the prior packet and have made some minor adjustments.

We are asking for \$1,855,000 for this year's request.

**New Mexico Higher Education
Department
Summer Hearing 2018**

Project Description: Be thorough in description. Must include general description of facility, GSF, age, date of last improvement, funds used for last improvement, types of space within facility, instructional programs served, and description of work to be performed.

1. Lower AD Bldg.: Restroom Renovation - Phase II will be the renovation of 2 restrooms totaling 354GSF. This facility has over 40 years of use and is in need of this remodel. Project Description is to install floor tiles, wall tiles, a new exhaust system, new fixtures, new bathroom stall partitions; and replacement of Lighting and Ceilings in these 2 restrooms.
2. GE Bldg.: Science Lab Renovations – Phase II will average 3,500 GSF. This facility is quickly approaching 30 years of use and is in dire need of these improvements. This facility houses the following multiple College Departments; College of Arts & Science, Department of Language & Letters, Department of Humanities & Social Science, and Department of Math & Physical Science.
Project Description is to install epoxy to all floor space, R&R of all Plumbing and Electrical in the laboratory counters, R&R of the black resin counter tops, Installation of new sink faucets, torrents, painting of the laboratories, and ceiling and wall relocation as needed.
3. Campus wide: Retaining walls adjacent to parking lots will consist of installing a new retaining wall to the North Side of the Teacher Education & Administration Building parking lots. As well as another new retaining wall on the South Side of the Center of the Arts parking lot, totaling 6,000 as the average GSF.
Project Description is to Install 6X16 retaining wall block.
4. Campus wide: Exterior Paint & Stucco repairs is to paint the exterior of 5 buildings at the Espanola Campus, which house many departments including but not limited to Nursing, Continuing Education, Library, Math & Physical Science, College of Arts & Science, Department of Language and Letters.
Total Average GSF is 24,230.
Project Description is to power wash, scrape, clean, primer, and paint the exterior walls of the buildings. Stucco repairs to the Exterior of Building walls, parapets to protect the buildings outer shell from further water damage and corrosion.
5. Campus wide: Roofing Repairs consists of buildings in both campuses, this includes but is not limited to the following buildings, the Student Services, the west wing of the Library and the Johnson Control Building, totaling a GSF of 20,836. These buildings have 30 years of use. The library houses faculty, staff, students, and community members. The Student Services houses our café, and Adult Education Center. The Johnson Control Building houses the Business Administration Department and Continuing Education Offices.
Project description is to replace or repair existing roofs with 60mil TPO Roof membrane that is attached to a HD cover board that will be mechanically attached to the existing roof.
6. Sportsplex: R&R of Bleachers is to replace the old existing bleachers in the main court area of the Gymnasium totaling approximately 5,997.18 GSF. Bleachers are used during all the college related activities, including but not limited to, Graduations, College events, Athletics, and College courses.
7. Campus Wide: Fire Alarm Upgrade – Phase II will be the continuation of the relocation of Fire Alarm pull stations in all buildings to meet A.D.A. requirements and bring the entire campus under a Central Fire Alarm System. Renovation of the fire Alarm in the following buildings: Admin, Student Success, GE, Performing Arts Renovation of the Fire Alarm in the remaining buildings: Johnson Controls, Automotive, Serpa, High Tech, Portables, Library, Metal Trades, Vocational, and Teachers Ed. The total Estimated Cost is \$830,000, with an estimated cost per square foot of \$1.55

**New Mexico Higher Education
Department
Summer Hearing 2018**

Rationale: Be thorough in explaining the purpose of the project. Must include method used to determine project priority (FCI, etc.), how project supports mission and role of IHE, how project relates to instructional programs and, consequences of project not receiving funding.

1. Lower AD Bldg.: Restroom Renovation – Phase II is needed for ADA Compliance and for the sanitation for students, faculty, staff and community members.
2. GE Bldg.: Science Lab Renovations – Phase II will provide a safe, clean and accessible Lab space for our student's educational needs. Students will have up to date laboratories to assist in approving their educational needs during their lab courses.
3. Campus wide: retaining walls adjacent to parking lots are needed to protect our parking lots from mud slides, rocks, and debris that spill over the curbs. The distance from our parking lots to our property border is not enough to cut back to prevent this from happening.
4. Campus wide: Exterior Paint & Stucco repairs are needed to protect the exterior shell of our buildings from potential weatherization damage. By applying these applications, it will help to seal out moisture and give our buildings longevity protection.
5. Campus wide: Roofing Repairs consists of buildings in both campuses, this includes but is not limited to the following buildings, the Student Services, the west wing of the Library and the Johnson Control Building is needed to protect and avoid further damage to the buildings and equipment. Also, this will address College Health and Safety concerns.
6. Sportsplex: R&R of Bleachers is needed for the safety of our students, faculty, staff, and visitors. Existing bleachers are the old wood plank type that have started to break and splinter from years of use. Also, these outdated bleachers are not in ADA Compliance. The steps are 12" + and have no ADA hand rails at the aisles.
7. Campus Wide: Fire Alarm Upgrade – Phase II is to provide upgrades/remediation of defective components discovered during the systems check. This is the continuation of the relocation of Fire Alarm pull stations in all buildings to meet A.D.A. requirements and bring the entire campus under a Central Fire Alarm System. Renovation of the fire Alarm in the following buildings: Admin, Student Success, GE, Performing Arts Renovation of the Fire Alarm in the remaining buildings: Johnson Controls, Automotive, Serpa, High Tech, Portables, Library, Metal Trades, Vocational, and Teachers Ed.

**New Mexico Higher Education
Department
Summer Hearing 2018**

Health and Safety: Describe major health and safety problems being addressed by this project, including ADA upgrades if applicable.

1. Lower AD Bldg.: Restroom Renovation - Phase II is needed for ADA Compliance and for the sanitation for students, faculty, staff and community members.
2. GE Bldg.: Science Lab Renovations – Phase II will provide safer laboratory areas to work in for students taking lab courses. New updated fixtures and safety counters will be installed for the safety of our students and faculty.
3. Campus wide: Retaining walls adjacent to parking lots are essential because the existing condition presents potential hazards to our students, faculty, staff and visitors, this is a high risk of possible injury to themselves and/or their vehicles.
4. Campus wide: Exterior Paint & Stucco repairs helps to prevent mold and from potential debris from falling off the exterior shell of our buildings due to excessive weather conditions.
5. Campus Wide: Roofing Repairs is essential in ensuring a safe and comfortable environment to all occupied spaces throughout the buildings. The potential hazards that may occur from leaking water into our building can be mold, and or collapsed ceilings and tiles. This is to prevent injury to our students, faculty, staff and visitors.
6. Sportsplex: R&R of Bleachers are essential because the current bleachers are not in ADA Compliance. Existing aisle steps are 12" + high, and the width of the aisles are too narrow and do not have ADA handrails. Existing bleachers are made of wood planks that are breaking and cracking and causing the wood to splinter, which becomes a hazard,
7. Campus Wide: Fire Alarm Upgrade – Phase II will facilitate the relocation of Fire Alarm pull stations in all buildings to meet A.D.A. requirements. To provide a full Systems Check and Preventative Maintenance Audit for all buildings on the Espanola campus to ensure the safety of our students, faculty, staff and Visitors.

New Mexico Higher Education
Department
Summer Hearing 2018

Green Screen for Buildings: Describe the Energy Efficiency measures that will be incorporated into the design and construction of this project.

1. Lower AD Bldg.: Restroom Renovation – Phase II = N/A
2. GE Bldg.: Science Lab Renovations – Phase II = N/A
3. Campus wide: Retaining walls adjacent to parking lots = N/A
4. Campus wide: Exterior Paint & Stucco repairs = N/A
5. Campus wide: Roofing Repairs = N/A
6. Sportsplex: R&R of Bleachers = N/A
7. Campus Wide: Fire Alarm Upgrade – Phase II = N/A

Northern NM College

Full-Time Student Enrollment Trends:

Program	Headcount Fall 2017	FTE Fall 2017	% Growth from Last Year	Avg. Growth last 10 years
Admin Assistant, Bookkeeping, Entrepreneurship, HTRM (CT)	0		-100%	
Allied Health (AA)	4	3.4	300%	-33%
Alternative Licensure (CT)	18	6.9	-22%	-51%
Barbering/Cosmetology (CT, AAS)	27	26.9	17%	-39%
Biology (AS, BS)	41	37.5	-11%	95%
Business Administration (CT, AA, BBA Management, BBA Accounting, BBA Project Management)	157	125.3	-7%	-12%
Chemistry (AS)	1	0.0		
Criminal Justice (AA)	42	37.4	24%	-18%
Early Childhood Education (AA, BA)	22	13.0	16%	-58%
Electrical Technology (CT, AAS)	9	5.6	-31%	-57%
Elementary Education (AA, BA)	37	29.2	-3%	-72%
Emphasis Humanities (BAIS)	10	7.3	25%	
Emphasis Pueblo Indian Studies (AA, BAIS)	2	1.5	-33%	0%
Environmental Science (AS, BS)	46	36.2	-26%	18%
Film Digital Media (CT, AA)	9	7.7	50%	
Information Engineering Technology (AE, BE, GCT)/Software (AE)	50	42.9	-28%	67%
Liberal Arts (AA)	35	42.9	-5%	-66%
Math (AS, BS)	7	6.6	-36%	
Music (AA)	5	10.5	-72%	-29%
Nursing (LPN, ADN, RN to BSN)	173	132.0	19%	-3%
Office Administration (AA)	5	3.7	0%	-81%
Pre Engineering (AE); Electro-mechanical Engineering (BE)	40	31.5	18%	
Psychology (CERT Residential Assistant, AA, BAIS)	65	49.6	38%	
Radiation Protection (CT, AAS)	17	13.9	21%	467%
Renewable Energy (AAS)	1	0.8		0%
Substance Abuse Counseling (AAS)	8	7.1	-33%	-53%

Year	2010	2011	2012	2013	2014	2015	2016	2017
FTE	1352.5	1254.4	1185.6	1059.7	870.1	706.8	782.6	786
OFTE	245.5	211.9	155	144.7	131	123.2	174.1	128.7
FTE-OFTE	1107	1042.5	1030.6	915	739.1	583.6	608.5	657.3

New Mexico Department of Higher Education

2018 Summer Hearing - Five Year Capital Project Funding Plan Northern New Mexico College

INSTITUTION:		DATE: 5/17/2018																		
Institution acronym	FY20 Funding Priority #	Overall Funding Priority #	Project Title	Description	Year Project Funding will be requested	Month/Year Project to be started	Month/Year Project to be completed	Full Project	Phase	Cost of Project or Phase	GOB	STB	Other	Percent of GOB or STB	Percent of Other Funding Source	Description of Other Funding Source	New Construction	Renovation	Square Footage (GSF)	
xxxx		1	Roofing Improvements - Campground	Replace the roof on existing Building and repair/replace other roofs as possible	2018	Dec-18	Apr-19	X		\$	X	X	X	100%	10%	SBM		X	29,569	
NNMC	1	1	Infrastructure Building and Ground Repairs and Sustainability Initiatives (Campus Wide)	Ensures long-term utility and sustainability of Campus wide buildings and Grounds at the Española Campus:	2019	Jul-19	Jun-22	X		\$ 1,855,000	X	X		100%	0%			X	309,565	
NNMC	2	2	Extension and Modifications to College of Education Building	This funding will help to build four classrooms, two offices and two large bathroom units on the north side of the College of Education Purpose is to support an Early College High School initiative in partnership with the Española Public School and Pojoaque Valley Public School districts	2019	Jul-19	Jun-22	X		\$ 3,000,000		X		100%	0%		X		300	
NNMC	3	3	Expansion of Parking Lots and road improvements for both Espanola and El Rito campus'	This is to provide additional parking spaces to accommodate students, faculty and staff and to improve road conditions on campus'	2020	Jul-20	Jun-23	X		\$2,000,000				100%	0%		X	X		
NNMC	4	4	Future Campus Infrastructure Needs	This is to provide pathways, shade structures and student common areas for our surrounding housing residences.	2020	Jul-20	Jun-23	X		\$1,000,000				100%	0%		X	X		
NNMC	5	5	El Rito Campus Utility/Sustainability	Follow up to the Ameresco Energy Audit for dual campus findings; to do upgrades and improvements for longevity of campus for the next 20 years. Prepare campus for long time sustainability to provide education.	2020	Jul-20	Jun-23		X	\$2,000,000				100%	0%			X	X	



New Mexico Department of Higher Education

2018 Summer Hearing I&G Data Submitted by IHE's

Institution Type	Institution Acronym	Space Utilization for New Mexico Higher Education Institutions	Institution reported BRR eligible GSF Per Parsons (30f) 2006	Institution Eligible Instructional and General GSF 2016	Percent Difference Between 2016 & 2017	Institution Eligible Instructional and General GSF 2017	Fall Semester I&G FTE Students 2017	Fall Semester I&G Online FTE 2017	Fall Semester I&G FTE minus Online FTE (b-c)	Fall Semester I&G Sq. Ft. / (FTE minus Online FTE)	
			a	b	c	d	e	f	g	h	
Research University	NMSU	New Mexico State University	2,970,741							a/(b-c)	
	UNM	University of New Mexico (including HSC)	5,146,604						0		
	NMIMT	New Mexico Institute of Mining and Technology	851,604						0		
	Comprehensive University	ENMU	Eastern New Mexico University	1,039,786						0	
		NMHU	New Mexico Highlands University	719,742						0	
		WNMU	Western New Mexico University	535,394						0	
		NNMC	Northern New Mexico College	359,625	277,815			277,815	1,115	1,115	249
		NMSU - DACC	NMSU - Dona Ana	380,637						0	
		UNM - T	UNM - Taos							0	
	Branch Community Colleges	UNM - G	UNM - Gallup	167,799						0	
NMSU - C		NMSU - Carlsbad	142,314						0		
ENMU - Rui		ENMU - Ruidoso	40,600						0		
ENMU - Ros		ENMU - Roswell	498,662						0		
NMSU - A		NMSU - Alamogordo	190,676						0		
UNM - V		UNM - Valencia	142,633						0		
NMSU - G		NMSU - Grants	118,678						0		
UNM - LA		UNM - Los Alamos	75,462						0		
CNM - Main		Central New Mexico Community College	1,215,697						0		
LCC		Luna Community College	353,624						0		
Independent Public Community Colleges and Special Schools	SJC	San Juan College	870,600						0		
	SFCC	Santa Fe Community College	503,673						0		
	CCC	Clovis Community College	311,661						0		
	MCC	Mescalands Community College	113,635						0		
	NMJC	New Mexico Junior College	427,643						0		
	NMMI	New Mexico Military Institute	740,149						0		
	NMSD	New Mexico School for the Deaf	254,339						0		
	NMSBVI	New Mexico School for the Blind and Visually Impaired	150,600						0		
	DINE	DINE College	0						0		
	I/A/A	Institute of American Indian Arts	0						0		
Native American Institutions	NTC	Navajo Technical College	0						0		
	SIPI	Southwestern Indian Polytechnic Institute	0						0		
	Total:		18,319,778	277,815	0	277,815	1,115	0	1,115	249	

NORTHERN NEW MEXICO COLLEGE
CAPITAL PROJECTS FIVE-YEAR MASTER PLAN

CURRENT AS OF: MAY 2018



NORTHERN New Mexico College

**NNMC CAPITAL PROJECTS
FIVE-YEAR MASTER PLAN
2019 PRIORITIES**

- I. Priority 1: Infrastructure Building and Ground Repairs and Sustainability Initiatives (Campus Wide)**

- II. Priority 2: Extension and Modifications to College of Education Bldg. (for Early College High School Initiative)**



2019 PRIORITY 1

INFRASTRUCTURE BUILDING REPAIRS AND

SUSTAINABILITY INITIATIVES

\$1,855,000

**Ensures long-term utility and sustainability of
Campus wide buildings and Grounds at the**

Española Campus:

- Lower AD Bldg.: Restroom Renovation - Phase II
- GE Bldg.: Science Lab Renovations – Phase II
- Campus wide: Retaining walls adjacent to parking lots
- Campus wide: Exterior Paint & Stucco repairs
- Campus wide: Roofing Repairs
- Sportsplex: R&R of Bleachers
- Fire Alarm Upgrade – Phase II



2019 PRIORITY 2

EXTENSION AND MODIFICATIONS TO COLLEGE OF EDUCATION BUILDING \$3,000,000

- This funding will help to build five classrooms, two offices and two large bathroom units on the north side of the College of Education
- Purpose is to support an Early College High School initiative in partnership with the Española Public School and Pojoaque Valley Public School districts.



NNMC CAPITAL PROJECTS FIVE-YEAR MASTER PLAN
FUTURE PRIORITIES

FY20 Funding Priorities

- Expansion of Parking Lots
and Road Improvements
Española & El Rito Campus' \$2,000,000

- Future Campus Infrastructure Needs \$1,000,000

- El Rito Campus Utility/Sustainability \$2,000,000



**NNMC CAPITAL PROJECTS FIVE-YEAR MASTER PLAN
FUTURE PRIORITIES (CONTINUED)**

FY21 Funding Priority
▪ Metal Trades / Continuing Education Building Upgrade \$3,500,000

FY22 Funding Priority
▪ Espanola Campus Event Center \$2,000,000

FY23 Funding Priority
▪ NNMC Student Union \$5,000,000



NEW MEXICO HIGHER EDUCATION DEPARTMENT



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2018/FY20 YEARLY CAPITAL PROJECTS SUMMER HEARINGS

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Submittal Instructions:

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- Item 00, 01 and 02 above should be converted to PDF. All other documents need to remain in EXCEL
- If no project request is being submitted, a formal letter signed by the President will need to be uploaded

Printed Name and Title of Contact Person

Email

Signature

Date

NEW MEXICO HIGHER EDUCATION DEPARTMENT



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2018 Capital Outlay Summer Hearings

SUBMITTAL CERTIFICATION

Name of Institution: _____

I hereby certify that the five (5) year plan for our institution, included with this submittal, was approved by the Governing Board on _____. I also certify that the proposed capital outlay projects submitted are ranked in priority order, are considered to represent the institutions greatest need, have been developed sufficiently to validate project cost, and if funded, will have a minimum of five percent (5%) of the appropriation incurred within the first six (6) months from the date the Bonds are issued.

Governing Board President (Printed Name)

Institution President (Printed Name)

Governing Board President (Signature)

Institution President (Signature)

Date

Date

NEW MEXICO HIGHER EDUCATION DEPARTMENT



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CABINET SECRETARY

2018/FY20 YEARLY CAPITAL PROJECTS SUMMER HEARINGS

Project Evaluation Form

Name of Institution: Northern New Mexico College

Location of Project (Attach Aerial Map): Espanola, NM

Project Title: Extension and Modifications to College of Education Building

FY20 Priority #: 2

Master Plan Priority #: 2

Total Project Cost: \$ 3,000,000

Total Funding Request: \$ 3,000,000

Total Match Funding: \$ 0.00

Source of Match Funding:

N/A

Detail of how project cost was determined:

Project Cost was determined by total GSF X Estimated by \$300 per GSF which is the estimated cost for Commercial Building GSF. This project is to include landscaping, parking lot alterations, fencing, cameras and annunciation - mass notification System. We will also "furnish and equip" offices, public areas, and classrooms as needed.

**New Mexico Higher Education
Department**

Complete table below if this project request contains multiple projects or if the project can be phased. List in priority order:

Phase/ Project #	Phase/Project Description	Amount
	N/A	

Project Timeline for single project, multiple projects or phases:

Phase/Project Start Date (mm/yyyy) Completion Date (mm/yyyy)

2	07/2019	06/2022

If funding has been requested in the past for this project, provide a brief summary to include when it was presented and any changes from original request(s) (Cost, Scope, etc.):

**New Mexico Higher Education
Department
Summer Hearing 2018**

Project Description: Be thorough in description. Must include general description of facility, GSF, age, date of last improvement, funds used for last improvement, types of space within facility, instructional programs served, and description of work to be performed.

This project/addition will help to build five educational classrooms, two educational offices, and two large restrooms at the North Side of the College of Education Building. Gross Square Footage is 5,055. The College of Education Building currently houses the Teacher Education Programs and this addition will support an Early College High School.

**New Mexico Higher Education
Department
Summer Hearing 2018**

Rationale: Be thorough in explaining the purpose of the project. Must include method used to determine project priority (FCI, etc.), how project supports mission and role of IHE, how project relates to instructional programs and, consequences of project not receiving funding.

The purpose of this project is to support an Early College High School (ECHS). The initiative will support a partnership with the Espanola Public School District and the Pojoaque Valley Public School District. The collaboration is to inspire culture of Education, Aliment, and Excellence. If this funding is not provided than early College High School may not take place.

**New Mexico Higher Education
Department
Summer Hearing 2018**

Health and Safety: Describe major health and safety problems being addressed by this project, including ADA upgrades if applicable.

An annunciation/mass Notification system will be installed in the new addition, and will utilize interior and exterior cameras for safety and security. Fencing will also be installed to provide additional security.

**New Mexico Higher Education
Department**

Summer Hearing 2018

Green Screen for Buildings: Describe the Energy Efficiency measures that will be incorporated into the design and construction of this project.

Green Screen will be implemented into the design and construction of this project.

Northern NM College

Full-Time Student Enrollment Trends:

Program	Headcount Fall 2017	FTE Fall 2017	% Growth from Last Year	Avg. Growth last 10 years
Admin Assistant, Bookkeeping, Entrepreneurship, HTRM (CT)	0		-100%	
Allied Health (AA)	4	3.4	300%	-33%
Alternative Licensure (CT)	18	6.9	-22%	-51%
Barbering/Cosmetology (CT, AAS)	27	26.9	17%	-39%
Biology (AS, BS)	41	37.5	-11%	95%
Business Administration (CT, AA, BBA Management, BBA Accounting, BBA Project Management)	157	125.3	-7%	-12%
Chemistry (AS)	1	0.0		
Criminal Justice (AA)	42	37.4	24%	-18%
Early Childhood Education (AA, BA)	22	13.0	16%	-58%
Electrical Technology (CT, AAS)	9	5.6	-31%	-57%
Elementary Education (AA, BA)	37	29.2	-3%	-72%
Emphasis Humanities (BAIS)	10	7.3	25%	
Emphasis Pueblo Indian Studies (AA, BAIS)	2	1.5	-33%	0%
Environmental Science (AS, BS)	46	36.2	-26%	18%
Film Digital Media (CT, AA)	9	7.7	50%	
Information Engineering Technology (AE, BE, GCT)/Software (AE)	50	42.9	-28%	67%
Liberal Arts (AA)	35	42.9	-5%	-66%
Math (AS, BS)	7	6.6	-36%	
Music (AA)	5	10.5	-72%	-29%
Nursing (LPN, ADN, RN to BSN)	173	132.0	19%	-3%
Office Administration (AA)	5	3.7	0%	-81%
Pre Engineering (AE); Electro-mechanical Engineering (BE)	40	31.5	18%	
Psychology (CERT Residential Assistant, AA, BAIS)	65	49.6	38%	
Radiation Protection (CT, AAS)	17	13.9	21%	467%
Renewable Energy (AAS)	1	0.8		0%
Substance Abuse Counseling (AAS)	8	7.1	-33%	-53%

Year	2010	2011	2012	2013	2014	2015	2016	2017
FTE	1352.5	1254.4	1185.6	1059.7	870.1	706.8	782.6	786
OFTE	245.5	211.9	155	144.7	131	123.2	174.1	128.7
FTE-OFTE	1107	1042.5	1030.6	915	739.1	583.6	608.5	657.3



New Mexico Department of Higher Education

2018 Summer Hearing - Five Year Capital Project Funding Plan

Northern New Mexico College

INSTITUTION:

DATE: 5/17/2018

Institution acronym	Overall Funding Priority #	Project Title	Description	Year Project Funding will be requested	Month/Year Project to be started	Month/Year Project to be completed	Full Project	Cost of Project or Phase	GOB	STB	Other	Percent of GOB of STB	Percent of Other Funding Source	Description of Other Funding Source	New Construction	Renovation	Square Footage (GSF)
NMCC	1	Roofing Improvements Campuswide	Replace the roof on the Sikes Building and repair/replace other roofs campuswide	2019	Jul-19	Jun-19	X	\$ 388,000	X	X	X	99%	10%	BRH		X	29,500
NNMC	1	Infrastructure Building and Ground Repairs and Sustainability Initiatives (Campus Wide)	Ensures long-term utility and sustainability of Campus wide buildings and Grounds at the Espanola Campus:	2019	Jul-19	Jun-22	X	\$ 1,855,000	X	X		100%	0%			X	309,565
NNMC	2	Extension and Modifications to College of Education Building	This funding will help to build four classrooms, two offices and two large bathroom units on the north side of the College of Education Purpose is to support an Early College High School initiative in partnership with the Espanola Public School and Pojoaque Valley Public School districts	2019	Jul-19	Jun-22	X	\$ 3,000,000		X		100%	0%		X		300
NNMC	3	Expansion of Parking Lots and road improvements for both Espanola and El Rito campus'	This is to provide additional parking spaces to accommodate students, faculty and staff and to improve road conditions on campus.	2020	Jul-20	Jun-23	X	\$2,000,000				100%	0%		X	X	
NNMC	4	Future Campus Infrastructure Needs	This is to provide pathways, shade structures and student common areas for our surrounding housing residences.	2020	Jul-20	Jun-23	X	\$1,000,000				100%	0%		X	X	
NNMC	5	El Rito Campus Utility/Sustainability	Follow up to the Amerisco Energy Audit for dual campus findings; to do upgrades and improvements for longevity of campus for the next 20 years. Prepare campus for long time sustainability to provide education.	2020	Jul-20	Jun-23		\$2,000,000				100%	0%		X	X	



New Mexico Department of Higher Education

2018 Summer Hearing I&G Data Submitted by IHE's

Institution Type	Institution Acronym	Space Utilization for New Mexico Higher Education Institutions	Institution reported BRR eligible GSF Per Parsons (301) 2006	Institution Eligible Instructional and General GSF 2016	Percent Difference Between 2016 & 2017	Institution Eligible Instructional and General GSF 2017	Fall Semester I&G FTE Students 2017	Fall Semester I&G Online FTE 2017	Fall Semester I&G FTE minus Online FTE (b-c)	Fall Semester I&G Sq. Ft. / FTE minus Online FTE (b-c)	
				a		a	b	c	(b-c)	a/(b-c)	
Research University	NMSU	New Mexico State University	2,970,141						0		
	UNM	University of New Mexico (including HSC)	5,146,904						0		
	NMIMT	New Mexico Institute of Mining and Technology	851,904						0		
Comprehensive University	ENMU	Eastern New Mexico University	1,039,186						0		
	NMHU	New Mexico Highlands University	719,742						0		
	WNMU	Western New Mexico University	535,394						0		
	NMNC	Northern New Mexico College	359,025	277,815		277,815	1,115		1,115	249	
Branch Community Colleges	NMSU - DACC	NMSU - Dona Ana	380,537						0		
	UNM - T	UNM - Taos							0		
	UNM - G	UNM - Gallup	167,799						0		
	NMSU - C	NMSU - Carlsbad	142,314						0		
	ENMU - Rui	ENMU - Ruidoso	40,000						0		
	ENMU - Ros	ENMU - Roswell	498,062						0		
	NMSU - A	NMSU - Alamogordo	190,976						0		
	UNM - V	UNM - Valencia	142,033						0		
	NMSU - G	NMSU - Grants	118,578						0		
	UNM - LA	UNM - Los Alamos	75,462						0		
	Independent Public Community Colleges and Special Schools	CNM - Main	Central New Mexico Community College	1,215,597						0	
		LCC	Luna Community College	353,924						0	
SJC		San Juan College	870,500						0		
SFCC		Santa Fe Community College	503,673						0		
CCC		Clovis Community College	311,561						0		
MCC		Mesalands Community College	113,535						0		
NMJC		New Mexico Junior College	427,643						0		
NMMI		New Mexico Military Institute	740,149						0		
NMSD		New Mexico School for the Deaf	254,339						0		
NMSBVI		New Mexico School for the Blind and Visually Impaired	150,500						0		
Native American Institutions		DINE	DINE College	0						0	
		IAIA	Institute of American Indian Arts	0						0	
	NTC	Navajo Technical College	0						0		
	SIPI	Southwestern Indian Polytechnic Institute	0						0		
Total:			18,319,478	277,815	0	277,815	1,115	0	1,115	249	

NORTHERN NEW MEXICO COLLEGE
CAPITAL PROJECTS FIVE-YEAR MASTER PLAN

CURRENT AS OF: MAY 2018



**NNMC CAPITAL PROJECTS
FIVE-YEAR MASTER PLAN
2019 PRIORITIES**

- I. Priority 1: Infrastructure Building and Ground Repairs and Sustainability Initiatives (Campus Wide)**

- II. Priority 2: Extension and Modifications to College of Education Bldg. (for Early College High School Initiative)**



2019 PRIORITY 1

INFRASTRUCTURE BUILDING REPAIRS AND SUSTAINABILITY INITIATIVES

\$1,100,000

Ensures long-term utility and sustainability of
Campus wide buildings and Grounds at the

Española Campus:

- Lower AD Bldg.: Restroom Renovation - Phase II
- GE Bldg.: Science Lab Renovations – Phase II
- Campus wide: Retaining walls adjacent to parking lots
- Campus wide: Exterior Paint & Stucco repairs
- Campus wide: Roofing Repairs
- Sportsplex: R&R of Bleachers



2019 PRIORITY 2

EXTENSION AND MODIFICATIONS TO COLLEGE OF EDUCATION BUILDING

\$3,000,000

- This funding will help to build five classrooms, two offices and two large bathroom units on the north side of the College of Education
- Purpose is to support an Early College High School initiative in partnership with the Española Public School and Pojoaque Valley Public School districts.



NNMC CAPITAL PROJECTS FIVE-YEAR MASTER PLAN

FUTURE PRIORITIES

FY20 Funding Priorities

- Expansion of Parking Lots
and Road Improvements
Española & El Rito Campus' \$2,000,000
- Future Campus Infrastructure Needs \$1,000,000
- El Rito Campus Utility/Sustainability \$2,000,000



**NNMC CAPITAL PROJECTS FIVE-YEAR MASTER PLAN
FUTURE PRIORITIES (CONTINUED)**

FY21 Funding Priority

- Metal Trades / Continuing Education Building Upgrade \$3,500,000

FY22. Funding Priority

- Espanola Campus Event Center \$2,000,000

FY23 Funding Priority

- NNMC Student Union \$5,000,000



NEW MEXICO HIGHER EDUCATION DEPARTMENT
2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100

CAPITAL PROJECT TRANSMITTAL SUMMARY SHEET

Check the appropriate boxes below for materials accompanying this Summary Sheet and prepare all necessary attachments as needed for your project submittal. The deadline to submit project documents can be found on the NMHED Annual Calendar of Events at <http://www.hed.state.nm.us/institutions/resources.aspx>. In order to ensure your project will be considered, it must be uploaded by the deadline to the following FTP address: <https://nmhedss1.state.nm.us/ThinClient/Login.aspx>.

1. Institution Northern New Mexico College Date: 5/30/18
2. Project title: Roofing Repairs – Espanola & El Rito Campus
3. Location: Espanola & El Rito Campus
4. HED meeting date when project consideration is requested: July 11, 2018
5. Contact person: Ricky Bejarano Phone: 505.747.5050
6. Required forms for project categories:
 - Construction, Alterations, or Demolition (All Forms)
 - Revenue Bond Forms (1, 1-A, 4, 5, 6)
 - Property Acquisition (Forms 1, 1-A, 3, 4, 5, 6)
7. A site plan of the proposed project. (Required for project approval)
8. Completed plan and profile drawings of the project, including elevations and floor plans with each space numbered and identified as to use and size. (Required for project approval)
9. Form 1 – Project Information
10. Form 1A - Institutional General Information and Project Schedule
11. Form 2 – Space Information
12. Form 3 – Estimated Utilities Costs (Green Screen, Energy Star, LEED)
13. Form 4 – Proposed Project Costs
14. Form 5 – Proposed Project Square Footage and Funding Sources
15. Form 6 – Certification by Governing Board

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 1: PROJECT INFORMATION

Institution: Northern New Mexico College

Original: **Date:** 5/30/18
Revision: **Date:** _____

Project title: Roofing Repairs – Espanola & El Rito Campus

Description:

Administration/Student Services Patio - Concrete Repairs: 13,468 SF (\$230,672.87)

This project is a concrete Deck Coating for the Administration/Student Services outdoor patio, which is 13,468 SF. This is located at the Espanola campus. This patio is used by students, faculty, staff and visitors. This project will consist of 8 layers of a Mirocote product, Preparation of damaged concrete, RM3000 repair mortar, caulking, fiber mesh and membrane C on concrete paver areas and extending the existing roof drains.

High Tech Roof Coating: 15,385 SF (\$63,688.96)

This project is a roof renovation project for the High Tech Building which is 15,385 SF. This project is at the Espanola campus. This building has multiple usage and houses the following departments; math, Biology, Chemistry, Environmental Science, Engineering, and various office spaces. Project will consist of recoating the full roof.

Jaramillo Hall Full Roof - tune up: 11,946 SF (\$15,524.13)

This project is a full tune up of the full roof at the Jaramillo hall, which is 11,946 SF, and located at the El Rito Campus. This facility houses the primary classroom spaces for the Espanola Campus. Project will consist of a full tune up, to include but not limited to, a 3 course BUR application, and then an aluminum roof coating. Thompson water sealer will be applied to the tops of the existing parapets.

Rationale:

The repairs and installation of new material on the Administration/Student Services Patio and the roof repairs to the Hi Tech building & Jaramillo Hall are important in order to avoid further damage to the building and equipment.

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 1-A: INSTITUTIONAL AND GENERAL INFORMATION

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: Roofing Repairs – Espanola & El Rito Campus

Current Total On-Campus Enrollment	
Head Count: <u>1070</u>	FTE: <u>727.7</u>
<u>0%</u> Growth from previous year	<u>-7%</u> Average growth in previous 5-year period

Current Total Off-Campus Enrollment (web-based or Distance Ed., etc.)	
Head Count: <u>1140</u>	FTE: <u>224.3</u>
<u>22.3%</u> Growth from previous year	<u>10.0%</u> Average growth in previous 5-year period

Tuition		
Current Tuition Per Credit Hour: <u>\$130</u>	Current Tuition Per Semester: <u>\$1560</u>	
Month/year per semester tuition was last increased: <u>08/2016</u>	Amount of last per semester tuition increase: <u>\$5.31</u>	<u>.04258%</u> Change from last increase

Program Enrollment Being Served by this Project	
Head Count: _____	FTE: _____
_____% Growth from previous year	_____% Average growth in previous 10-year period

Bonding Information (To be completed if local bond proceeds are used for project funding)	
Assessed Valuation: _____	Month/year of most recent local bond issue: _____/____
Outstanding Debt: _____	
Available Capacity: _____	

Project Schedule	
Month/year proposed construction start date: ____/____/____	Month/year proposed construction completion date: ____/____/____

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 2: SPACE INFORMATION

Institution: Northern New Mexico College

Original: **Date:** 5/30/18
Revision: **Date:** _____

Project title: Roofing Repairs – Espanola & El Rito Campus

List the net assignable square feet (NASF) and Net Usable Square Footage (NUSF) of spaces to be constructed, altered, or demolished by this project. Definitions of

CLASSIFICATION CODE	TYPE OF SPACE	NEW	ALTERATION	% OF NUSF
100	Classroom	N/A		
200	Laboratory	N/A		
300	Office	N/A		
400	Study	N/A		
500	Special	N/A		
600	General	N/A		
700	Support	N/A		
800	Health	N/A		
900	Residential	N/A		
NASF TOTAL				
TARE	Other (interior walls, hallways, stairs, toilet rooms, mechanical rooms, electrical rooms, etc.) *Does NOT include interior structural elements – see definition			
(NUSF) TOTAL USABLE SQUARE FOOTAGE		N/A		100%
% of GSF is indicated on Form 5				
(GSF) TOTAL SQUARE FOOTAGE		N/A		

CLASSIFICATION CODE	TYPE OF SPACE	EXISTING	ALTERATION	DIFFERENCE
100	Classroom	N/A		
200	Laboratory	N/A		
300	Office	N/A		
400	Study	N/A		
500	Special	N/A		
600	General	N/A		
700	Support	N/A		
800	Health	N/A		
900	Residential	N/A		
NASF TOTAL		N/A		
TARE	Other (interior walls, hallways, stairs, toilet rooms, mechanical rooms, electrical rooms, etc.) *Does NOT include interior structural elements – see definition	N/A		
(NUSF) TOTAL USABLE SQUARE FOOTAGE		N/A		

**NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 3: ESTIMATED UTILITIES COST**

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: Roofing Repairs – Espanola & El Rito Campus

This form is designed to estimate the project's effect on current utilities costs.

FORMULA	CURRENT EXPENSES	PROJECTED ANNUAL EXPENSES AFTER COMPLETION	DIFFERENCE BETWEEN CURRENT AND PROJECTED (+ OR -)
Eligible GSF: _____ x \$3.75	N/A	N/A	N/A

- **Note if space is non I&G please input NA with a note why.**

Include Green Screen information below, along with reference to Energy Star Rating and LEED Checklist if applicable (EO 2006-001)

- Projects will not have an effect on current Utility costs. Materials that will be replaced, will be like to like materials.

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 4: PROPOSED PROJECT COSTS

Institution: Northern New Mexico College

Original: **Date:** 5/30/18
Revision: **Date:** _____

Project title: Roofing Repairs – Espanola & El Rito Campus

I. PROJECT BUDGET

EXPENDITURES	ORIGINAL SUBMISSION		BUDGET REVISION
	NEW CONSTRUCTION	ALTERATIONS	
A. Building Cost			
1. General		177,075.14	
2. Mechanical/Plumbing			
3. Electrical			
4. Special Systems (voice, data, other)			
5. Code Compliance (hazmat abatement, accessibility, etc.)			
BUILDING COST SUBTOTAL		177,075.14	
B. Built-in Equipment			
C. Site Development			
1. Utilities, Infrastructure			
2. Landscaping/Site Improvements			
3. Demolition			
TOTAL CONSTRUCTION COST (T.C.C.)			
D. Construction Contingency (not more than 5% New Const., 10% Renov. of T.C.C.)		20,000.00	
E. Professional Fees			
1. Architectural/Engineering		4,861.55	
2. Constr. Administration		78,155.00	
3. Admin./Surveys/Testing		5,037.70	
F. Movable Equipment			
G. Other (NMGRT)		24,756.30	
H. Art in Public Places (1% of State Appropriation)			
TOTAL PROJECT BUDGET		304,885.96	

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 5: PROPOSED PROJECT SQUARE FOOTAGE
AND FUNDING SOURCES

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: Roofing Repairs – Espanola & El Rito Campus

COSTS PER GROSS SQUARE FOOT (GSF)			
	Cost (Items A-C on Form 4)	GSF For New Construction NUSF for Alteration	Cost per GSF
New Construction			
Alterations	177,075.14	40,799.00	4.34

RATIO OF NET USABLE TO GROSS SQUARE FEET (NUSF/GSF)			
	NUSF (same as total from Form 2)	GSF	RATIO NUSF/GSF (%)
New Construction			
Alterations	N/A		

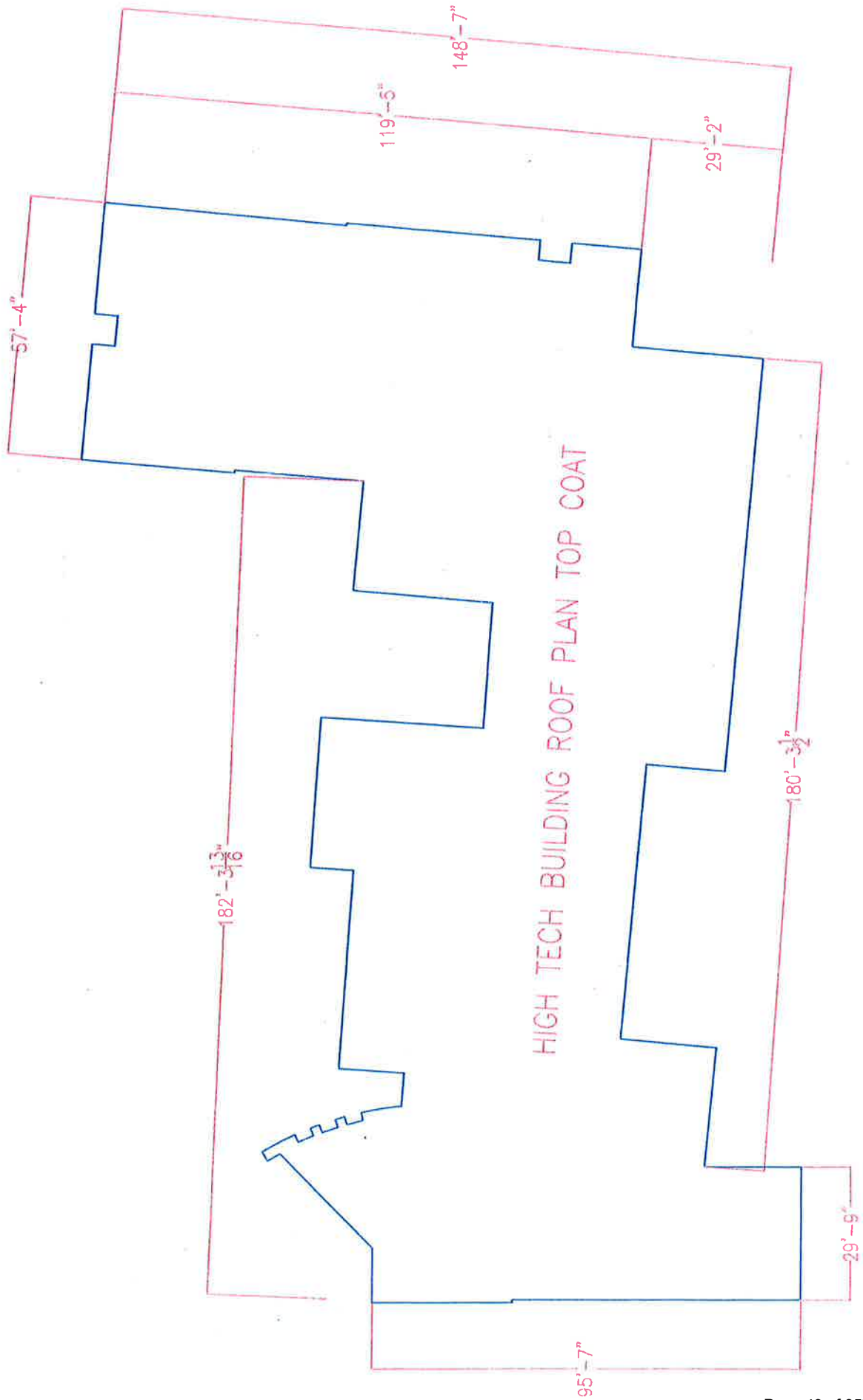
FUNDING SOURCE		
Enter the source of funding for the project. Total must match the total project budget on Form 4.		
Funding Source	Original Submission	Budget Revision
GOB17 A5138	304,885.96	N/A
Other Sources (specify)		
Total	304,885.96	

State Appropriations to be listed as follows: Gob or STBxx or GF 20xx (DFA # A0x-xxxx), SBxxx, or HBxxx Laws 20xx, chapter x, section x.

If using BRR, please specify year of budgeting.

***Attach screen shot verifying availability of funds**

****Attach a pdf of the Appropriation directly from the act with language highlighted**



EverGuard® Roofing

512 Veranda Road NW
Albuquerque, NM 87107
Tel 505-821-9543
Fax 505-821-9081
joe@everguardroofing.com

March 20, 2018

REVISED

Northern NM College – High Tech Roof

Andy Romero
Director of Facilities and Campus Security
Northern New Mexico College
921 Paseo De Onate
Española, NM 87532

Reference: Recover Quote for the **High-tech Roof** in Espanola, NM.

Dear Andy,

At your request the following is a quote to recover the existing roof on the property listed above. Our report and recommendations are as follows.

Here are our findings:

- The existing roof consists of a 1 layer Modified cap sheet roofing system over 1" fiber board and 2" gypsum board on a structurally sloped metal deck.
- State and Local code allows 2 roofing systems, therefore removal of only the existing membrane and overlay of new membrane is allowed.
- The roof has good slope @ 1/8" per foot slope in the deck.
- The roof terminations, drains, pipe vents, electrical penetrations, curbs, units, etc all show signs of multiple failed repairs.
- The metal wall detail can be reused.
- Batt insulation is hung below, therefore additional insulation is not required.
- There are large blisters throughout the roof that need to be cut out or repaired before overlay.
- All metal roofing is in good condition and not included in this scope.
- The existing condition of the BUR roof as of the date shown above is in poor condition and will need to be recovered.

Roof Stats:

Area (SF)	Perimeter (LF)	Vents and pipes (EA)	Skylights (EA)	Units (EA)	Drains (EA)	Scuppers (EA)
15,385	1,335	14	6	10	8	12

Alternative Recommendation: Roof Coating

- After prepping the existing roof, we propose to apply a **GAF Roof Mate Top Coat System**.

Maintenance Repairs Coatings Roofing Waterproofing

Alternative Recommendation: Roof Coating

- After prepping the existing roof, we propose to apply a **GAF Roof Mate Top Coat System**.
- This is an acrylic roof coating system. **GAF** is the largest roof manufacturer.
- Formulated to meet ASTM D6083 standards, Roof Mate Top Coat forms a monolithic coating designed to deliver a waterproof elastomeric seal that uniformly covers the substrate.
- This coating is the ideal solution for structurally sound, leaking, rusted roofs in need of restoration and repair.

The performance specifications for this roof system follows:

Performance Specifications	Quoted
Total Systems Warranty	15 Year
Roof Mate Top Coat Color	White

All warranty fees for a 15-year Total System roof warranty are included.

Coat under CES contract #18-09B-C301-ALL:

Alternative Price for Coating.....\$58,688.96

Item Number	Description of Cost Factors	Unit of Measure	Offeror's Price	Units required	Line Total
1.1	Water Resistant Roofing				
1.1.1.a	Pressure cleaning, vertical walls	SF	0.04	15385	\$615.40
1.1.1.b	Pressure cleaning, horizontal surfaces	SF	0.09	15385	\$1,384.65
1.1.1.c	Roof scanning to identify wet or substandard room components to be removed	SF	0.05	15385	\$769.25
1.1.3	Rubberized coating waterproofing, brush applied, per coat	SF	0.88	30770	\$27,077.60
1.1.4	Vinyl/acrylic resin, dampproofing, brush applied per coat.	SF	0.20	30770	\$6,154.00
1.4	Roofing and Roof Restoration				
1.5.6.25	Temporary Roof Protection	SF	0.20	15385	\$3,077.00
1.6	Metal Work				
1.6.39	Surface Preparation				
1.6.39.a	Cleaning of existing steel and surface.	SF	0.40	1200	\$480.00
1.6.39.b	Coating of existing reinforcement	SF	0.50	1200	\$600.00
1.1	Roof Services				
1.10.7	Field/shop drawings, 10,000-50,000 sq ft	SF	0.03	15385	\$461.55
1.11.6	Hourly Services Rates				
2.2	Performance and payment bond - bonding rate (percent of project)	Percent	1.9%		1094.3
1.11.6.5	Labor Rate for Roofer	Per Hour	49.00	250	\$12,250.00
	NM GRT (8.9375%)			52869.45	4725.21
	Contingency				\$5,000
	Totals				\$63,688.96

Our price includes material & Labor, Trash removal is also included.

*** \$5000 Contingency included***

Exclusions: Stucco, Interior damage, other trades – HVAC/Duct work and bricks, repair of damage by others, curbs, and vents. Abatement or remediation of any kind for any reason. Independent inspection or consultants. Price good for 180 business days. Roofing prices are volatile and price increases are for your account.

Proprietary and confidential information: This proposal contains proprietary and

confidential information of EverGuard Roofing and shall not be used, disclosed or reproduced, in whole or in part, for any purpose other than to evaluate this proposal and incorporate the proposal amount in recipient's subsequent bid.

Please call with any questions.

Regards,

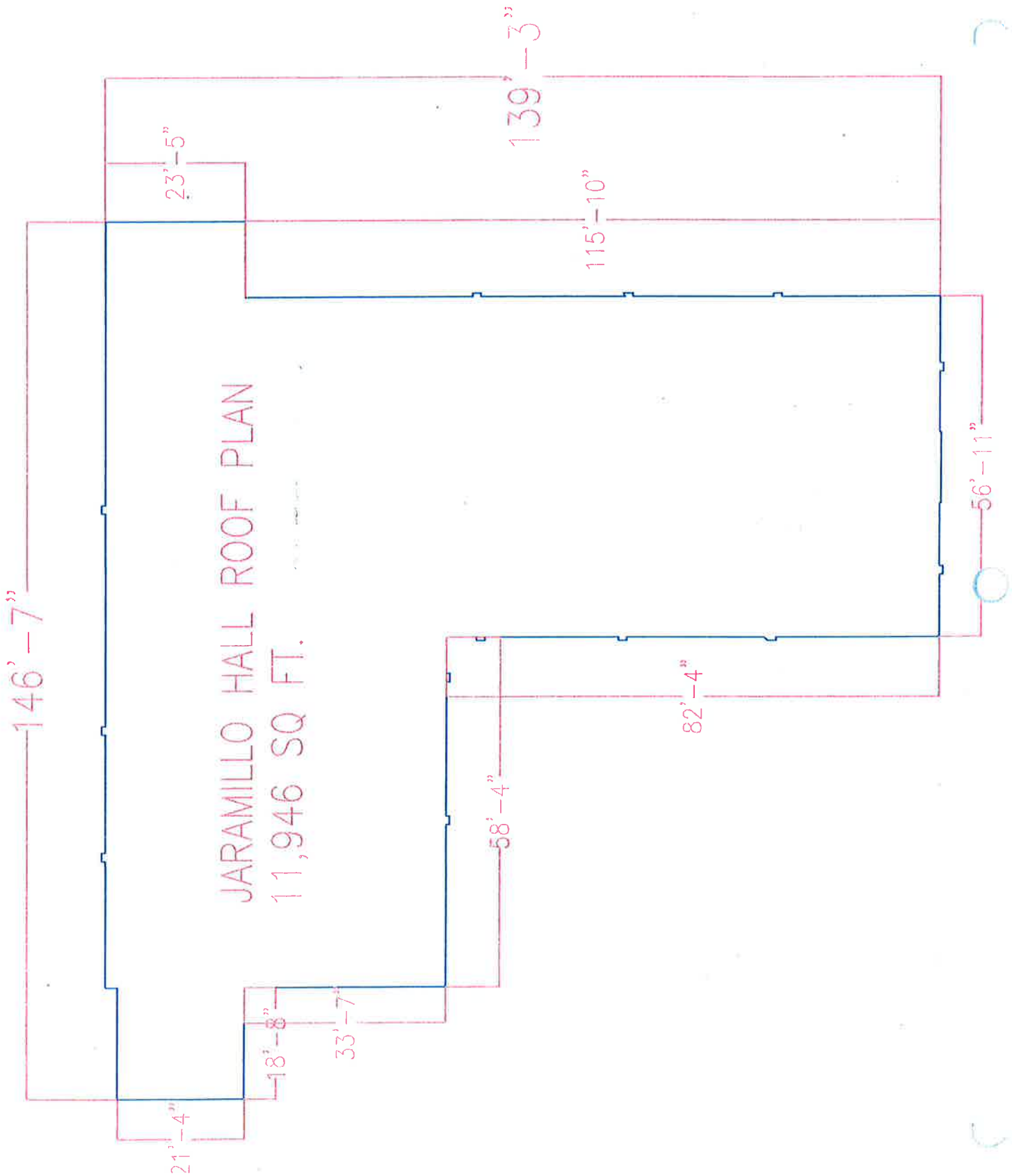
Joe Montes

Attachments: Roof Plan & Inspection Photos

Roof Plan



Maintenance Repairs Coatings Roofing Waterproofing



EverGuard® Roofing

512 Veranda Road NW
Albuquerque, NM 87107
Tel 505-821-9543
Fax 505-821-9081
joe@everguardroofing.com

April 2, 2018

Northern NM College El Rito – Jaramillo Hall Roof

Andy Romero
Director of Facilities and Campus Security
Northern New Mexico College
921 Paseo De Oate
Española, NM 87532

Reference: Roof Quote for Jaramillo Hall Roof in El Rito, NM.

Dear Andy,

At your request the following is a quote for a reroof for the property listed above. Our report and recommendations are as follows.

Here are our findings:

- The existing roof consists of 4 BURs' on a flat wood deck.
- The roof is currently leaking in areas and a full tune-up is recommended.
- Prior repairs are evident.
- All penetrations need to be resealed.
- All vertical and horizontal lapse at parapets and curbs need to be repaired and sealed.
- The stucco is in bad condition and needs to be repaired by a stucco contractor, however we can apply Thompson Water Seal for a temporary repair.

Roof Stats:

Area (SF)	Perimeter (LF)	Metal Wall Detail (LF)	Vents and pipes (EA)	Units (EA)	Scuppers (EA)
11,946	632	68	23	0	12

Recommendation: Full Tune-up.

1. **We will need to complete a full tune-up.**
 - Remove any debris such as leaves, branches, dirt, rocks, etc. that have accumulated.
 - Clean out scuppers and the surrounding areas. Make certain they allow water to flow off the roofing system. Maintaining positive drainage is essential.
 - Examine all areas that abut the Roofing System. Damaged stucco, poorly mounted counter flashing, loose caulking, bad mortar joints and any loose stone or tile coping can appear to be a membrane leak.

- Examine the edges of the Roofing System. Wind damage often occurs in these areas.
- Examine any roof top equipment such as air conditioners, evaporative coolers, antennas, etc.
- Check the building exterior for settlement or movement. Structural movement can cause cracks and other problems which in turn may lead to leaks in your Roofing System. Apply Thompson water seal to tops of parapets.
- Prep roof laps where water is leaking and apply a BUR 3 course application and then an aluminum roof coating.

Our price includes the items shown above.

REPAIR under CES contract# #18-09B-C301-ALL:

Price for roof Tune-up\$10,524.13

\$5000 Contingency Included

Item Number	Description of Cost Factors	Unit of Measure	Offeror's Price	Units required	Line Total
1.1	Water Resistant Roofing				
1.1.1.c	Roof scanning to identify wet or substandard room components to be removed	SF	0.05	11946	597.3
1.4	Roofing and Roof Restoration				
1.4.29	Built-up roofing repairs; fibered asphalt mastic, brush grade, with fiberglass mesh.	SF	2.75	1800	4950
1.6	Metal Work				
1.6.5	Counterflashing, galvanized, 24 gauge, 6" width	LF	2.50	68	170
1.6.28	Resolder joints in sheet metal	LF	1.20	632	758.4
1.6.39	Surface Preparation				
1.11.6.5	Labor Rate for Roofer	Per Hour	49.00	65	3185
	NM GRT (8.9375%)		8.9375	9,660.70	863.43
	Contingency				5000
	Totals				15,524.13

Exclusions: Tax, stucco, Interior damage, other trades – HVAC/Duct work and bricks, repair of damage by others, curbs, and vents. Abatement or remediation of any kind for any reason. Independent inspection or consultants. Price good for 180 business days. Roofing prices are volatile and price increases are for your account.

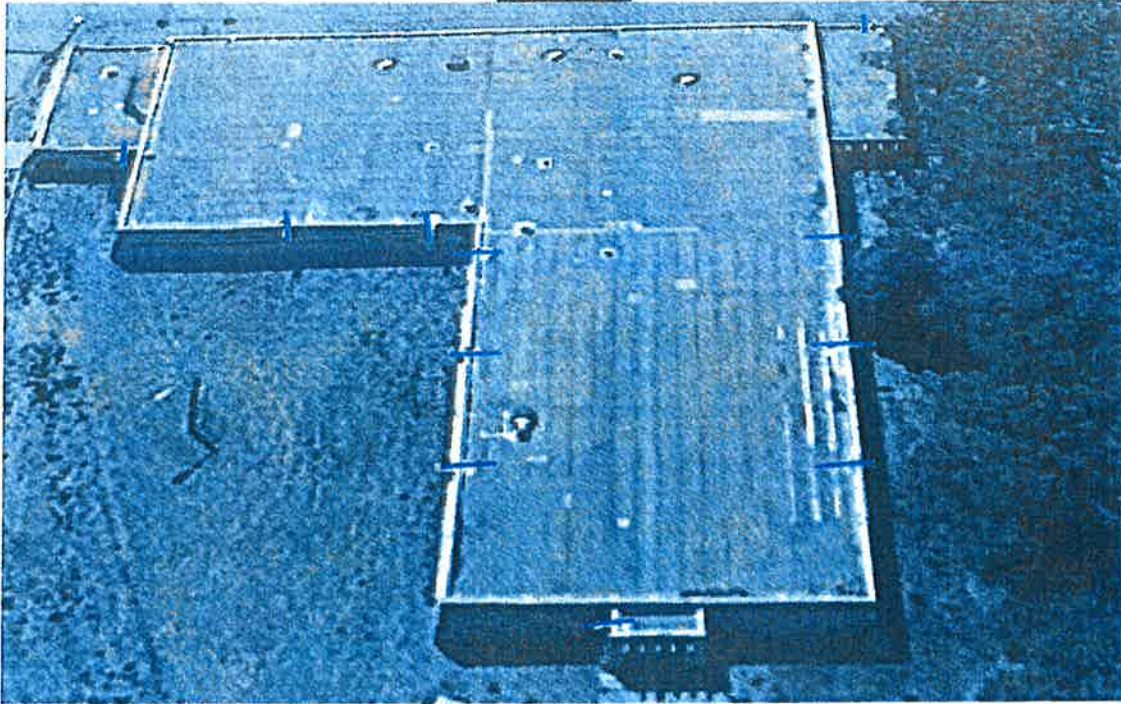
Proprietary and confidential information: This proposal contains proprietary and confidential information of EverGuard Roofing and shall not be used, disclosed or reproduced, in whole or in part, for any purpose other than to evaluate this proposal and incorporate the proposal amount in recipient's subsequent bid.

Please call with any questions.

Regards,

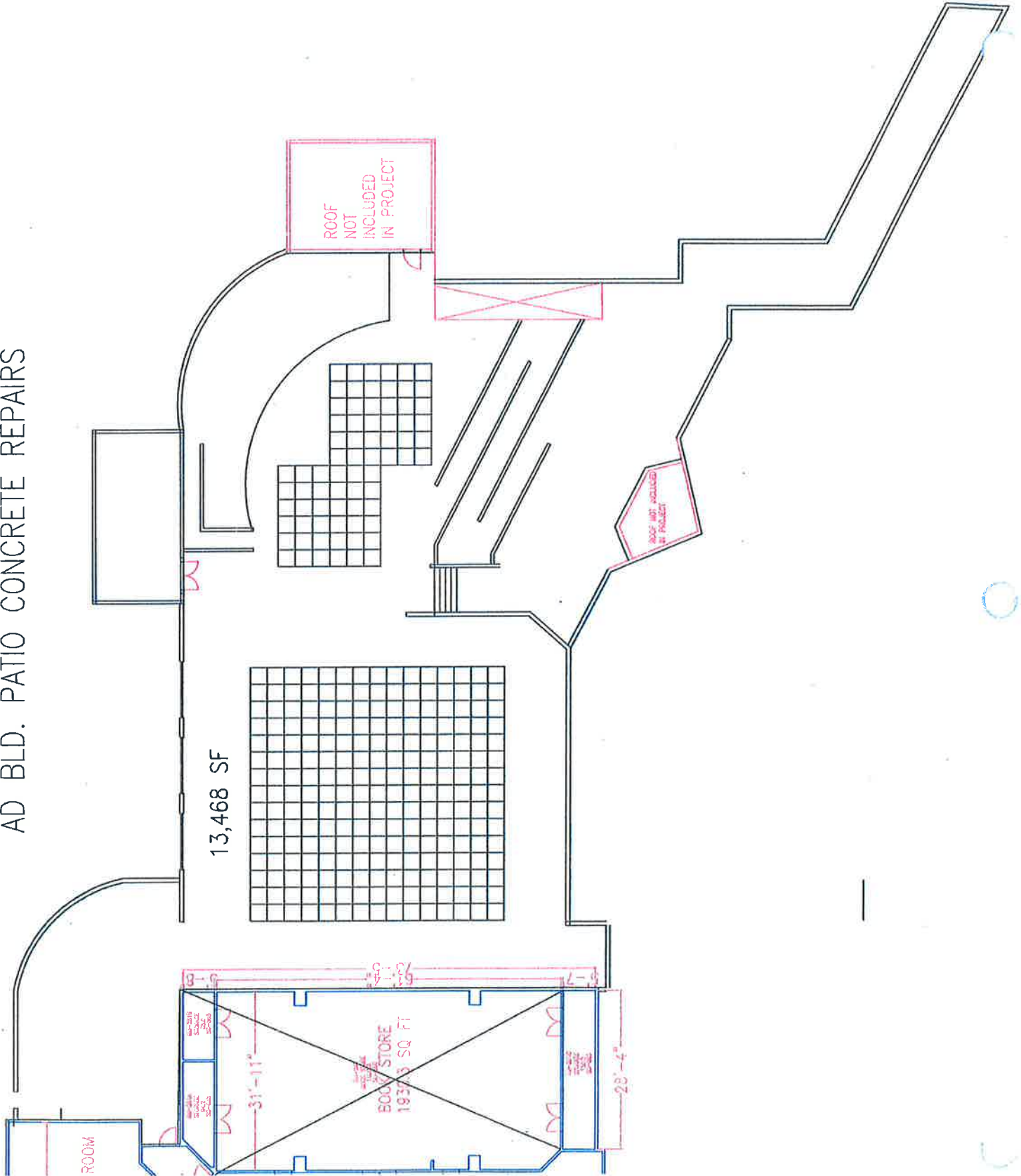
Joe Montes

Roof Plan



Maintenance Repairs Coatings Roofing Waterproofing

AD BLD. PATIO CONCRETE REPAIRS



EverGuard® Roofing

512 Veranda Road NW
Albuquerque, NM 87107
Tel 505-821-9543
Fax 505-821-9081
joe@everguardroofing.com

April 5, 2018
REVISED

Andy Romero
Physical Plant Supervisor
Northern New Mexico College
921 North Paseo de Oñate
Española, NM 87532

Reference: Roof Inspection and Repair Proposal – AD Patio

Dear Andy,

Per your request, EverGuard Roofing performed an inspection of the deck at the AD Patio, recently. We have prepared a report with a roof plan and inspection photos.

Here are our findings:

- The existing concrete deck is need of replacement as it is currently leaking and moisture protection has failed.
- The deck paver area appears to be a problem area and perhaps a major contributor to leaks.
- The deck joints, penetrations and terminations show signs of multiple failed repairs.
- The existing condition of the deck as of the date shown above is in poor condition and appears to be collecting and distributing water as the metal pans were not filled properly during construction and concrete decking will need to be coated.

Here are the job statistics:

Area (SF)	Perimeter (LF)	Pavers (SF)	Bench Seats/ Penetrations (EA)	Stairs (SF)	Scuppers (EA)	Drains (EA)	Units (EA)
<u>2nd Level</u> 12,268 <u>Ground</u> 1,200	1,547	2,825 <u>Perimeter</u> (LF) 342	18	120	4	5	3

Recommendations: Prep and coat the concrete deck with Miracote Product (8 Layers of Coating).

1. Power wash entire area.
2. Remove broken concrete boarder, damaged concrete slope
Create Drains on paver area as per Client request, Remove benches etc.
3. Fill and re-establish profile with RM3000 repair mortar. Areas around Pavers

4. Apply bead caulk with CPC sealant along Cafeteria Wall (West)
5. Apply Aqua Block to entire deck to include Paver areas
6. Apply 1 coat Membrane C on concrete and paver areas
7. Inlay Fiber mesh 6" up and out from all walls and mesh paver areas
Note: Bead caulk Cafeteria wall then apply Membrane C and fiber mesh
8. Recoat entire deck with Membrane C
9. Apply 2 coats MPC top coating batch tint.
10. Apply Miragard sealer
11. Extend roof drains and replace basket.

Our price includes the items shown above. Sanitary facilities are included. Trash removal is also included.

Coating under CES contract# #18-09B-C301-ALL:

Price for Coating.....\$230,672.87

***Allowance for contingency and removal of benches, tables, planters, etc. on the deck prior to coating..... \$10,000.00* (Included in Price)**

Item Number	Description of Cost Factors	Unit of Measure	Offeror's Price	Units required	Line Total
1.1	Water Resistant Roofing				
1.1.1.a	Pressure cleaning, vertical walls	SF	0.04	13468	\$538.72
1.1.1.b	Pressure cleaning, horizontal surfaces	SF	0.09	13468	\$1,212.12
1.5.6.6.d	Removal of existing mortar (¾" wide by 1½" depth)	SF	0.90	1889	\$1,700.10
1.5.6.8.d	Furnish and install new mortar (¾" wide by 1½" depth)	SF	0.98	1889	\$1,851.22
1.1.11.b	Caulking, silicone rubber, 1 component, 3/4" x 3/8", in place	LF	1.50	1889	\$2,833.50
1.5.6.23.b	Placement of new high strength patching mortar (3.5" depth).	SF	0.50	1000	\$500.00
1.5.6.23.c	Cleaning and coating of concrete surface.	SF	0.50	91876	\$45,938.00
1.9.8.b	Install new roof 6" drain, except plumbing	Each	125.00	5	\$625.00
1.1.3	Rubberized coating waterproofing, brush applied, per coat	SF	0.88	84276	\$74,162.88
1.4	Roofing and Roof Restoration				
1.6	Metal Work				
1.6.39	Surface Preparation				
1.6.39.a	Cleaning of existing steel and surface.	SF	0.40	1200	\$480.00
1.6.39.b	Coating of existing reinforcement	SF	0.50	1200	\$600.00
1.1	Roof Services				
2.2	Performance and payment bond - bonding rate (percent of project)	Percent	1.9%	207561.54	3943.67
1.11.6	Hourly Services Rates				
1.11.6.5	Labor Rate for Roofer	Per Hour	49.00	1280	\$62,720.00
1.11.6.4	Roofing Consultant	Per Hour	110.00	40	\$4,400.00
	NM GRT (9.0625%)			211505.21	19167.66
	Contingency				10,000.00
	Totals				\$230,672.87

Maintenance Repairs Coatings Roofing Waterproofing

Exclusions: CMU, Stucco. BAD insulation and structural – while we don't expect to find any we have not priced any structural replacement in this quote. Interior damage, other trades – HVAC/Duct work and bricks, repair of damage by others, curbs, and vents, nor interior damage. Abatement or remediation of any kind for any reason. Independent inspection or consultants. Price good for 180 business days. Roofing prices are volatile and price increases are for your account.

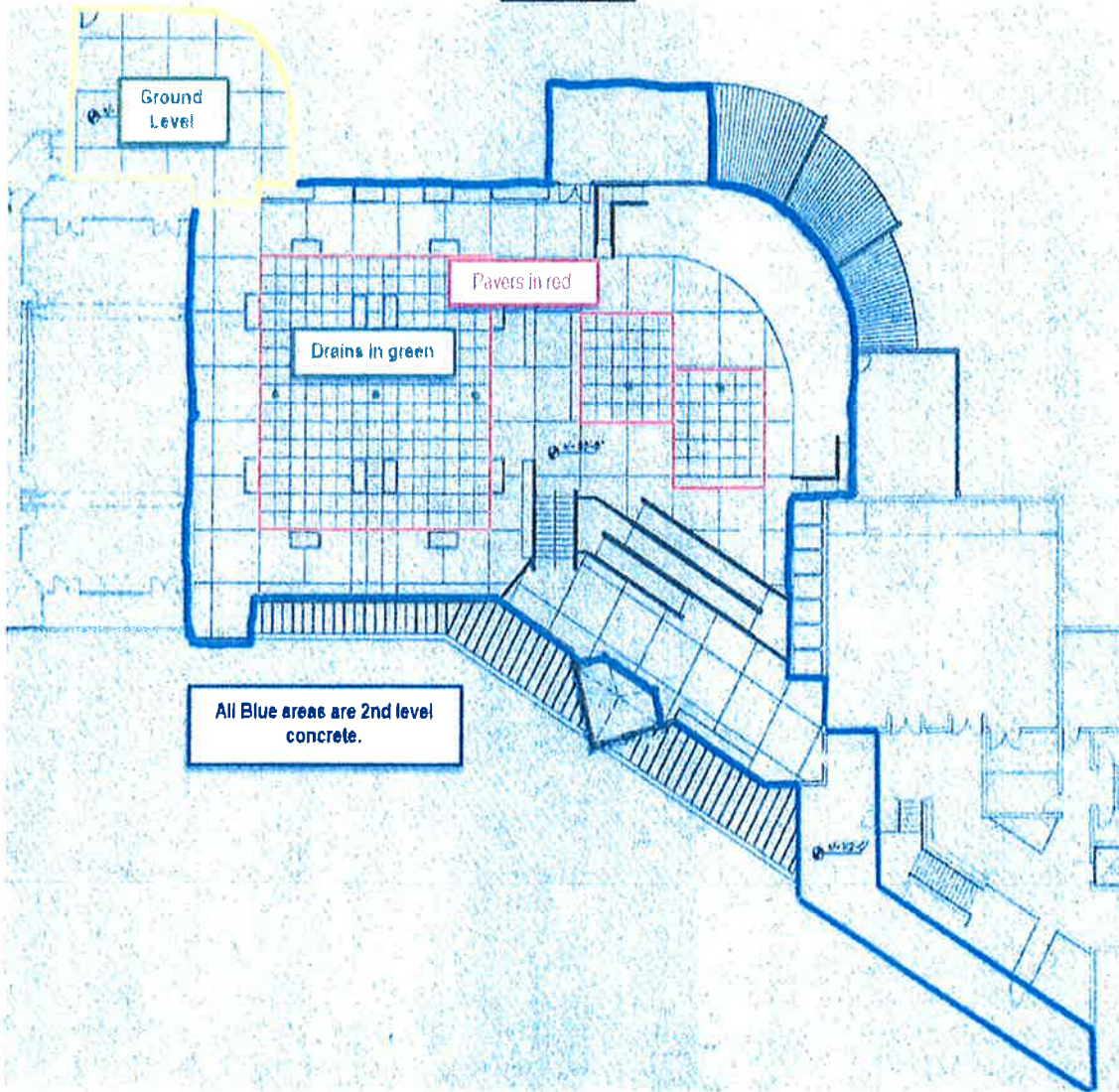
NOTE: We will require access to the project area and a place to locate equipment and materials.

Please call with any questions.

Regards,
Joe Montes

Attachments: Roof Plan, Spec Sheets (Email)

Roof Plan



All Blue areas are 2nd level concrete.

Maintenance Repairs Coatings Roofing Waterproofing

NEW MEXICO HIGHER EDUCATION DEPARTMENT

FORM 6: CERTIFICATION BY GOVERNING BOARD

Institution: Northern New Mexico College

Original:

Date: 5/30/18

Revision:

Date: _____

Project title: Roofing Repairs – Espanola & El Rito Campus

ORIGINAL CERTIFICATION

I hereby certify that, on the basis of this information contained in Forms 1 through 5 for approval of capital projects and the attached preliminary floor plans, elevations and site plan, if appropriate, the Governing Board approved the original submission of this project, at its meeting held on _____, 20____.

Signed:

President

REVISED SUBMISSION CERTIFICATION

I hereby certify that the Governing Board approved this Revised Submission at its meeting on _____, 20____.

Signed:

President

Capital Appropriations

Appropriation ID: A5138

A5138 - Northern New Mexico College - Dept Code:A16A5138 - Class Code:A5138	
Year	2016
Appropriation Title	NNMSS CRITICAL INFRA & LAND-EL RITO & ESPANOLA
Fund Code	GENERAL OBLIGATION BONDS
EO 2013-006 Eligibility	
Bond Sale Date	8/1/2017
Bond Series Number	GOB17
Amount of Bond Sale	\$1,000,000
Category	HED
Subcategory	Higher Education
County	Rio Arriba
State Amount	\$1,000,000
Chapter/Section	82 / 10/C/ 1
Reversion Date	6/30/2021
SHARE/BOF Data	
Expended Amount (SHARE)	\$0
Appropriation Balance (SHARE)	\$1,000,000
Expended Amount (BOF)	\$0
AIPP Amount (BOF)	\$0
Reversion Amount (BOF)	\$0
Appropriation Balance (BOF)	\$1,000,000
Last Update (SHARE/BOF)	5/10/2018
State Agency Data	
CIP Project #	
CIP Priority #	
Local Fiscal Agent Code	99964 - Northern New Mexico College
Reauth from Prior Project Amount	\$0
Amount Obligated	\$0
Project End Date	---
Expended Amount	\$0
AIPP Amount	\$0
Reauth of Balance to Now Project	\$0
Reauth to Project #	
Reversion Amount	\$0
Project Status	In the process of obtaining quotes for projects
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	To receive approval from HED/committees to begin work.
Project Phase	0100 - Appropriated
Calculated Balance	\$1,000,000
Last Agency Update	5/10/2018 12:00:00 AM
Last Submission Date	3/13/2018 12:00:00 AM
Local Data	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter (Local Entity)	
Goal/Milestone for next quarter (Local Entity)	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

PROJECT TIMELINE

	Date Completed,	Amount Funded	Future Funding	Funding Sources	Contractor Name	Contract Amount
	Expected,					
	Completion Date	to Date	Amounts			
	or N/A					
Grant Agreement Issued		\$0	\$0			\$0
Water Rights		\$0	\$0			\$0
Easement & Right-of-Way		\$0	\$0			\$0
Acquisition		\$0	\$0			\$0
Archaeological Studies		\$0	\$0			\$0
Environmental Studies		\$0	\$0			\$0
Planning		\$0	\$0			\$0
Design		\$0	\$0			\$0
Construction		\$0	\$0			\$0
Furnish/Equipment		\$0	\$0			\$0
Total		\$0	\$0			\$0

Click [here](#) to see the phase descriptions.
 Click [here](#) to see a list of the fiscal agent codes.

1 state university in Las Cruces in Dona Ana county;

2 (c) one million five hundred thousand
3 dollars (\$1,500,000) to plan, design, construct, renovate,
4 furnish and equip classrooms, laboratories and other
5 infrastructure, including roof repair and replacement, at the
6 central campus of Dona Ana branch community college of
7 New Mexico state university in Dona Ana county;

8 (d) one million dollars (\$1,000,000) to
9 plan, design, construct, renovate and equip improvements to
10 the fire alarm and fire suppression system in the main
11 building at the Carlsbad branch campus of New Mexico state
12 university in Eddy county; and

13 (e) one million dollars (\$1,000,000) to
14 plan, design, construct, renovate and replace roofs
15 campuswide at the Alamogordo branch campus of New Mexico
16 state university in Otero county;

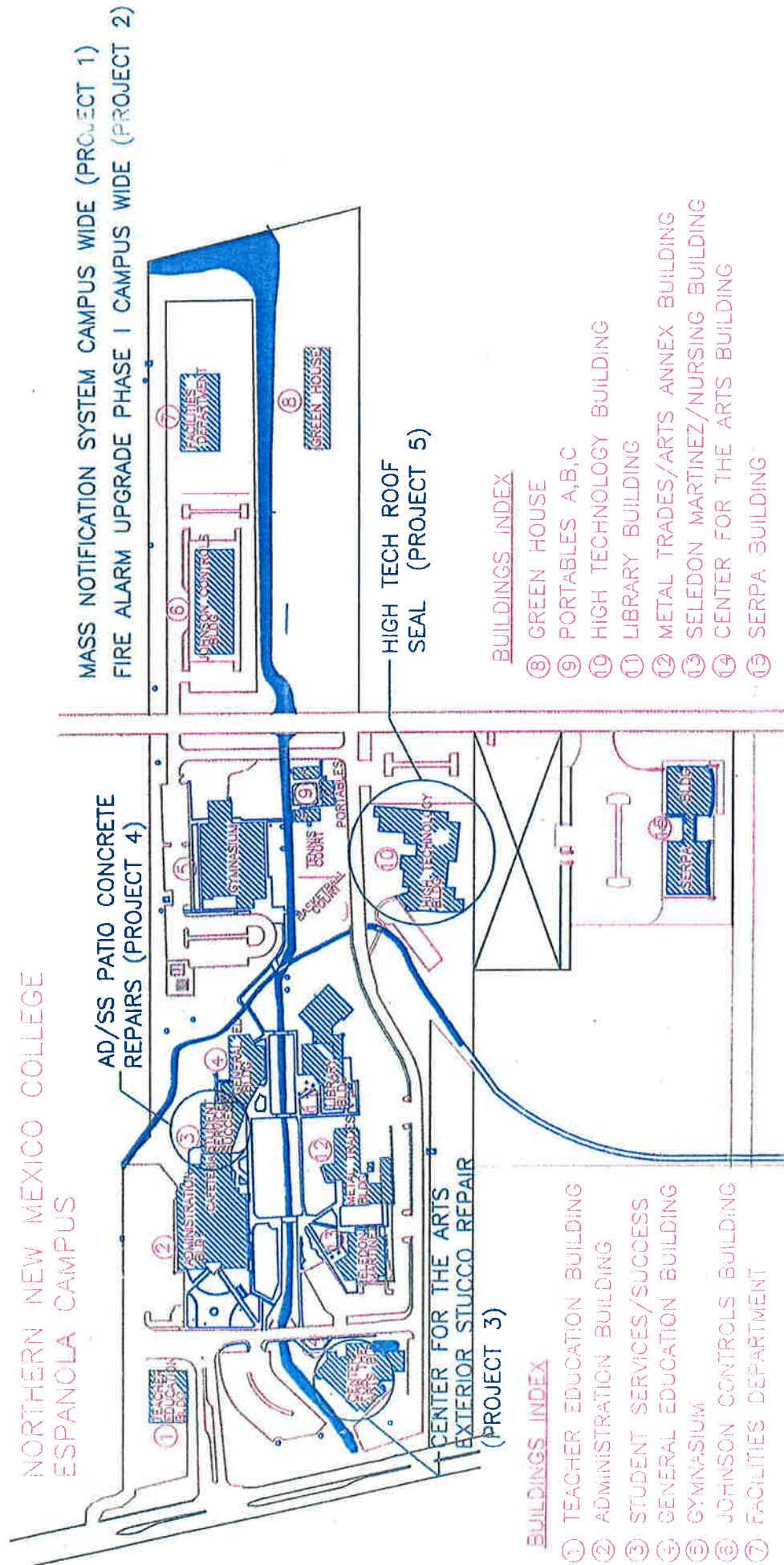
17 (10) to the board of regents of northern
18 New Mexico state school, one million dollars (\$1,000,000) for
19 site improvements and to plan, design, construct, renovate
20 and upgrade heating, cooling and electrical systems and
21 infrastructure at the El Rito and Espanola campuses of
22 northern New Mexico state school in Rio Arriba county;

23 (11) to the board of regents of the
24 university of New Mexico:

25 (a) twenty-seven million dollars

SFC/SB 122
Page 29

NORTHERN NEW MEXICO COLLEGE
ESPANOLA CAMPUS



MASS NOTIFICATION SYSTEM CAMPUS WIDE (PROJECT 1)
FIRE ALARM UPGRADE PHASE I CAMPUS WIDE (PROJECT 2)

AD/SS PATIO CONCRETE REPAIRS (PROJECT 4)

HIGH TECH ROOF SEAL (PROJECT 5)

CENTER FOR THE ARTS EXTERIOR STUCCO REPAIR (PROJECT 3)

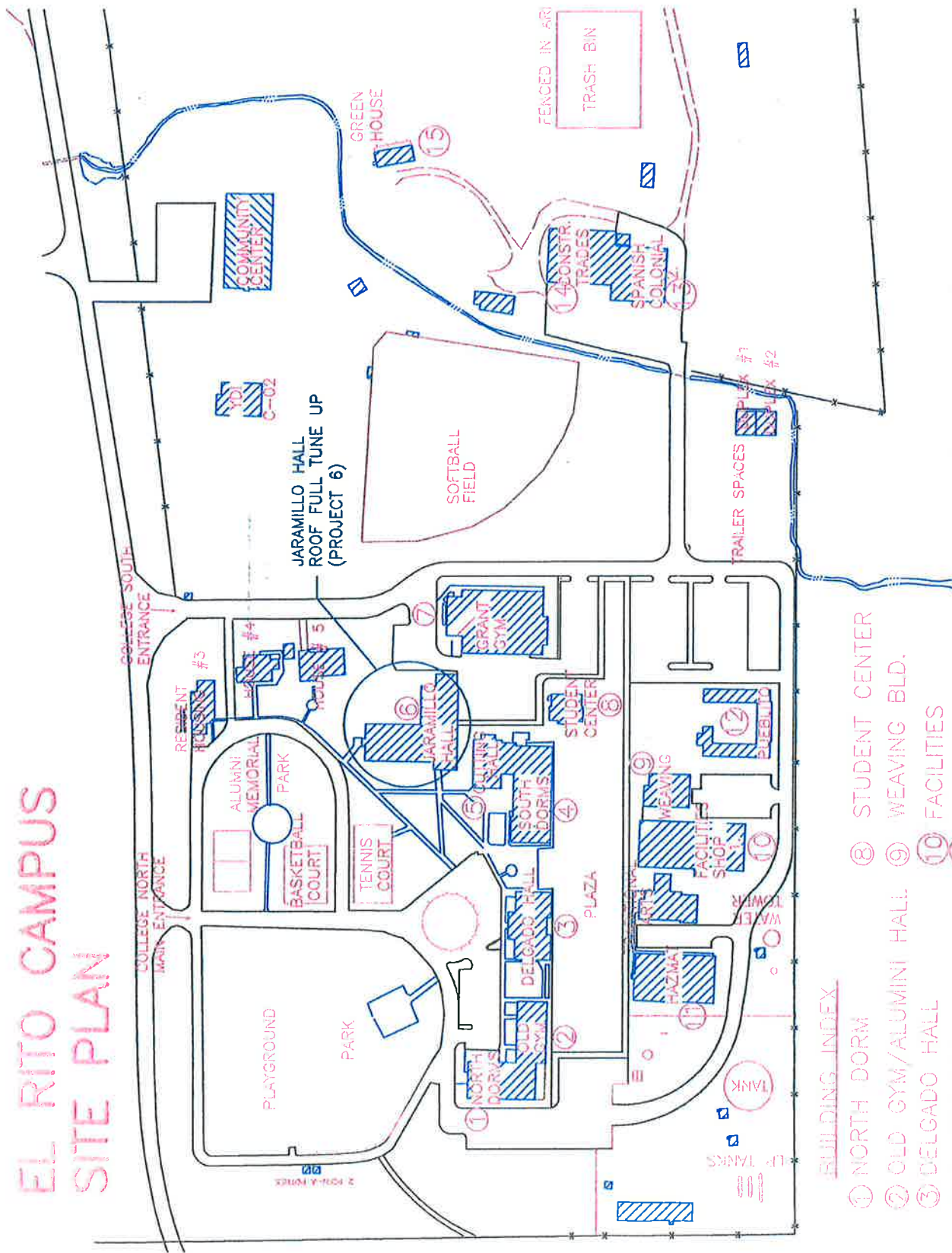
BUILDINGS INDEX

- ⑧ GREEN HOUSE
- ⑨ PORTABLES A,B,C
- ⑩ HIGH TECHNOLOGY BUILDING
- ⑪ LIBRARY BUILDING
- ⑫ METAL TRADES/ARTS ANNEX BUILDING
- ⑬ SELEDON MARTINEZ/NURSING BUILDING
- ⑭ CENTER FOR THE ARTS BUILDING
- ⑮ SERPA BUILDING

BUILDINGS INDEX

- ① TEACHER EDUCATION BUILDING
- ② ADMINISTRATION BUILDING
- ③ STUDENT SERVICES/SUCCESS
- ④ GENERAL EDUCATION BUILDING
- ⑤ GYMNASIUM
- ⑥ JOHNSON CONTROLS BUILDING
- ⑦ FACILITIES DEPARTMENT

EL RITO CAMPUS SITE PLAN



BUILDING INDEX

- ① NORTH DORM
- ② OLD GYM/ALUMINI HALL
- ③ DELGADO HALL
- ④ SOUTH DORM
- ⑤ CUTTING HALL
- ⑥ JARAMILLO HALL
- ⑦ GRANT GYM
- ⑧ STUDENT CENTER
- ⑨ WEAVING BLD.
- ⑩ FACILITIES
- ⑪ HAZMAT
- ⑫ PUEBLITO
- ⑬ SPANISH COLONIAL
- ⑭ CONSTRUCTION TRADES
- ⑮ GREEN HOUSE

2017 Bond C Projects

Northern New Mexico College

1. Emergency Notification System Campus wide	199,481.00
2. Fire Alarms Upgrade Phase 1	228,157.40
3. CFA BLD. Exterior Wall Stucco Repair Phase 1	262,475.64
4. AD BLD. Patio Concrete Repairs	230,672.87
5. High Tech Roofing	63,688.96
6. Jaramillo Hall Roofing	15,524.13
Total	1,000,000.00

NEW MEXICO HIGHER EDUCATION DEPARTMENT
2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100

CAPITAL PROJECT TRANSMITTAL SUMMARY SHEET

Check the appropriate boxes below for materials accompanying this Summary Sheet and prepare all necessary attachments as needed for your project submittal. The deadline to submit project documents can be found on the NMHED Annual Calendar of Events at <http://www.hed.state.nm.us/institutions/resources.aspx>. In order to ensure your project will be considered, it must be uploaded by the deadline to the following FTP address: <https://nmhedssl.state.nm.us/ThinClient/Login.aspx>.

1. Institution: Northern New Mexico College Date: 5/30/18
2. Project title: CFA Building - Exterior Stucco Repairs – Phase I
3. Location: Espanola Campus
4. HED meeting date when project consideration is requested July 11, 2018
5. Contact person: Ricky Bejarano Phone: 505.747.5050
6. Required forms for project categories:
 - Construction, Alterations, or Demolition (All Forms)
 - Revenue Bond Forms (1, 1-A, 4, 5, 6)
 - Property Acquisition (Forms 1, 1-A, 3, 4, 5, 6)
7. A site plan of the proposed project. (Required for project approval)
8. Completed plan and profile drawings of the project, including elevations and floor plans with each space numbered and identified as to use and size. (Required for project approval)
9. Form 1 – Project Information
10. Form 1A - Institutional General Information and Project Schedule
11. Form 2 – Space Information
12. Form 3 – Estimated Utilities Costs (Green Screen, Energy Star, LEED)
13. Form 4 – Proposed Project Costs
14. Form 5 – Proposed Project Square Footage and Funding Sources
15. Form 6 – Certification by Governing Board

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 1: PROJECT INFORMATION

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: CFA Building - Exterior Stucco Repairs – Phase I

Description:

CFA Building - Exterior Stucco Repairs – Phase I

This project is to remove the existing and replace 4,200 SF of the EIFS Stucco on the Center for the Arts Building. Project is located at the Espanola Campus. This building houses our Arts and Music programs. This project will consist of demo and installation of new Bead Board, Mess 101 BTS and finish throughout tower. Note: Only the highest tower will be repaired in this phase. The remainder of the building will be repaired in phase II.

Rationale:

Repairs to the exterior Stucco of the walls at the CFA building are critical to avoid further structural damage to the building and for the health and safety of our students, faculty, staff and visitors.

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 1-A: INSTITUTIONAL AND GENERAL INFORMATION

Institution: Northern New Mexico College

Original: **Date:** 5/30/18
Revision: **Date:** _____

Project title: CFA Building - Exterior Stucco Repairs – Phase I

Current Total On-Campus Enrollment	
Head Count: <u>1070</u>	FTE: <u>727.7</u>
<u>0%</u> Growth from previous year	<u>-7%</u> Average growth in previous 5-year period

Current Total Off-Campus Enrollment (web-based or Distance Ed., etc.)	
Head Count: <u>1140</u>	FTE: <u>224.3</u>
<u>22.3%</u> Growth from previous year	<u>10.0%</u> Average growth in previous 5-year period

Tuition		
Current Tuition Per Credit Hour: <u>\$130</u>	Current Tuition Per Semester: <u>\$1560</u>	
Month/year per semester tuition was last increased: <u>08/2016</u>	Amount of last per semester tuition increase: <u>\$5.31</u>	<u>.04258%</u> Change from last increase

Program Enrollment Being Served by this Project	
Head Count: _____	FTE: _____
_____% Growth from previous year	_____% Average growth in previous 10-year period

Bonding Information	
(To be completed if local bond proceeds are used for project funding)	
Assessed Valuation: _____	Month/year of most recent local bond issue: _____/____
Outstanding Debt: _____	
Available Capacity: _____	

Project Schedule	
Month/year proposed construction start date: _____/____	Month/year proposed construction completion date: _____/____

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 2: SPACE INFORMATION

Institution: Northern New Mexico College

Original: Date: 5/30/18

Revision: Date: _____

Project title: CFA Building - Exterior Stucco Repairs – Phase I

List the net assignable square feet (NASF) and Net Usable Square Footage (NUSF) of spaces to be constructed, altered, or demolished by this project. Definitions of

CLASSIFICATION CODE	TYPE OF SPACE	NEW	ALTERATION	% OF NUSF	NASF
100	Classroom	N/A			
200	Laboratory	N/A			
300	Office	N/A			
400	Study	N/A			
500	Special	N/A			
600	General	N/A			
700	Support	N/A			
800	Health	N/A			
900	Residential	N/A			
NASF TOTAL					
TARE	Other (interior walls, hallways, stairs, toilet rooms, mechanical rooms, electrical rooms, etc.) *Does NOT include interior structural elements – see definition				
(NUSF) TOTAL USABLE SQUARE FOOTAGE		N/A		100%	
% of GSF is indicated on Form 5					
(GSF) TOTAL SQUARE FOOTAGE		N/A			

CLASSIFICATION CODE	TYPE OF SPACE	EXISTING	ALTERATION	DIFFERENCE	NASF
100	Classroom	N/A			
200	Laboratory	N/A			
300	Office	N/A			
400	Study	N/A			
500	Special	N/A			
600	General	N/A			
700	Support	N/A			
800	Health	N/A			
900	Residential	N/A			
NASF TOTAL		N/A			
TARE	Other (interior walls, hallways, stairs, toilet rooms, mechanical rooms, electrical rooms, etc.) *Does NOT include interior structural elements – see definition	N/A			
(NUSF) TOTAL USABLE SQUARE FOOTAGE		N/A			

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 3: ESTIMATED UTILITIES COST

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: CFA Building - Exterior Stucco Repairs – Phase I

This form is designed to estimate the project's effect on current utilities costs.

FORMULA	CURRENT EXPENSES	PROJECTED ANNUAL EXPENSES AFTER COMPLETION	DIFFERENCE BETWEEN CURRENT AND PROJECTED (+ OR -)
Eligible GSF: <u>0</u> x \$3.75	N/A	N/A	N/A

- **Note if space is non I&G please input NA with a note why.**

Include Green Screen information below, along with reference to Energy Star Rating and LEED Checklist if applicable (EO 2006-001)

- Projects will not have an effect on current Utility costs. Materials that will be replaced, will be like to like materials.

**NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 4: PROPOSED PROJECT COSTS**

Institution: Northern New Mexico College

Original: Date: 5/30/18

Revision: Date: _____

Project title: CFA Building - Exterior Stucco Repairs – Phase I

I. PROJECT BUDGET

EXPENDITURES	ORIGINAL SUBMISSION		BUDGET REVISION
	NEW CONSTRUCTION	ALTERATIONS	
A. Building Cost			
1. General		207,009.00	
2. Mechanical/Plumbing			
3. Electrical			
4. Special Systems (voice, data, other)			
5. Code Compliance (hazmat abatement, accessibility, etc.)			
BUILDING COST SUBTOTAL		207,009.00	
B. Built-in Equipment			
C. Site Development			
1. Utilities, Infrastructure			
2. Landscaping/Site Improvements			
3. Demolition			
TOTAL CONSTRUCTION COST (T.C.C.)		0.00	
D. Construction Contingency (not more than 5% New Const., 10% Renov. of T.C.C.)		11,000.00	
E. Professional Fees			
1. Architectural/Engineering			
2. Constr. Administration		16,173.46	
3. Admin./Surveys/Testing		7,870.00	
F. Movable Equipment			
G. Other (NMGRT) 8.4375%		20,423.18	
H. Art in Public Places (1% of State Appropriation)			
I. Gross Receipts Tax			
TOTAL PROJECT BUDGET		262,475.64	

**NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 5: PROPOSED PROJECT SQUARE FOOTAGE
AND FUNDING SOURCES**

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: CFA Building - Exterior Stucco Repairs – Phase I

COSTS PER SQUARE YARD (SY)			
	Cost (Items A-C on Form 4)	Sq. Yd. For New Construction NUSF for Alteration	Cost per SY (Square Yard)
New Construction			
Alterations	207,009.00	851 SY Patch/repair of damage 1351 SY attaching Insulation 2153 SY New Stucco repairs	35.00 SY 26.00 SY 65.00 SY

RATIO OF NET USABLE TO GROSS SQUARE FEET (NUSF/GSF)			
	NUSF (same as total from Form 2)	GSF	RATIO NUSF/GSF (%)
New Construction			
Alterations	N/A		

FUNDING SOURCE		
Enter the source of funding for the project. Total must match the total project budget on Form 4.		
Funding Source	Original Submission	Budget Revision
GOB17 A5138		
Other Sources (specify)		
Total		

State Appropriations to be listed as follows: GOBxx or STBxx or GF 20xx (DFA # A0x-xxxx), SBxxx, or HBxxx Laws 20xx, chapter x, section x.

If using BRR, please specify year of budgeting.

***Attach screen shot verifying availability of funds**

****Attach a pdf of the Appropriation directly from the act with language highlighted**

**NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 6: CERTIFICATION BY GOVERNING BOARD**

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: CFA Building - Exterior Stucco Repairs – Phase I

ORIGINAL CERTIFICATION

I hereby certify that, on the basis of this information contained in Forms 1 through 5 for approval of capital projects and the attached preliminary floor plans, elevations and site plan, if appropriate, the Governing Board approved the original submission of this project, at its meeting held on _____, 20____.

Signed:

President

REVISED SUBMISSION CERTIFICATION

I hereby certify that the Governing Board approved this Revised Submission at its meeting on _____, 20____.

Signed:

President

La Mesilla Construction, LLC

New Mexico DOL #01682820101201 GB-98 #352334

Proposal

Project			
Name	Northern New Mexico College Re-Stucco of Fine Arts Northern New Mexico College 921 Paseo De Oate Espanola, New Mexico	Date	5/21/2018
Owner Contact	Mr. Andy Romero	Owner	Northern New Mexico College

Qty	Unit	Description	Unit Price	Direct Costs
		La Mesilla Construction (LMC) appreciates the opportunity to bid on re-stucco of a portion of the Fine arts Auditorium as indicated on the attached map. Scope of work: Remove all decorative tile on the upper most portion of the Auditorium and replace with new stucco band, color to be selected by Owner. Patch and repair damaged areas where stucco and / or base insulation has deteriorated. Provide new Sheathing as necessary for a sound base. Provide new insulation and patch to match adjacent surfaces. Mechanically re-attach all areas where insulation has detached from the walls but is in good condition for re-attachment. Provide new stucco primer over entire surfaces to receive new stucco and provide new stucco to match adjacent existing surfaces and colors.		
851	SY	Cost of Patching and repairing of damaged areas is \$35.00 / SY	\$ 35.00	\$ 29,785.00
1351	SY	Cost of Mechanically re-attaching detached insulation is \$25.00/ SY	\$ 26.00	\$ 35,126.00
2153	SY	Cost of new stucco over existing and repaired areas is \$65.00 / SY	\$ 66.00	\$ 142,098.00
		C.E.S. Fee		\$ 2,310.46
		Gordian Fee		\$ 13,863.00
		Labor, Materials and Performance Bond		\$ 7,870.00
		5% Construction Contingency		\$ 11,000.00
		Quoted Prices are Valid for one Year from Proposal Date		
		Subtotal		\$ 242,052.46
		Other NMGR @ 8.4375%		\$ 20,423.18
		TOTAL		\$ 262,475.64

La Mesilla Construction, LLC
 #98, CR 119
 Espanola, NM 87532
 Exclusions: additional items not listed in detailed scope above

Contractor: _____ Owner: _____

Contractor Price Proposal Details - CSI

Date: 5/21/2018
Work Order #: 90005.00
Title: Northern New Mexico College Fine Arts Auditorium Partial Re-Stucco
Contractor: CES/PSFA New Mexico JOC - La Mesilla Construction
Job Order Value: \$231,042.13

Proposal Name: Northern New Mexico College Fine Arts Auditorium Partial Re-Stucco
Proposal Value: \$231,042.13

CSI Number	Mod	UOM	Description	LineTotal
01 - General Requirements				
1	01 22 16 00-0004	EA	New Mexico Gross Receipts Tax - Varies by County	\$0.00
			Qty Unit Price Factor Total	
			0 X \$1.00 X 1.249 \$0.00	
2	01 22 16 00-0005	EA	Job Order Development Services	\$0.00
			Qty Unit Price Factor Total	
			0 X \$1.00 X 1.249 \$0.00	
3	01 22 20 00-0003	HR	InsulatorFor tasks not included in the Construction Task Catalog@ and as directed by owner only.	\$12,571.56
			Qty Unit Price Factor Total	
			210 X \$47.93 X 1.249 \$12,571.56	
4	01 54 23 00-0003	CCF	Scaffolding With Bracing Accessories - Area Based On 5' Wide x 7' Long Sections (CCF / Month)	\$19,573.93
			Qty Unit Price Factor Total	
			752 X \$20.84 X 1.249 \$19,573.93	
5	01 54 23 00-0003	MOD	For Up To 25, Add	\$1,041.67
			Qty Unit Price Factor Total	
			100 X \$8.34 X 1.249 \$1,041.67	
6	01 54 23 00-0003	MOD	For >50 To 150, Add	\$129.90
			Qty Unit Price Factor Total	
			50 X \$2.08 X 1.249 \$129.90	
7	01 54 23 00-0008	CCF	>20' To 40' Height Scaffolding Erection And Dismantling, Per CCF Of Scaffolding And AccessoriesIncludes both erection and dismantling of scaffolding.	\$14,763.28
			Qty Unit Price Factor Total	
			568 X \$20.81 X 1.249 \$14,763.28	
8	01 54 23 00-0031	LF	2" x 12" Thick Temporary Lumber	\$2,887.69
			Qty Unit Price Factor Total	
			1156 X \$2.00 X 1.249 \$2,887.69	
9	01 74 19 00-0015	EA	20 CY Dumpster (3 Ton) "Construction Debris"Includes delivery of dumpster, rental cost, pick-up cost, hauling, and disposal fee. Non-hazardous material.	\$3,187.45
			Qty Unit Price Factor Total	
			8 X \$319.00 X 1.249 \$3,187.45	

CSI Number	Mod	UOM	Description	LineTotal
01 - General Requirements				
Subtotal for 01 - General Requirements:				\$54,155.48
02 - Existing Conditions				
10	02 41 19 13-0371	EA	Cutouts Minimum Charge	\$14,004.04
			Qty Unit Price Factor Total	
			90 X \$124.58 X 1.249 \$14,004.04	
Subtotal for 02 - Existing Conditions:				\$14,004.04
07 - Thermal And Moisture Protection				
11	07 01 20 00-0012	SF	>60 To 100 SF, Cut And Patch Hole In Stucco To Match Existing	\$23,747.74
			Qty Unit Price Factor Total	
			3521 X \$5.40 X 1.249 \$23,747.74	
12	07 21 13 13-0004	SF	2" Thick, R6.88, Foam Glass (Cellular Glass), Foam Board Insulation	\$24,034.72
			Qty Unit Price Factor Total	
			5245 X \$3.54 X 1.249 \$23,190.56	
			Insulation 5199 X 0.13 X 1.249 \$844.16	
13	07 21 13 13-0004	MOD	For Mechanically Fastened To Gypsum, Add	\$681.95
			Qty Unit Price Factor Total	
			4200 X \$0.13 X 1.249 \$681.95	
Subtotal for 07 - Thermal And Moisture Protection:				\$48,464.41
09 - Finishes				
14	09 24 23 00-0003	SF	Two Coat Troweled Stucco, Scratch/Brown Excludes lath and felt. Interior or exterior, one side.	\$106,131.71
			Qty Unit Price Factor Total	
			51499 X \$1.65 X 1.249 \$106,131.71	
15	09 24 23 00-0003	MOD	For Walls >10' High, Add	\$5,033.47
			Qty Unit Price Factor Total	
			40300 X \$0.10 X 1.249 \$5,033.47	
16	09 24 23 00-0003	MOD	For Horizontal Installation Up To 10' High, Add	\$755.02
			Qty Unit Price Factor Total	
			4030 X \$0.15 X 1.249 \$755.02	
17	09 24 23 00-0003	MOD	For Horizontal Installation >10' High, Add	\$2,997.60
			Qty Unit Price Factor Total	
			8000 X \$0.30 X 1.249 \$2,997.60	
18	09 24 23 00-0003	MOD	For >5,000, Deduct	(\$499.60)
			Qty Unit Price Factor Total	
			2000 X (\$0.20) X 1.249 (\$499.60)	
Subtotal for 09 - Finishes:				\$114,418.20
Grand Total:				\$231,042.13


This work order proposal total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding of the line totals and sub-totals.

The Percent of NPP on this Proposal: **0.00**

Untitled Map

Write a description for your map.

Legend

-  Northern New Mexico College (Nick Salazar Center For The Arts Building)



921 PASEO DE ONATE
ESPANOLA, N.M. 87532

PHASE 1 on site

Capital Appropriations

Appropriation ID: A5138

A5138 - Northern New Mexico College - Dept Code:A16A5138 - Class Code:A5138	
Year	2016
Appropriation Title	NMSS CRITICAL INFRA & LAND-EL RITO & ESPANOLA
Fund Code	GENERAL OBLIGATION BONDS
EO 2013-006 Eligibility	
Bond Sale Date	8/1/2017
Bond Series Number	GOB17
Amount of Bond Sale	\$1,000,000
Category	HED
Subcategory	Higher Education
County	Rio Arriba
State Amount	\$1,000,000
Chapter/Section	82 / 10/C/1
Reversion Date	6/30/2021
SHARE/BOF Data	
Expended Amount (SHARE)	\$0
Appropriation Balance (SHARE)	\$1,000,000
Expended Amount (BOF)	\$0
AIPP Amount (BOF)	\$0
Reversion Amount (BOF)	\$0
Appropriation Balance (BOF)	\$1,000,000
Last Update (SHARE/BOF)	5/10/2018
State Agency Data	
CIP Project #	
CIP Priority #	
Local Fiscal Agent Code	99964 - Northern New Mexico College
Reauth from Prior Project Amount	\$0
Amount Obligated	\$0
Project End Date	***
Expended Amount	\$0
AIPP Amount	\$0
Reauth of Balance to New Project	\$0
Reauth to Project #	
Reversion Amount	\$0
Project Status	in the process of obtaining quotes for projects
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	To receive approval from HED/committees to begin work.
Project Phase	0100 - Appropriated
Calculated Balance	\$1,000,000
Last Agency Update	5/10/2018 12:00:00 AM
Last Submission Date	3/13/2018 12:00:00 AM
Local Data	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter (Local Entity)	
Goal/Milestone for next quarter (Local Entity)	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

PROJECT TIMELINE

	Date Completed,	Amount Funded	Future Funding	Funding Sources	Contractor Name	Contract Amount
	Expected,					
	Completion Date	to Date	Amounts			
Grant Agreement Issued		\$0	\$0			\$0
Water Rights		\$0	\$0			\$0
Easement & Right-of-Way		\$0	\$0			\$0
Acquisition		\$0	\$0			\$0
Archaeological Studies		\$0	\$0			\$0
Environmental Studies		\$0	\$0			\$0
Planning		\$0	\$0			\$0
Design		\$0	\$0			\$0
Construction		\$0	\$0			\$0
Furnish/Equipment		\$0	\$0			\$0
Total		\$0	\$0			\$0

Click [here](#) to see the phase descriptions.
 Click [here](#) to see a list of the fiscal agent codes.

1 state university in Las Cruces in Dona Ana county;

2 (c) one million five hundred thousand
3 dollars (\$1,500,000) to plan, design, construct, renovate,
4 furnish and equip classrooms, laboratories and other
5 infrastructure, including roof repair and replacement, at the
6 central campus of Dona Ana branch community college of
7 New Mexico state university in Dona Ana county;

8 (d) one million dollars (\$1,000,000) to
9 plan, design, construct, renovate and equip improvements to
10 the fire alarm and fire suppression system in the main
11 building at the Carlsbad branch campus of New Mexico state
12 university in Eddy county; and

13 (e) one million dollars (\$1,000,000) to
14 plan, design, construct, renovate and replace roofs
15 campuswide at the Alamogordo branch campus of New Mexico
16 state university in Otero county;

17 (10) to the board of regents of northern
18 New Mexico state school, one million dollars (\$1,000,000) for
19 site improvements and to plan, design, construct, renovate
20 and upgrade heating, cooling and electrical systems and
21 infrastructure at the El Rito and Espanola campuses of
22 northern New Mexico state school in Rio Arriba county;

23 (11) to the board of regents of the
24 university of New Mexico:

25 (a) twenty-seven million dollars

2017 Bond C Projects

Northern New Mexico College

1. Emergency Notification System Campus wide	199,481.00
2. Fire Alarms Upgrade Phase 1	228,157.40
3. CFA BLD. Exterior Wall Stucco Repair Phase 1	262,475.64
4. AD BLD. Patio Concrete Repairs	230,672.87
5. High Tech Roofing	63,688.96
6. Jaramillo Hall Roofing	15,524.13
Total	1,000,000.00

NEW MEXICO HIGHER EDUCATION DEPARTMENT
2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100

CAPITAL PROJECT TRANSMITTAL SUMMARY SHEET

Check the appropriate boxes below for materials accompanying this Summary Sheet and prepare all necessary attachments as needed for your project submittal. The deadline to submit project documents can be found on the NMHED Annual Calendar of Events at <http://www.hed.state.nm.us/institutions/resources.aspx>. In order to ensure your project will be considered, it must be uploaded by the deadline to the following FTP address: <https://nmhedss1.state.nm.us/ThinClient/Login.aspx>.

1. Institution Northern New Mexico College Date: 5/30/18
2. Project title: Installation of Emergency Notification System (Campus wide) & Fire Alarm System Upgrade – Phase I (Campus wide)
3. Location Espanola Campus
4. HED meeting date when project consideration is requested July 11, 2018
5. Contact person Ricky Bejarano Phone 505.747.5050
6. Required forms for project categories:
 - Construction, Alterations, or Demolition (All Forms)
 - Revenue Bond Forms (1, 1-A, 4, 5, 6)
 - Property Acquisition (Forms 1, 1-A, 3, 4, 5, 6)
7. A site plan of the proposed project. (Required for project approval)
8. Completed plan and profile drawings of the project, including elevations and floor plans with each space numbered and identified as to use and size. (Required for project approval)
9. Form 1 – Project Information
10. Form 1A - Institutional General Information and Project Schedule
11. Form 2 – Space Information
12. Form 3 – Estimated Utilities Costs (Green Screen, Energy Star, LEED)
13. Form 4 – Proposed Project Costs
14. Form 5 – Proposed Project Square Footage and Funding Sources
15. Form 6 – Certification by Governing Board

NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 1: PROJECT INFORMATION

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: Installation of Emergency Notification System (Campus wide) & Fire Alarm System Upgrade – Phase I (Campus wide)

Description:

Installation of Emergency Notification System (Campus wide) (\$199,481.10)

This project is a Mass Notification System that will be installed at the Espanola Campus for all Commons areas, Classrooms and Outdoor spaces. The notification system will include IP 6000 System, Application Server, Interior Speakers, outdoor horns, fiber wiring and all other needed materials and labor.

Fire Alarm System Upgrade – Phase I (\$228,157.39)

This project is a fire Alarm upgrade. To facilitate the relocation of Fire Alarm pull stations in all buildings to meet A.D.A. requirements. To provide a full Systems Check and Preventive Maintenance Audit for all buildings on the main campus. To provide remediation of defective components discovered during the systems check in coordination with Facilities Staff and Project phasing priorities. To provide a new Voice Evacuation Fire Alarm system within the Gymnasium. New Voice Evacuation system to be a complete functional system within the Gymnasium with the ability to interconnect buildings in future phases of remediation. All shop drawings to be provided under this contract and submitted to the State for approval prior to commencement of new work.

Rationale:

The new Mass Notification System and Fire Alarm upgrade – Phase I, is critical in providing emergency notifications to our student, faculty, staff, and visitors in the event of life threatening and emergency situations.

**NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 1-A: INSTITUTIONAL AND GENERAL INFORMATION**

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: Installation of Emergency Notification System (Campus wide) & Fire Alarm System Upgrade (Española & El Rito Campus')

Current Total On-Campus Enrollment	
Head Count: <u>1070</u>	FTE: <u>727.7</u>
<u>0%</u> Growth from previous year	<u>-7%</u> Average growth in previous 5-year period

Current Total Off-Campus Enrollment (web-based or Distance Ed., etc.)	
Head Count: <u>1140</u>	FTE: <u>224.3</u>
<u>22.3%</u> Growth from previous year	<u>10.0%</u> Average growth in previous 5-year period

Tuition		
Current Tuition Per Credit Hour: <u>\$130</u>	Current Tuition Per Semester: <u>\$1560</u>	
Month/year per semester tuition was last increased: <u>08/2016</u>	Amount of last per semester tuition increase: <u>\$5.31</u>	<u>.04258%</u> Change from last increase

Program Enrollment Being Served by this Project	
Head Count: _____	FTE: _____
_____ % Growth from previous year	_____ % Average growth in previous 10-year period

Bonding Information (To be completed if local bond proceeds are used for project funding)	
Assessed Valuation: _____	Month/year of most recent local bond issue: _____ / _____
Outstanding Debt: _____	
Available Capacity: _____	

Project Schedule	
Month/year proposed construction start date: _____ / _____	Month/year proposed construction completion date: _____ / _____

**NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 2: SPACE INFORMATION**

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: Installation of Emergency Notification System (Campus wide) & Fire Alarm System Upgrade – Phase I (Campus wide)

List the net assignable square feet (NASF) and Net Usable Square Footage (NUSF) of spaces to be constructed, altered, or demolished by this project. Definitions of

CLASSIFICATION CODE	TYPE OF SPACE	FORM 3: ESTIMATED UTILITIES COST NEW	ALTERATION	% OF NUSF
Institution: Northern New Mexico College		Original: <input checked="" type="checkbox"/> N/A	Date: 5/30/18	
200	Laboratory	N/A		NASF
300	Office	N/A		
400	Study	N/A		
500	Special	N/A		
600	General	N/A		
700	Support	N/A		
800	Health	N/A		
900	Residential	N/A		
		NASF TOTAL		
TARE	Other (interior walls, hallways, stairs, toilet rooms, mechanical rooms, electrical rooms, etc.) *Does NOT include interior structural elements – see definition			
		(NUSF) TOTAL USABLE SQUARE FOOTAGE	N/A	100%
		% of GSF is indicated on Form 5		
		(GSF) TOTAL SQUARE FOOTAGE	N/A	

CLASSIFICATION	TYPE OF SPACE	Revision: <input type="checkbox"/> EXISTING	ALTERATION	DIFFERENCE
Project title: Installation of Emergency Notification System (Campus wide) & Fire Alarm System Upgrade – Phase I (Campus wide)		N/A		
200	Laboratory	N/A		NASF
300	Office	N/A		
This formula designed to estimate the project's effect on current utilities costs.				
400	Study	N/A		
500	Special	N/A		
600	General	N/A		
700	Support	N/A		
800	Health	N/A		
900	Residential	N/A		
Eligible GSF: _____ x \$3.75		N/A	NASF TOTAL	N/A
TARE	Other (interior walls, hallways, stairs, toilet rooms, mechanical rooms, electrical rooms, etc.) *Does NOT include interior structural elements – see definition		Note if space is non-IGG please input NA with a note why.	
		(NUSF) TOTAL USABLE SQUARE FOOTAGE	N/A	

NEW MEXICO HIGHER EDUCATION DEPARTMENT

Include Green Screen information below, along with reference to Energy Star Rating and LEED Checklist if applicable (EO 2006-001)

- Projects will not have an effect on current Utility costs. Materials that will be replaced, will be like to like materials.

**NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 4: PROPOSED PROJECT COSTS**

Institution: Northern New Mexico College

Original: Date: 5/30/18

Revision: Date: _____

Project title: Installation of Emergency Notification System (Campus wide) & Fire Alarm System Upgrade – Phase I (Campus wide)

I. PROJECT BUDGET

EXPENDITURES	ORIGINAL SUBMISSION		BUDGET REVISION
	NEW CONSTRUCTION	ALTERATIONS	
A. Building Cost			
1. General		95,165.00	
2. Mechanical/Plumbing			
3. Electrical		30,243.25	
4. Special Systems (voice, data, other)		166,606.14	
5. Code Compliance (hazmat abatement, accessibility, etc.)			
BUILDING COST SUBTOTAL		292,014.39	
B. Built-in Equipment			
C. Site Development			
1. Utilities, Infrastructure			
2. Landscaping/Site Improvements			
3. Demolition			
TOTAL CONSTRUCTION COST (T.C.C.)			
D. Construction Contingency (not more than 5% New Const., 10% Renov. of T.C.C.)		19,020.73	
E. Professional Fees			
1. Architectural/Engineering		4,900.00	
2. Constr. Administration		76,618.86	
3. Admin./Surveys/Testing			
F. Movable Equipment			
G. Other (NMGRT)		35,084.51	
H. Art in Public Places (1% of State Appropriation)			
TOTAL PROJECT BUDGET		427,638.49	

FORM 5: PROPOSED PROJECT SQUARE FOOTAGE AND FUNDING SOURCES

NEW MEXICO HIGHER EDUCATION DEPARTMENT

Institution: Northern New Mexico College

Original: **Date:** 5/30/18

Revision: **Date:** _____

Project title: Installation of Emergency Notification System (Campus wide) & Fire Alarm System Upgrade – Phase I (Campus wide)

COSTS PER GROSS SQUARE FOOT (GSF)			
	Cost (Items A-C on Form 4)	GSF For New Construction NUSF for Alteration	Cost per GSF
New Construction			
Alterations	292,014.39	Campus Wide	

RATIO OF NET USABLE TO GROSS SQUARE FEET (NUSF/GSF)			
	NUSF (same as total from Form 2)	GSF	RATIO NUSF/GSF (%)
New Construction			
Alterations	N/A		

FUNDING SOURCE		
Enter the source of funding for the project. Total must match the total project budget on Form 4.		
Funding Source	Original Submission	Budget Revision
GOB17 A5138	427,638.49	N/A
Other Sources (specify)		
Total	427,638.49	

State Appropriations to be listed as follows: GOBxx or STBxx or GF 20xx (DFA #A0x-xxxx), SBxxx, or HBxxx Laws 20xx, chapter x, section x.

If using BRR, please specify year of budgeting.

***Attach screen shot verifying availability of funds**

****Attach a pdf of the Appropriation directly from the act with language highlighted**

**NEW MEXICO HIGHER EDUCATION DEPARTMENT
FORM 6: CERTIFICATION BY GOVERNING BOARD**

Institution: Northern New Mexico College

Original: Date: 5/30/18

Revision: Date: _____

Project title: Installation of Emergency Notification System (Campus wide) & Fire Alarm System Upgrade – Phase I (Campus Wide)

ORIGINAL CERTIFICATION

I hereby certify that, on the basis of this information contained in Forms 1 through 5 for approval of capital projects and the attached preliminary floor plans, elevations and site plan, if appropriate, the Governing Board approved the original submission of this project, at its meeting held on _____, 20____.

Signed:

President

REVISED SUBMISSION CERTIFICATION

I hereby certify that the Governing Board approved this Revised Submission at its meeting on _____, 20____.

Signed:

President



Campus Wide Annunciation System

NNMC

Quote # A-COM-1296

Date: 5/26/2017

Presented By:

Presented To:

A-Com Technologies

NNMC

2655 Pan American Freeway
Suite D
Albuquerque, NM 87107
(505) 362-9245
www.a-comtech.com

Andy Romero

Scope of Work

CES CONTRACT #2015-022

NORTHERN NEW MEXICO COLLEGE- MAIN CAMPUS

CAMPUS WIDE ANNUNCIATION SYSTEM

SOW-

- To provide a complete Campus Wide Annunciation system for Common Areas, Classrooms, and Outdoor Spaces
- To provide Valcom Class Connection IP 6000 System
- To provide and (1) Valcom 6025 Application Server
- To provide and install 347 Interior Self Amplified Ceiling Mounted Speakers
- To provide and install 79 Self Amplified Paging Horns for Outdoor coverage and Interior coverage in exposed areas
- To provide and install (13) VE-8004 Quad Networked Page Zone Extender
- To provide and install (2) VE-8022 FXO telephone interfaces for dedicated handsets (2 FXO interfaces each)
- To provide and install (2) Dedicated Telephone Handsets
- To provide and install (2) Valcom VE-8014 FXS Telephone interfaces for interface with phone system (4 FXS interfaces each)
- To provide and install (1) TRENDnet TFC-1600 Fiber Converter Chassis
- To provide and install (1) TRENDnet TFC-1600RP Redundant Power Supply
- To provide and install (26) TRENDnet Media Converters with LX SFP
- To provide and install (2) Custom Button Interface Panels to Trigger Communication Events
- To provide and install all necessary cabling from Ceiling Speakers and Paging Horns
- Per the specified Scope of Work, a 5% Contingency is provided
- Upon completion, (2) 1 hour trainings will be provided to General Staff
- Upon completion, (2) 4 hour trainings will be provided to Administrative Staff

NOTES-

- The intent of this proposal is to address the infrastructure needs to provide a fully functional annunciation system on which to build any future emergency communication plans.
- The Custom Button Interface can be configured with up to 8 buttons to initiate communications events as determined by the staff. The press of a button allows for rapid communications via stored messages.
- To meet the overall communications intent, this proposal provides for all new self Amplified Ceiling Speakers/ Paging Horns and Cabling throughout common areas of the campus, Classrooms, and outdoor spaces.
- All Headend components will be installed in Telecommunications Rooms and will utilize existing uninterruptible power supplies
- Where drop ceilings are available, a 2x2 ceiling speaker will be used to replace the tile.
- Existing Single Mode Fiber will be utilized to build a physically separate network and limit unwanted interference.
- Coordinate with IT Staff will be required to acquire a VLAN for the sole use of the Annunciation System
- Page Zone extenders allow for dry contact input for future integration of other systems (Fire Alarm, Access Control, etc)

*** PRICING PER SQUARE FOOT IS \$0.74. THIS FIGURE ASSUMES 268,000 SQUARE FEET CALCULATED ON GOOGLE EARTH ***

*** PRICING VALID THROUGH THE RENEWAL OF THE CES CONTRACT IN FALL 2018 ***

Modified: 5/26/2017

Revision: 0

* Price Includes Accessories

Presented By: A-Com Technologies

Project Name: Campus Wide Annunciation System

Project No.: A-COM-1296

5/26/2017

Page 2 of 5



Qty	Description	Equipment	Labor
NMHC Campus Wide Annunciation System			
1	A-Com Technologies Administration To include project documentation, as-builts, and schedule maintenance	\$0.00	\$4,900.00
1	A-Com Technologies Contingency Fund- as specified per RFP	\$8,548.79	\$0.00
68	A-Com Technologies HOTEL-MEAL EXPENSES HOTEL-MEAL EXPENSES	\$11,220.00	\$0.00
1	A-Com Technologies MISC ROUGH-IN MATERIALS MISC ROUGH-IN MATERIALS	\$1,600.00	\$857.50
1	A-Com Technologies Pathway Rough-in for Buidlings Pathway Rough-in within Buidlings	\$3,270.00	\$4,976.25
1	A-Com Technologies Performance Bond Performance Bond	\$3,590.49	\$0.00
1	A-Com Technologies Travel Travel Time and Expenses	\$0.00	\$9,500.40
32500	Bertek Cat 5e Plenum Cat 5e Plenum	\$6,396.00	\$19,906.25
900	BLine 2" J-Hooks 2" J-Hooks	\$2,880.00	\$5,517.00
32	LEVITON Category 6 Patch Cord 3' Category 6 Patch Cord 3'	\$116.80	\$0.00
1	Trendnet Fiber Media Converter Chassis (Capacity: 16)	\$387.44	\$122.50
26	Trendnet GBIC MDA Media Converter	\$1,231.36	\$796.38
26	Trendnet Mini GBIC SM LX SFP	\$1,151.02	\$796.38
300	Valcom 2x2 Self Amplified Ceiling Speaker 2x2 Self Amplified Ceiling Speaker Assembly withspeaker, amplifier and volume control mounted in 2' x 2' grille	\$18,492.00	\$19,905.00
50	Valcom 8-Inch One-Way Ceiling Speaker w/Volume Control	\$1,750.00	\$4,594.00
2	Valcom Administractive Analog Phone	\$466.66	\$122.50

* Price Includes Accessories

Presented By: A-Com Technologies

5/26/2017

Project Name: Campus Wide Annunciation System

Project No.: A-COM-1296

Page 3 of 5



Qty	Description	Equipment	Labor
79	Valcom One-Way Flexhorn with V-9809 Surface Mount Enclosure	\$15,389.99	\$4,838.75
50	Valcom Plastic Post-Construction Mounting Ring	\$548.00	\$1,531.50
1	Valcom VE6025- Enhanced Application Server Pro (100 end points) Mass Notification Read, Includes CAP integration to monitor weather services, State EAS systems, government systems, or other CAP compatible alerting services.	\$13,076.92	\$1,531.25
13	Valcom VE8004AR SIP Compliant Quad Enhanced Network Audio Port (Rack Mount)	\$7,428.59	\$1,194.44
2	Valcom VE8014R - Quad Enhanced Network Station (FXS) Port (Rack Mount) Quad Enhanced Network Station (FXS) Port (Rack Mount)	\$1,251.24	\$245.00
2	Valcom VE8022AR Dual Enhanced Network Trunk Port (Two Ports)	\$1,013.52	\$183.76
13	Valcom VP-4124D Switching Power Supply -24vdc, 4A or -48vdc, 2A	\$1,787.50	\$0.00
NNMC Campus Wide Annunciation System Total:		\$101,596.32	\$81,518.86
Project Subtotal:		\$101,596.32	\$81,518.86

* Price Includes Accessories

Presented By: A-Com Technologies

5/26/2017

Project Name: Campus Wide Annunciation System

Project No.: A-COM-1296

Page 4 of 5



Project Summary

Equipment:	\$101,596.32
Labor:	\$81,518.86
Sales Tax:	\$16,365.92
Grand Total:	\$199,481.10

Client: **Andy Romero**

Date

Contractor: **A-Com Technologies**

Date

* Price Includes Accessories

Presented By: A-Com Technologies

5/26/2017

Project Name: Campus Wide Annunciation System

Project No.: A-COM-1296

Page 5 of 5



Northern New Mexico College- Fire Alarm Remediation Phase 1

NNMC

Quote # A-COM-1816

Date: 5/23/2018

Presented By:

Presented To:

A-Com Technologies

NNMC

2655 Pan American Freeway
Suite D
Albuquerque, NM 87107
505-344-1370
www.a-comtech.com

Scope of Work

Northern New Mexico College
Española, NM

Fire Alarm Remediation Phase 1 SOW-

1) Pull Station Remediation

- To relocate Fire Alarm Pull Stations which do not meet ADA height requirements.
- To provide a Stopper II Pull Station Cover with Audible Alarm on All Pull Stations throughout the Campus

2) Campus Preventative Maintenance

- To provide 100% testing of all initiation notification devices
- To provide as-built documentation based on field conditions

3) Remediation of Identified System Failures

- To provide new devices/cabling as required to correct system failures
- All remediations will be conducted in coordination with the Facilities Staff and project phasing priorities

4) New Voice Evacuation Fire Alarm System in Gymnasium

- To provide a complete Voice Evacuation Fire Alarm System in the Gymnasium with Detection and Notification Devices placed per IBC/IFC and NFPA 72 Requirements.
- To provide Fiber Optic module for connection to future panels
- To provide Shop Drawings and submit to State Fire Marshal
- To provide Armored Jacket Cable where existing cabling and conduit systems can not be utilized
- To provide (1) IP/Cellular Dialer for the two means of communication to the UL Listed Central Station
- To provide a 3 Year Manufacturer's Warranty upon completion.
- To provide a 1 Year Labor Warranty upon completion

NOTES

Connections to the following ancillary systems will be required per code-

- Elevator Controls
- HVAC Shutdown for all HVAC units over 2,000 CFM
- Kitchen Ansul Systems monitoring

A-Com Technologies will be providing the means of connection for these systems, but all connections to Equipment(HVAC UNITS, ELEVATORS, KITCHEN ANSUL SYSTEMS), Any Additional Equipment or Upgrades Required, and Labor associated by specific trade WILL BE PROVIDED BY OWNER and is NOT included in this pricing.

*** PRICING PER SQUARE FOOT IS \$0.85. THIS FIGURE ASSUMES 268,000 SQUARE FEET CALCULATED ON GOODLE EARTH***

PRICING VALID THROUGH THE FALL OF 2018

Modified: 5/23/2018

Revision: 0

* Price Includes Accessories

Presented By: A-Com Technologies

5/23/2018

Project Name: Northern New Mexico College- Fire Alarm Project No.: A-COM-1816
Remediation Phase 1

Page 2 of 6



Qty	Description	Equipment	Labor
Pull Station ADA Height Remediation			
65	A-Com Technologies Electrical Rough-In		
105	STI Stopper II Wall Mount Pull Station Cover with Audible and Spacer		
	Pull Station ADA Height Remediation Total:	\$13,257.00	\$16,986.25
Campus Fire Alarm Preventative Maintenance			
1	A-Com Technologies AutoCAD/ Project documentation AutoCAD/ Project documentation		
885	A-Com Technologies Fire Alarm Preventative Maintenance- Per Crew Hour Material Cost to include Testing Consumables and test equipment costs		
	Campus Fire Alarm Preventative Maintenance Total:	\$19,593.90	\$61,277.50
Remediation of Identified System Failures			
1	A-Com Technologies Remediation of Identified System Failures		
	Remediation of Identified System Failures Total:	\$6,673.60	\$7,620.00

* Price Includes Accessories

Presented By: A-Com Technologies

5/23/2018

Project Name: Northern New Mexico College- Fire Alarm Remediation Phase 1 Project No.: A-COM-1816

Page 3 of 6



Qty Description Equipment Labor

New Voice Evacuation Fire Alarm Panel in Gymnasium

- 1 **A-Com Technologies AutoCAD/ Project documentation**
AutoCAD/ Project documentation
- 1 **A-Com Technologies ELECTRICAL ROUGH-IN MATERIALS**
MISC ROUGH-IN MATERIALS
- 1 **A-Com Technologies INDOOR SCISSOR LIFT RENTAL**
INDOOR SCISSOR LIFT RENTAL
- 1 **A-Com Technologies System Commissioning**
System Commissioning to include testing, and training.
- 2 **Bosch SS-P2RK**
2 WIRE HORN/STROBE STD CD RED OUTDOOR
- 5500 **General Cable Armored FA FLPR 14/2**
Armored FA FLPR 14/2
- 5500 **General Cable Armored FA FLPR 16/2**
Armored FA FLPR 16/2
- 6 **Silent Knight Addressable 1 Input Monitor Module**
Addressable 1 Input Monitor Module
- 1 **Silent Knight Addressable Beam Smoke Detector**
- 6 **Silent Knight Addressable Duct Detector Photo Electric NO RELAY**
Addressable Duct Detector Photo Electric NO RELAY
- 5 **Silent Knight Addressable Heat Detector**
Addressable Heat Detector
- 55 **Silent Knight Addressable Photo Electric Smoke Detector**
Addressable Photo Electric Smoke Detector
- 1 **Silent Knight Addressable Power Supply**
Addressable Power Supply
- 9 **Silent Knight Addressable Pull Station Dual Action**
Addressable Pull Station Dual Action

* Price Includes Accessories

Presented By: A-Com Technologies

5/23/2018

Project Name: Northern New Mexico College- Fire Alarm Remediation Phase 1 Project No.: A-COM-1816

Page 4 of 6



Qty	Description	Equipment	Labor
1	Silent Knight FACP with integrated EVAC 1110 point addressable FACP with integrated EVAC 1110 point addressable		
1	Silent Knight LCD Remote Annunciator for 6820EVS LCD Remote Annunciator for 6820EVS		
6	Silent Knight Relay Control Module Relay Control Module		
27	SYSTEM SENSOR SPSCRL Ceiling Mounted Speaker Strobe		
8	SYSTEM SENSOR SPSRL Speaker Strobe Red SPSRL Speaker Strobe Red		
6	SYSTEM SENSOR SYS-DST5 SSM Metal Samp Tube for 4'- 8' Ducts SYS-DST5 SSM Metal Samp Tube for 4'- 8' Ducts		
New Voice Evacuation Fire Alarm Panel in Gymnasium Total:		\$34,865.71	\$38,692.90

Contingency Fund

1	A-Com Technologies Project Contingency To include Shop Drawings, Submittals, and Close-out documentation		
Contingency Fund Total:		\$10,471.94	\$0.00
Project Subtotal:		\$84,862.15	\$124,576.65

* Price Includes Accessories

Presented By: A-Com Technologies

5/23/2018

Project Name: Northern New Mexico College- Fire Alarm Remediation Phase 1 Project No.: A-COM-1816

Page 5 of 6



Project Summary

Equipment:	\$84,862.15
Labor:	\$124,576.65
Sales Tax:	\$18,718.59
Grand Total:	\$228,157.39

* Price Includes Accessories

Presented By: A-Com Technologies

5/23/2018

Project Name: Northern New Mexico College- Fire Alarm Project No.: A-COM-1816
Remediation Phase 1

Page 6 of 6

Capital Appropriations

Appropriation ID: A5138

A5138 - Northern New Mexico College - Dept Code:A16A5138 - Class Code:A5138	
Year	2018
Appropriation Title	NNMSS CRITICAL INFRA & LAND-EL RITO & ESPANOLA
Fund Code	GENERAL OBLIGATION BONDS
EO 2013-006 Eligibility	
Bond Sale Date	8/1/2017
Bond Series Number	GOB17
Amount of Bond Sale	\$1,000,000
Category	HED
Subcategory	Higher Education
County	Rio Arriba
State Amount	\$1,000,000
Chapter/Section	B2 / 10/C/ 1
Reversion Date	6/30/2021
SHARE/BOF Data	
Expended Amount (SHARE)	\$0
Appropriation Balance (SHARE)	\$1,000,000
Expended Amount (BOF)	\$0
AIPP Amount (BOF)	\$0
Reversion Amount (BOF)	\$0
Appropriation Balance (BOF)	\$1,000,000
Last Update (SHARE/BOF)	5/10/2018
State Agency Data	
CIP Project #	
CIP Priority #	
Local Fiscal Agent Code	99964 - Northern New Mexico College
Reauth from Prior Project Amount	\$0
Amount Obligated	\$0
Project End Date	***
Expended Amount	\$0
AIPP Amount	\$0
Reauth of Balance to New Project	\$0
Reauth to Project #	
Reversion Amount	\$0
Project Status	In the process of obtaining quotes for projects
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	To receive approval from HED/committees to begin work.
Project Phase	0100 - Appropriated
Calculated Balance	\$1,000,000
Last Agency Update	5/10/2018 12:00:00 AM
Last Submission Date	3/13/2018 12:00:00 AM
Local Data	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter (Local Entity)	
Goal/Milestone for next quarter (Local Entity)	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

PROJECT TIMELINE						
	Date Completed,	Amount Funded	Future Funding	Funding Sources	Contractor Name	Contract Amount
	Expected, Completion Date or N/A					
Grant Agreement Issued		\$0	\$0			\$0
Water Rights		\$0	\$0			\$0
Easement & Right-of-Way		\$0	\$0			\$0
Acquisition		\$0	\$0			\$0
Archaeological Studies		\$0	\$0			\$0
Environmental Studies		\$0	\$0			\$0
Planning		\$0	\$0			\$0
Design		\$0	\$0			\$0
Construction		\$0	\$0			\$0
Furnish/Equipment		\$0	\$0			\$0
Total		\$0	\$0			\$0

Click [here](#) to see the phase descriptions.
 Click [here](#) to see a list of the fiscal agent codes.

1 state university in Las Cruces in Dona Ana county;

2 (c) one million five hundred thousand
3 dollars (\$1,500,000) to plan, design, construct, renovate,
4 furnish and equip classrooms, laboratories and other
5 infrastructure, including roof repair and replacement, at the
6 central campus of Dona Ana branch community college of
7 New Mexico state university in Dona Ana county;

8 (d) one million dollars (\$1,000,000) to
9 plan, design, construct, renovate and equip improvements to
10 the fire alarm and fire suppression system in the main
11 building at the Carlsbad branch campus of New Mexico state
12 university in Eddy county; and

13 (e) one million dollars (\$1,000,000) to
14 plan, design, construct, renovate and replace roofs
15 campuswide at the Alamogordo branch campus of New Mexico
16 state university in Otero county;

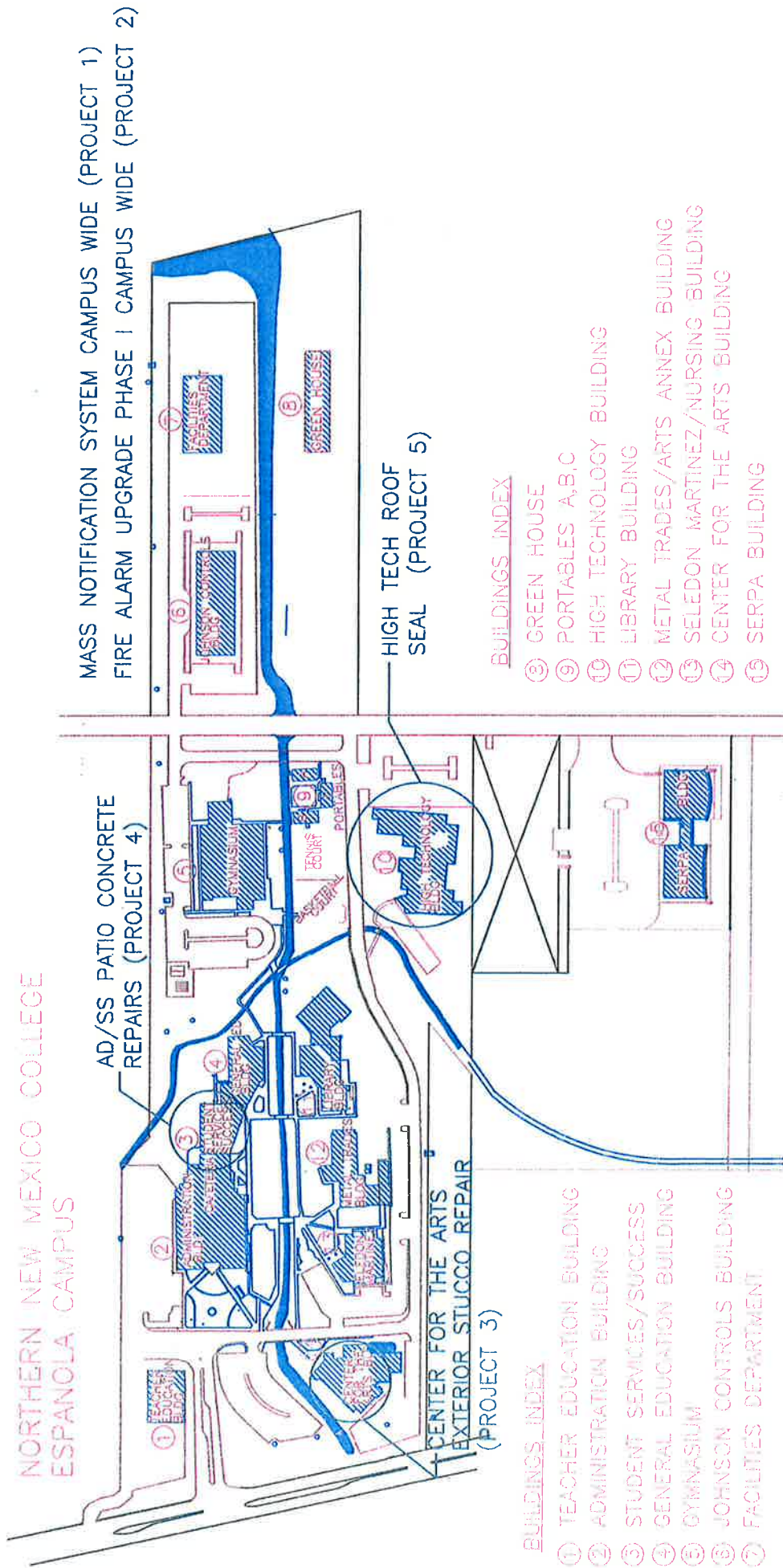
17 (10) to the board of regents of northern
18 New Mexico state school, one million dollars (\$1,000,000) for
19 site improvements and to plan, design, construct, renovate
20 and upgrade heating, cooling and electrical systems and
21 infrastructure at the El Rito and Espanola campuses of
22 northern New Mexico state school in Rio Arriba county;

23 (11) to the board of regents of the
24 university of New Mexico:

25 (a) twenty-seven million dollars

SFC/SB 122
Page 29

NORTHERN NEW MEXICO COLLEGE
ESPANOLA CAMPUS



MASS NOTIFICATION SYSTEM CAMPUS WIDE (PROJECT 1)
FIRE ALARM UPGRADE PHASE I CAMPUS WIDE (PROJECT 2)

AD/SS PATIO CONCRETE
REPAIRS (PROJECT 4)

HIGH TECH ROOF
SEAL (PROJECT 5)

CENTER FOR THE ARTS
EXTERIOR STUCCO REPAIR
(PROJECT 3)

BUILDINGS INDEX

- ③ GREEN HOUSE
- ⑨ PORTABLES A,B,C
- ⑩ HIGH TECHNOLOGY BUILDING
- ⑪ LIBRARY BUILDING
- ⑫ METAL TRADES/ARTS ANNEX BUILDING
- ⑬ SELEDON MARTINEZ/NURSING BUILDING
- ⑭ CENTER FOR THE ARTS BUILDING
- ⑮ SERPA BUILDING

BUILDINGS INDEX

- ① TEACHER EDUCATION BUILDING
- ② ADMINISTRATION BUILDING
- ③ STUDENT SERVICES/SUCCESS
- ④ GENERAL EDUCATION BUILDING
- ⑤ GYMNASIUM
- ⑥ JOHNSON CONTROLS BUILDING
- ⑦ FACILITIES DEPARTMENT

2017 Bond C Projects

Northern New Mexico College

1. Emergency Notification System Campus wide	199,481.00
2. Fire Alarms Upgrade Phase 1	228,157.40
3. CFA BLD. Exterior Wall Stucco Repair Phase 1	262,475.64
4. AD BLD. Patio Concrete Repairs	230,672.87
5. High Tech Roofing	63,688.96
6. Jaramillo Hall Roofing	15,524.13

Total 1,000,000.00



RESOLUTION OF NORTHERN NEW MEXICO COLLEGE BOARD OF REGENTS

The Board of Regents of Northern New Mexico College having met at its Special Board of Regents Meeting on May 29, 2018 unanimously resolve that the following individual be added as signatory on all Northern New Mexico College Century Bank Accounts.

Ivan Lopez Hurtado

Kevin F. Powers
Board of Regents President

Date

Damian L. Martinez
Secretary/Treasurer

Date



RESOLUTION OF NORTHERN NEW MEXICO COLLEGE BOARD OF REGENTS

The Board of Regents of Northern New Mexico College fully approves allowing the transfer of \$35,000 from Indirect Cost funds into the President's Discretionary Account for FY19. This was previously approved as part of the FY19 Operating Budget. Additional guidance that specifically enumerates allowable and non-allowable disbursements from this fund by the President will be forthcoming.

Kevin F. Powers
Board of Regents President

Date

Damian L. Martinez
Secretary/Treasurer

Date



MEMORANDUM

To: Northern New Mexico College Board of Regents

From: Ricky A. Bejarano, CPA, CGMA
VP Finance & Administration

Date: May 29, 2018

Re: Request to Adopt New Mexico State Procurement Code & Appertaining Regulations by Board of Regents Resolution

Issue

The yearly audit of NNMC for Fiscal Year Ending 6/30/2017 contained findings for two major procurement code violations which were material weaknesses. One of these findings was a repeated finding. The findings cite a plethora of issues that in and of themselves present serious problems and complications for NNMC. Of special note, should be the impact that these findings could potentially have on Federal Funding (current & future).

2016-005 Procurement Code Violations – College & Foundation
2017-015 Controls over Procurement, Suspension & Debarment

Recommendation

After lengthy discussions with the auditors as well as review of the recommendations of the auditors within these findings in addition to discussions with Federal Authorities pertaining to their concerns, staff believes that the best course of action is for NNMC to both follow Sections 13-1-1 through 13-1-199, NMSA, 1978 (Procurement Code) *as well as any appertaining regulations and future amendments to either the statutes or regulations*. We recommend that the college cease the adoption of any policies and/or procedures that conflict with either the statutes or regulations pertaining to the procurement code.



RESOLUTION OF NORTHERN NEW MEXICO COLLEGE BOARD OF REGENTS

Effective immediately, the Board of Regents of Northern New Mexico College (The Board) having met on May 29, 2018 at a special meeting scheduled by the The Board after sufficient public notice had been given, unanimously resolves that Northern New Mexico College hereby adopts the State of New Mexico Procurement Code (Sections 13-1-1 through 13-1-199, NMSA, 1978) and all appertaining regulations as published and subsequently updated. The Board, through this action, hereby repeals all previously-issued policies, procedures, and other such guidance issued by Northern New Mexico College pertaining to procurement.

Kevin F. Powers
Board of Regents President

Date

Damian L. Martinez
Secretary/Treasurer

Date



2006 NEW MEXICO STATUTES – ARTICLE I – PROCUREMENT, 13-1-1 through 13-1-199.

REPEALED SECTIONS

Section 13-1-1 to 13-1-20

Section 13-1-21.1

Section 13-1-23 to 13-1-27

Section 13-1-48

Section 13-1-101

2006 New Mexico Statutes - Section 13-1-21 — Application of preferences.

13-1-21. Application of preferences.

A. For the purposes of this section:

- (1) "resident business" means a New Mexico resident business or a New York state business enterprise;
- (2) "New Mexico resident business" means a business that is authorized to do and is doing business under the laws of this state and:
 - (a) that maintains its principal place of business in the state;
 - (b) has staffed an office and has paid applicable state taxes for two years prior to the awarding of the bid and has five or more employees who are residents of the state; or
 - (c) is an affiliate of a business that meets the requirements of Subparagraph (a) or (b) of this paragraph. As used in this section, "affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the qualifying business through ownership of voting securities representing a majority of the total voting power of the entity;
- (3) "New York state business enterprise" means a business enterprise, including a sole proprietorship, partnership or corporation, that offers for sale or lease or other form of exchange, goods or commodities that are substantially manufactured, produced or assembled in New York state, or services, other than construction services, that are substantially performed within New York state. For purposes of construction services, a New York state business enterprise means a business enterprise, including a sole proprietorship, partnership or corporation, that has its principal place of business in New York state;
- (4) "resident manufacturer" means a person who offers materials grown, produced, processed or manufactured wholly in the state; provided, however, that a New York state business enterprise shall be deemed to be a resident manufacturer solely for the purpose of evaluating the New York state business enterprise's bid against the bid of a resident manufacturer that is not a New York state business enterprise;
- (5) "recycled content goods" means supplies and materials composed in whole or in part of recycled materials; provided that the recycled materials content meets or exceeds the minimum content standards required by bid specifications; and
- (6) "virgin content goods" means supplies and materials that are wholly composed of nonrecycled materials or do not meet minimum recycled content standards required by bid specification.

B. When bids are received only from nonresident businesses and resident businesses and the lowest responsible bid is from a nonresident business, the contract shall be awarded to the resident business whose bid is nearest to the bid price of the otherwise low nonresident business bidder if the bid price of the resident bidder is made lower than the bid price of the nonresident business when multiplied by a factor of .95.

C. When bids are received only from nonresident businesses and resident manufacturers and the lowest responsible bid is from a nonresident business, the contract shall be awarded to the resident manufacturer whose bid is nearest to

the bid price of the otherwise low nonresident business bidder if the bid price of the resident manufacturer is made lower than the bid price of the nonresident business when multiplied by a factor of .95.

D. When bids are received only from resident businesses and resident manufacturers and the lowest responsible bid is from a resident business, the contract shall be awarded to the resident manufacturer whose bid is nearest to the bid price of the otherwise low resident business bidder if the bid price of the resident manufacturer is made lower than the bid price of the resident business when multiplied by a factor of .95.

E. When bids are received from resident manufacturers, resident businesses and nonresident businesses and the lowest responsible bid is from a resident business, the contract shall be awarded to the resident manufacturer whose bid is nearest to the bid price of the otherwise low resident business bidder if the bid price of the resident manufacturer is made lower than the bid price of the resident business when multiplied by a factor of .95.

F. When bids are received from resident manufacturers, resident businesses and nonresident businesses and the lowest responsible bid is from a nonresident business, the contract shall be awarded to the resident manufacturer whose bid is nearest to the bid price of the otherwise low nonresident business bidder if the bid price of the resident manufacturer is evaluated as lower than the bid price of the nonresident business when multiplied by a factor of .95. If there is no resident manufacturer eligible for award under this provision, then the contract shall be awarded to the resident business whose bid is nearest to the bid price of the otherwise low nonresident business bidder if the bid price of the resident business is made lower than the bid price of the nonresident business when multiplied by a factor of .95.

G. When bids are received for virgin content goods only or for recycled content goods only, Subsections B through F of this section shall apply.

H. When bids are received for both recycled content goods and virgin content goods and the lowest responsible bid is for virgin content goods, the contract shall be awarded to:

(1) a resident manufacturer offering the lowest bid on recycled content goods of equal quality if the bid price of the resident manufacturer when multiplied by a factor of .90 is made lower than the otherwise low virgin content goods bid price;

(2) a resident business offering a bid on recycled content goods of equal quality if:

(a) the bid price of no resident manufacturer following application of the preference allowed in Paragraph (1) of this subsection can be made sufficiently low; and

(b) the lowest bid price of the resident business when multiplied by a factor of .90 is made lower than the otherwise low virgin content goods bid price; or

(3) a nonresident business or nonresident manufacturer offering recycled content goods of equal quality if:

(a) the bid price of no resident business or resident manufacturer following application of the preference allowed in Paragraph (1) or (2) of this subsection can be made sufficiently low; and

(b) the lowest bid price of a nonresident offering recycled content goods when multiplied by a factor of .95 is made lower than the otherwise low virgin content bid price.

I. When bids are received for both recycled content goods and virgin content goods and the lowest responsible bid is for recycled content goods offered by a nonresident business or nonresident manufacturer, the contract shall be awarded to:

(1) a resident manufacturer offering the lowest bid on recycled content goods of equal quality if the bid price of the resident manufacturer when multiplied by a factor of .95 is made lower than the otherwise low recycled content goods bid price; or

(2) a resident business offering a bid on recycled content goods of equal quality if:

(a) the bid price of no resident manufacturer following application of the preference allowed in Paragraph (1) of this subsection can be made sufficiently low; and

(b) the lowest bid price of the resident business when multiplied by a factor of .95 is made lower than the otherwise low recycled content goods bid price offered by a nonresident business or manufacturer.

J. When bids are received for both recycled content goods and virgin content goods and the lowest responsible bid is for recycled content goods offered by a resident business, the contract shall be awarded to a resident manufacturer offering the lowest bid on recycled content goods of equal quality if the bid price of the resident manufacturer when multiplied by a factor of .95 is made lower than the otherwise low recycled content goods bid price.

K. This section shall not apply when the expenditure of federal funds designated for a specific purchase is involved or for any bid price greater than five million dollars (\$5,000,000).

L. The provisions of this section shall not apply to the purchase of buses from a resident manufacturer or a New Mexico resident business that manufactures buses in New Mexico. It is the purpose of this subsection to:

(1) allow any bus manufacturer or business that manufactures buses to compete openly for public procurement contracts in New Mexico without giving preference to a business based on the location of the place of manufacture of the buses;

(2) give resident manufacturers and New Mexico resident businesses that manufacture buses an equal opportunity to sell their buses in states that have reciprocal preference laws; and

(3) eliminate all different treatment of any kind under New Mexico law and by all political jurisdictions in the state between New Mexico resident businesses and manufacturers that manufacture buses and businesses in other states that manufacture and sell buses.

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2006 New Mexico Statutes - Section 13-1-21.2 — Equal procurement access for New York businesses.

13-1-21.2. Equal procurement access for New York businesses.

A. Certain recent amendments to the New York state procurement statutes have the effect of prohibiting New Mexico businesses from selling goods or providing services to New York state and local governments and quasi-governmental entities. This act eliminates all differential treatment of any kind between New York state business enterprises and New Mexico businesses in New Mexico procurement and thereby negates the application to New Mexico businesses of the New York amendments and protects the access of New Mexico businesses to the New York market.

B. New York state business enterprises shall be treated as New Mexico resident businesses or resident manufactures [manufacturers] for all procurement purposes.

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2006 New Mexico Statutes - Section 13-1-22 — Resident business and manufacturer certification; application; information.

13-1-22. Resident business and manufacturer certification; application; information.

No resident business or resident manufacturer, as those terms are defined in Subsection A of Section 13-1-21 NMSA 1978, shall be given any preference in the awarding of contracts for furnishing materials or services to a state agency, unless the resident business or resident manufacturer shall have qualified with the state purchasing agent as a resident business or resident manufacturer, or both, by making application to the state purchasing agent and receiving from him a certification number. The procedure for application and certification shall be as follows:

- A. the state purchasing agent shall prepare an application form for certification as a resident business or manufacturer, requesting such information and proof as he deems necessary to qualify the applicant under the terms of Section 13-1-21 NMSA 1978;
- B. the resident business or resident manufacturer shall complete the application form and submit it to the state purchasing agent, prior to the awarding of any contract in which the resident business or manufacturer desires to be given a preference; and
- C. the state purchasing agent shall examine the application and if necessary may seek additional information or proof to assure himself that the prospective business or manufacturer is indeed entitled to the statutory preference. If all is in order, he shall issue the supplier a distinctive certification number, which shall be valid until revoked, and which, when used on bids and other purchasing documents, shall entitle the business or manufacturer to the statutory preference.

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2006 New Mexico Statutes - Section 13-1-28 — Short title.

13-1-28. Short title.

Sections 13-1-28 through 13-1-199 NMSA 1978 may be cited as the "Procurement Code".

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2006 New Mexico Statutes - Section 13-1-29 — Rules of construction; purposes.

13-1-29. Rules of construction; purposes.

- A. The Procurement Code [13-1-28 NMSA 1978] shall be liberally construed and applied to promote its purposes and policies.
- B. All references in law to the Public Purchases Act shall be construed to be references to the Procurement Code.
- C. The purposes of the Procurement Code are to provide for the fair and equitable treatment of all persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity.

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2006 New Mexico Section 13-1-30 — Application of the code.

13-1-30. Application of the code.

A. Except as otherwise provided in the Procurement Code [13-1-28 NMSA 1978], that code shall apply to every expenditure by state agencies and local public bodies for the procurement of items of tangible personal property, services and construction. That code also applies to concession contracts at the New Mexico state fair in excess of twenty thousand dollars (\$20,000), whether those concession contracts generate revenue and earnings or expand funds.

B. When a procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulations. When mandatory applicable federal law or regulations are inconsistent with the provisions of the Procurement Code, compliance with federal law or regulations shall be compliance with the Procurement Code.

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2006 New Mexico Statutes - Section 13-1-31 — Definition; architectural services.

13-1-31. Definition; architectural services.

"Architectural services" means services related to the art and science of designing and building structures for human habitation or use and includes planning, providing preliminary studies, designs, specifications, working drawings and providing for general administration of construction contracts.

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2006 New Mexico Statutes - Section 13-1-32 — Definition; blind trust.

13-1-32. Definition; blind trust.

"Blind trust" means a trust managed by a person other than the employee-beneficiary in which the employee-beneficiary is not given notice of alterations in the property of the trust.

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2006 New Mexico Statutes - Section 13-1-33 — Definition; brand-name specification.

13-1-33. Definition; brand-name specification.

"Brand-name specification" means a specification limited to describing an item by manufacturer's name or catalogue number.

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2006 New Mexico Statutes - Section 13-1-34 — Definition; brand-name or equal specification.

13-1-34. Definition; brand-name or equal specification.

"Brand-name or equal specification" means a specification describing one or more items by manufacturer's name or catalogue number to indicate the standard of quality, performance or other pertinent characteristics and providing for the substitution of equivalent items.

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2006 New Mexico Statutes - Section 13-1-35 — Definition; business.

13-1-35. Definition; business.

"Business" means any corporation, partnership, individual, joint venture, association or any other private legal entity.

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2006 New Mexico Statutes - Section 13-1-36 — Definition; catalogue price.

13-1-36. Definition; catalogue price.

"Catalogue price" means the price of items of tangible personal property in the most current catalogue, price list, schedule or other form that:

- A. is regularly maintained by the manufacturer or vendor of an item; and
- B. is either published or otherwise available for inspection by a customer.

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2006 New Mexico Statutes - Section 13-1-37 — Definition; central purchasing office.

13-1-37. Definition; central purchasing office.

"Central purchasing office" means that office or officer within a state agency or a local public body responsible for the control of procurement of items of tangible personal property, services or construction. "Central purchasing office" includes the purchasing division of the general services department and the state purchasing agent.

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2006 New Mexico Statutes - Section 13-1-38 — Definition; change order.

13-1-38. Definition; change order.

"Change order" means a written order signed and issued by a procurement officer directing the contractor to make changes which the changes clause of the contract authorizes the procurement officer to order with or without the consent of the contractor.

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2006 New Mexico Statutes - Section 13-1-39 — Definition; confidential information.

13-1-39. Definition; confidential information.

"Confidential information" means any information which is available to an employee because of the employee's status as an employee of a state agency or a local public body and which is not a matter of public knowledge or available to the public on request.

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2006 New Mexico Statutes - Section 13-1-40 — Definition; construction.

13-1-40. Definition; construction.

A. "Construction" means building, altering, repairing, installing or demolishing in the ordinary course of business any:

- (1) road, highway, bridge, parking area or related project;
- (2) building, stadium or other structure;
- (3) airport, subway or similar facility;
- (4) park, trail, athletic field, golf course or similar facility;
- (5) dam, reservoir, canal, ditch or similar facility;
- (6) sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility;
- (7) sewage, water, gas or other pipeline;
- (8) transmission line;
- (9) radio, television or other tower;
- (10) water, oil or other storage tank;
- (11) shaft, tunnel or other mining appurtenance;
- (12) electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners;
- (13) air conditioning conduit, heating or other similar mechanical work; or
- (14) similar work, structures or installations.

B. "Construction" shall also include:

- (1) leveling or clearing land;
- (2) excavating earth;
- (3) drilling wells of any type, including seismographic shot holes or core drilling; and
- (4) similar work, structures or installations.

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2006 New Mexico Statutes - Section 13-1-40.1 — Definition; construction management and construction manager.

13-1-40.1. Definition; construction management and construction manager.

A. "Construction management" means consulting services related to the process of management applied to a public works project for any duration from conception to completion of the project for the purpose of controlling time, cost and quality of the project.

B. "Construction manager" means a person who acts as an agent of the state agency or local public body for construction management, for whom the state agency or local public body shall assume all the risks and responsibilities.

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2006 New Mexico Statutes - Section 13-1-41 — Definition; contract.

13-1-41. Definition; contract.

"Contract" means any agreement for the procurement of items of tangible personal property, services or construction.

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2006 New Mexico Statutes - Section 13-1-42 — Definition; contract modification.

13-1-42. Definition; contract modification.

"Contract modification" means any written alteration in the provisions of a contract accomplished by mutual action of the parties to the contract.

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2006 New Mexico Statutes - Section 13-1-43 — Definition; contractor.

13-1-43. Definition; contractor.

"Contractor" means any business having a contract with a state agency or a local public body.

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2006 New Mexico Statutes - Section 13-1-44 — Definition; cooperative procurement.

13-1-44. Definition; cooperative procurement.

"Cooperative procurement" means procurement conducted by or on behalf of more than one state agency or local public body, or by a state agency or local public body with an external procurement unit.

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2006 New Mexico Statutes - Section 13-1-45 — Definition; cost analysis.

13-1-45. Definition; cost analysis.

"Cost analysis" means the evaluation of cost data and profit for the purpose of arriving at costs actually incurred by a contractor, estimates of costs to be incurred by a contractor and a profit to be allowed to a contractor.

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2006 New Mexico Statutes - Section 13-1-46 — Definition; cost data.

13-1-46. Definition; cost data.

"Cost data" means factual information concerning the cost of labor, material, overhead and other cost elements which are expected to be incurred by a contractor or which have been actually incurred by a contractor in performing the contract.

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2006 New Mexico Statutes - Section 13-1-47 — Definition; cost reimbursement contract.

13-1-47. Definition; cost reimbursement contract.

"Cost reimbursement contract" means a contract which provides for a fee other than a fee based on a percentage of cost and under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms.

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2006 New Mexico Statutes - Section 13-1-49 — Definition; data.

13-1-49. Definition; data.

"Data" means recorded information regardless of form or characteristic.

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2006 New Mexico Statutes - Section 13-1-50 — Definition; definite quantity contract.

13-1-50. Definition; definite quantity contract.

"Definite quantity contract" means a contract which requires the contractor to furnish a specified quantity of services, items of tangible personal property or construction at or within a specified time.

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2006 New Mexico Statutes - Section 13-1-51 — Definition; designee.

13-1-51. Definition; designee.

"Designee" means a representative of a person holding a superior position.

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2006 New Mexico Statutes - Section 13-1-52 — Definition; determination.

13-1-52. Definition; determination.

"Determination" means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

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2006 New Mexico Statutes - Section 13-1-53 — Definition; direct or indirect participation.

13-1-53. Definition; direct or indirect participation.

"Direct or indirect participation" means involvement through decision, approval, disapproval, recommendation, formulation of any part of a purchase request, influencing the content of any specification, investigation, auditing or the rendering of advice.

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2006 New Mexico Statutes - Section 13-1-53.1 — Definition; electronic.

13-1-53.1. Definition; electronic.

"Electronic" includes electric, digital, magnetic, optical, electronic or similar medium.

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2006 New Mexico Statutes - Section 13-1-54 — Definition; employee.

13-1-54. Definition; employee.

"Employee" means an individual receiving a salary, wages or per diem and mileage from a state agency or a local public body whether elected or not and any noncompensated individual performing personal services as an elected or appointed official or otherwise for a state agency or a local public body.

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2006 New Mexico Statutes - Section 13-1-55 — Definition; engineering services.

13-1-55. Definition; engineering services.

"Engineering services" means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering studies and the review of construction for the purpose of assuring substantial compliance with drawings and specifications; any of which embrace such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, chemical, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. Such practice includes the performance of architectural work incidental to the practice of engineering. "Engineering services" does not include responsibility for the superintendence of construction, site conditions, operations, equipment, personnel or the maintenance of safety in the work place.

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2006 New Mexico Statutes - Section 13-1-56 — Definition; external procurement unit.

13-1-56. Definition; external procurement unit.

"External procurement unit" means any procurement organization not located in this state which, if in this state, would qualify as a state agency or a local public body. An agency of the United States government is an external procurement unit.

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2006 New Mexico Statutes - Section 13-1-57 — Definition; financial interest.

13-1-57. Definition; financial interest.

"Financial interest" means:

- A. holding a position in a business as officer, director, trustee or partner or holding any position in management;
or
- B. ownership of more than five percent interest in a business.

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2006 New Mexico Statutes - Section 13-1-58 — Definition; firm fixed price contract.

13-1-58. Definition; firm fixed price contract.

"Firm fixed price contract" means a contract which has a fixed total price or fixed unit price.

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2006 New Mexico Statutes - Section 13-1-59 — Definition; gratuity.

13-1-59. Definition; gratuity.

"Gratuity" means a payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, received or promised, unless consideration of substantially equal or greater value is exchanged.

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2006 New Mexico Statutes - Section 13-1-60 — Definition; heavy road equipment.

13-1-60. Definition; heavy road equipment.

"Heavy road equipment" means any motor-driven vehicle or apparatus capable of use for earth moving or mixing components which has an aggregate value or price of over one thousand dollars (\$1,000).

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2006 New Mexico Statutes - Section 13-1-61 — Definition; highway reconstruction.

13-1-61. Definition; highway reconstruction.

"Highway reconstruction" means the rebuilding, altering or repairing of any road, highway, bridge, parking area or related project. "Highway reconstruction" does not include routine maintenance.

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2006 New Mexico Statutes - Section 13-1-62 — Definition; immediate family.

13-1-62. Definition; immediate family.

"Immediate family" means a spouse, children, parents, brothers and sisters.

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2006 New Mexico Statutes - Section 13-1-63 — Definition; indefinite quantity contract.

13-1-63. Definition; indefinite quantity contract.

"Indefinite quantity contract" means a contract which requires the contractor to furnish an indeterminate quantity of specified services, items of tangible personal property or construction during a prescribed period of time at a definite unit price or at a specified discount from list or catalogue prices.

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2006 New Mexico Statutes - Section 13-1-64 — Definition; invitation for bids.

13-1-64. Definition; invitation for bids.

"Invitation for bids" means all documents, including those attached or incorporated by reference, utilized for soliciting sealed bids.

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2006 New Mexico Statutes - Section 13-1-65 — Definition; surveying services.

13-1-65. Definition; surveying services.

"Surveying services" means any service or work, the substantial performance of which involves the application of the principles of mathematics and the related physical and applied sciences for:

- A. the measuring and locating of lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings and on the beds or bodies of water for the purpose of defining location, areas and volume;
- B. the monumenting of property boundaries and the platting and layout of lands and subdivisions thereof;
- C. the application of photogrammetric methods used to derive topographic and other data;
- D. the establishment of horizontal and vertical controls for surveys for design, topographic surveys including photogrammetric methods, construction surveys for engineering and architectural public works; and
- E. the preparation and perpetuation of maps, records, plats, field notes and property descriptions.

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2006 New Mexico Statutes - Section 13-1-66 — Definition; landscape architectural services.

13-1-66. Definition; landscape architectural services.

"Landscape architectural services" means services including but not limited to consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and administration of contracts where the dominant purposes of such services are:

- A. the preservation or enhancement of land uses and natural features;
- B. the location and construction of functional approaches for structures, pathways or walkways; or
- C. the design of trails, plantings and landscape irrigation. Excluded from the provisions of this section are the services of architects, engineers and surveyors as defined in the Procurement Code [13-1-28 NMSA 1978].

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2006 New Mexico Statutes - Section 13-1-66.1 — Definition; local public works project.

13-1-66.1. Definition; local public works project.

"Local public works project" means a project of a local public body which uses architectural or engineering services requiring professional services costing twenty-five thousand dollars (\$25,000) or more, or landscape architectural or surveying services requiring professional services costing five thousand dollars (\$5,000) or more, excluding applicable state and local gross receipts taxes.

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2006 New Mexico Statutes - Section 13-1-67 — Definition; local public body.

13-1-67. Definition; local public body.

"Local public body" means every political subdivision of the state and the agencies, instrumentalities and institutions thereof, including two-year post-secondary educational institutions, school districts and local school boards and municipalities, except as exempted pursuant to the Procurement Code [13-1-28 NMSA 1978].

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2006 New Mexico Statutes - Section 13-1-68 — Definition; multi-term contract.

13-1-68. Definition; multi-term contract.

"Multi-term contract" means a contract having a term longer than one year.

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2006 New Mexico Statutes - Section 13-1-69 — Definition; multiple source award.

13-1-69. Definition; multiple source award.

"Multiple source award" means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one bidder or offeror.

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2006 New Mexico Statutes - Section 13-1-70 — Definition; notice of invitation for bids.

13-1-70. Definition; notice of invitation for bids.

"Notice of invitation for bids" means a document issued by a procurement officer which contains a brief description of the services, construction or items of tangible personal property to be procured, the location where copies of the invitation for bid may be obtained, the location where bids are to be received, the cost, if any, for copies of plans and specifications, the date and place of the bid opening and such other information as the procurement officer deems necessary.

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2006 New Mexico Statutes - Section 13-1-71 — Definition; price agreement.

13-1-71. Definition; price agreement.

"Price agreement" means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

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2006 New Mexico Statutes - Section 13-1-72 — Definition; price analysis.

13-1-72. Definition; price analysis.

"Price analysis" means the evaluation of pricing data without analysis of the separate cost components and profit.

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2006 New Mexico Statutes - Section 13-1-73 — Definition; pricing data.

13-1-73. Definition; pricing data.

"Pricing data" means factual information concerning prices for items identical to or substantially similar to those being procured.

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2006 New Mexico Statutes - Section 13-1-74 — Definition; procurement.

13-1-74. Definition; procurement.

"Procurement" means:

- A. purchasing, renting, leasing, lease purchasing or otherwise acquiring items of tangible personal property, services or construction; and
- B. all procurement functions, including but not limited to preparation of specifications, solicitation of sources, qualification or disqualification of sources, preparation and award of contract and contract administration.

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2006 New Mexico Statutes - Section 13-1-75 — Definition; procurement officer.

13-1-75. Definition; procurement officer.

"Procurement officer" means any person or a designee authorized by a state agency or a local public body to enter into or administer contracts and make written determinations with respect thereto.

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2006 New Mexico Statutes - Section 13-1-76 — Definition; professional services.

13-1-76. Definition; professional services.

"Professional services" means the services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, construction managers and other persons or businesses providing similar professional services, which may be designated as such by a determination issued by the state purchasing agent or a central purchasing office.

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2006 New Mexico Statutes - Section 13-1-77 — Definition; purchase order.

13-1-77. Definition; purchase order.

"Purchase order" means the document issued by the state purchasing agent or a central purchasing office that directs a contractor to deliver items of tangible personal property, services or construction.

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2006 New Mexico Statutes - Section 13-1-78 — Definition; purchase request.

13-1-78. Definition; purchase request.

"Purchase request" means the document by which a using agency requests that a contract be obtained for a specified service, construction or item of tangible personal property and may include but is not limited to the technical description of the requested item, delivery schedule, transportation requirements, suggested sources of supply and supporting information.

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2006 New Mexico Statutes - Section 13-1-79 — Definition; qualified products list.

13-1-79. Definition; qualified products list.

"Qualified products list" means a list of tangible personal property described by model or catalogue number which, prior to the solicitation of competitive sealed bids or competitive sealed proposals, are items the state purchasing agent or a central purchasing office has determined will meet the applicable specifications.

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2006 New Mexico Statutes - Section 13-1-80 — Definition; regulation.

13-1-80. Definition; regulation.

"Regulation" means any rule, order or statement of policy, including amendments thereto and repeals thereof, issued by a state agency or a local public body to affect persons not members or employees of the issuer.

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2006 New Mexico Statutes - Section 13-1-81 — Definition; request for proposals.

13-1-81. Definition; request for proposals.

"Request for proposals" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

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2006 New Mexico Statutes - Section 13-1-82 — Definition; responsible bidder.

13-1-82. Definition; responsible bidder.

"Responsible bidder" means a bidder who submits a responsive bid 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, construction or items of tangible personal property described in the invitation for bids.

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2006 New Mexico Statutes - Section 13-1-83 — Definition; responsible offeror.

13-1-83. Definition; responsible offeror.

"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.

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2006 New Mexico Statutes - Section 13-1-84 — Definition; responsive bid.

13-1-84. Definition; responsive bid.

"Responsive bid" means a bid which conforms in all material respects to the requirements set forth in the invitation for bids. Material respects of a bid include but are not limited to price, quality, quantity or delivery requirements.

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2006 New Mexico Statutes - Section 13-1-85 — Definition; responsive offer.

13-1-85. Definition; responsive offer.

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

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2006 New Mexico Statutes - Section 13-1-86 — Definition; secretary.

13-1-86. Definition; secretary.

"Secretary" means the secretary of general services.

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2006 New Mexico Statutes - Section 13-1-87 — Definition; services.

13-1-87. Definition; services.

"Services" means the furnishing of labor, time or effort by a contractor not involving the delivery of a specific end product other than reports and other materials which are merely incidental to the required performance. "Services" includes the furnishing of insurance but does not include construction or the services of employees of a state agency or a local public body.

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2006 New Mexico Statutes - Section 13-1-88 — Definition; small business.

13-1-88. Definition; small business.

"Small business" means a business, not a subsidiary or division of another business, having an average annual volume for the preceding three fiscal years which does not exceed one million five hundred thousand dollars (\$1,500,000).

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2006 New Mexico Statutes - Section 13-1-89 — Definition; specification.

13-1-89. Definition; specification.

"Specification" means a description of the physical or functional characteristics or of the nature of items of tangible personal property, services or construction. "Specification" may include a description of any requirement for inspecting or testing, or for preparing items of tangible personal property, services or construction for delivery.

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2006 New Mexico Statutes - Section 13-1-90 — Definition; state agency.

13-1-90. Definition; state agency.

"State agency" means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. "State agency" includes the purchasing division of the general services department and the state purchasing agent but does not include local public bodies.

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2006 New Mexico Statutes - Section 13-1-91 — Definition; state public works project.

13-1-91. Definition; state public works project.

"State public works project" means a project of a state agency, not including projects of the state educational institutions, the supreme court building commission, the legislature or local public bodies, which uses architectural or engineering services requiring professional services costing twenty-five thousand dollars (\$25,000) or more or landscape architectural or surveying services requiring professional services costing five thousand dollars (\$5,000) or more, excluding applicable state and local gross receipts.

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2006 New Mexico Statutes - Section 13-1-92 — Definition; state purchasing agent.

13-1-92. Definition; state purchasing agent.

"State purchasing agent" means the director of the purchasing division of the general services department.

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2006 New Mexico Statutes - Section 13-1-93 — Definition; tangible personal property.

13-1-93. Definition; tangible personal property.

"Tangible personal property" means tangible property other than real property having a physical existence, including but not limited to supplies, equipment, materials and printed materials.

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2006 New Mexico Statutes - Section 13-1-94 — Definition; using agency.

13-1-94. Definition; using agency.

"Using agency" means any state agency or local public body requiring services, construction or items of tangible personal property.

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2006 New Mexico Statutes - Section 13-1-95 — Purchasing division; creation; director is state purchasing agent; appointment; duties.

13-1-95. Purchasing division; creation; director is state purchasing agent; appointment; duties.

- A. The "purchasing division" is created within the general services department.
- B. Subject to the authority of the secretary, the state purchasing agent shall be the administrator and chief executive of the purchasing division. The state purchasing agent shall be appointed by the secretary with the approval of the governor.
- C. The purchasing division and state purchasing agent shall be responsible for the procurement of services, construction and items of tangible personal property for all state agencies except as otherwise provided in the Procurement Code [13-1-28 NMSA 1978] and shall administer the Procurement Code for those state agencies not excluded from the requirement of procurement through the state purchasing agent.
- D. The state purchasing agent shall have the following additional authority and responsibility to:
- (1) recommend procurement regulations to the secretary;
 - (2) establish and maintain programs for the development and use of procurement specifications and for the inspection, testing and acceptance of services, construction and items of tangible personal property;
 - (3) cooperate with the state budget division of the department of finance and administration in the preparation of statistical data concerning the acquisition and usage of all services, construction and items of tangible personal property by state agencies;
 - (4) require state agencies to furnish reports concerning usage, needs and stocks on hand of items of tangible personal property, and usage and needs for services or construction;
 - (5) prescribe, with consent of the secretary, forms to be used by state agencies to requisition and report the procurement of items of tangible personal property, services and construction;
 - (6) provide information to state agencies and local public bodies concerning the development of specifications, quality control methods and other procurement information; and
 - (7) collect information concerning procurement matters, quality and quality control of commonly used services, construction and items of tangible personal property.
- E. The state purchasing agent shall, upon the request of the central purchasing office of a local public body, procure a price agreement for the requested services, construction or items of tangible personal property.

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2006 New Mexico Statutes - Section 13-1-95.1 — Electronic transmissions.

13-1-95.1. Electronic transmissions.

A. The state purchasing agent shall develop guidelines for central purchasing offices to use electronic media, including distribution of solicitations and acceptance of sealed bids and competitive sealed proposals that include electronic signatures. The guidelines shall include:

- (1) appropriate security to prevent unauthorized access to electronically submitted bids or proposals prior to the date and time set for opening of bids or the deadline set for receipt for proposals, including the electronic bidding, approval and award process; and
- (2) accurate retrieval or conversion of electronic forms of information into a medium that permits inspection and copying.

B. A central purchasing office, in an invitation for bids or a request for proposals, may require all or any part of a sealed bid or a competitive sealed proposal to be submitted electronically if the office determines that an electronic submission will be advantageous to the procurement process. If electronic submission is required:

- (1) no hard copy documentation shall be submitted to the central purchasing office prior to the award of the contract, except as specifically identified in the invitation for bids or the request for proposals;
- (2) the invitation for bids or request for proposals shall specify an opening date and time, a fixed closing date and time and an email account or other secure electronic location to which the electronic bid or proposal shall be submitted;
- (3) sealed bids submitted electronically shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and each bid item, if appropriate, and such other relevant information as may be specified by the state purchasing agent or a central purchasing office, together with the name of each bidder, shall be recorded, and the record and each bid shall be open to public inspection; and
- (4) for sealed proposals, the proposals shall be opened, evaluated and the contract awarded as required in the request for proposals and as otherwise provided in the Procurement Code.

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2006 New Mexico Statutes - Section 13-1-96 — Delegation of authority by the state purchasing agent.

13-1-96. Delegation of authority by the state purchasing agent.

The state purchasing agent may, with the consent of the secretary, delegate such of his authority to subordinates as he deems necessary and appropriate by clearly delineating in writing such delegated authority and the limitations thereto.

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2006 New Mexico Statutes - Section 13-1-97 — Centralization of procurement authority.

13-1-97. Centralization of procurement authority.

A. All procurement for state agencies shall be performed by the state purchasing agent except as otherwise provided in the Procurement Code [13-1-28 NMSA 1978].

B. All procurement for state agencies excluded from the requirement of procurement through the office of the state purchasing agent shall be performed by a central purchasing office designated by statute, the governing authority of that state agency or as otherwise provided in the Procurement Code.

C. All procurement for local public bodies shall be performed by a central purchasing office designated by the governing authority of the local public body except as otherwise provided in the Procurement Code.

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2006 New Mexico Section 13-1-98 — Exemptions from the procurement code.

13-1-98. Exemptions from the procurement code.

The provisions of the Procurement Code shall not apply to:

- A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;
- B. procurement of tangible personal property or services for the governor's mansion and grounds;
- C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;
- D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;
- E. purchases of books and periodicals from the publishers or copyright holders thereof;
- F. travel or shipping by common carrier or by private conveyance or to meals and lodging;
- G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;
- H. contracts with businesses for public school transportation services;
- I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;
- J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;
- K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;
- L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;
- M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;
- N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;
- O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;
- P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

- Q. contracts with professional entertainers;
- R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;
- S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;
- T. works of art for museums or for display in public buildings or places;
- U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;
- V. purchases of advertising in all media, including radio, television, print and electronic;
- W. purchases of promotional goods intended for resale by the tourism department;
- X. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);
- Y. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act; and
- Z. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973.

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2006 New Mexico Statutes - Section 13-1-98.1 — Hospital and health care exemption.

13-1-98.1. Hospital and health care exemption.

The provisions of the Procurement Code [13-1-28 NMSA 1978] shall not apply to procurement of items of tangible personal property or services by a state agency or a local public body through:

A. an agreement with any other state agency, local public body or external procurement unit or any other person, corporation, organization or association that provides that the parties to the agreement shall join together for the purpose of making some or all purchases necessary for the operation of public hospitals or public and private hospitals, if the state purchasing agent or a central purchasing office makes a determination that the arrangement will or is likely to reduce health care costs; or

B. an agreement with any other state agency, local public body or external procurement unit or any other person, corporation, organization or association for the purpose of creating a network of health care providers or jointly operating a common health care service, if the state purchasing agent or a central purchasing office makes a determination that the arrangement will or is likely to reduce health care costs, improve quality of care or improve access to care.

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2006 New Mexico Section 13-1-98.2 — Additional exemptions from the Procurement Code.

13-1-98.2. Additional exemptions from the Procurement Code.

The provisions of the Procurement Code [13-1-28 NMSA 1978] do not apply to contracts entered into by a local public body with a person, firm, organization, corporation, association or state educational institution named in Article 12, Section 11 of the constitution of New Mexico for:

- A. the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978;
- B. the lease or operation of a county hospital pursuant to the Hospital Funding Act [4-48B-1 NMSA 1978]; or
- C. the operation and maintenance of a hospital pursuant to the Special Hospital District Act [4-48A-1 NMSA 1978].

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2006 New Mexico Statutes - Section 13-1-99 — Excluded from central purchasing through the state purchasing agent.

13-1-99. Excluded from central purchasing through the state purchasing agent.

Excluded from the requirement of procurement through the state purchasing agent but not from the requirements of the Procurement Code [13-1-28 NMSA 1978] are the following:

- A. procurement of professional services;
- B. small purchases having a value not exceeding one thousand five hundred dollars (\$1,500);
- C. emergency procurement;
- D. procurement of highway construction or reconstruction by the department of transportation;
- E. procurement by the judicial branch of state government;
- F. procurement by the legislative branch of state government;
- G. procurement by the boards of regents of state educational institutions named in Article 12, Section 11 of the constitution of New Mexico;
- H. procurement by the state fair commission of tangible personal property, services and construction under ten thousand dollars (\$10,000);
- I. purchases from the instructional material fund;
- J. procurement by all local public bodies;
- K. procurement by regional education cooperatives;
- L. procurement by charter schools;
- M. procurement by each state health care institution that provides direct patient care and that is, or a part of which is, medicaid certified and participating in the New Mexico medicaid program; and
- N. procurement by the public school facilities authority.

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2006 New Mexico Statutes - Section 13-1-100 — Construction contracts; central purchasing office.

13-1-100. Construction contracts; central purchasing office.

The award and execution of contracts for major construction, including but not limited to roads, bridges, airports, buildings and dams, shall be made by the governing authority of the using agency. The procurement officer responsible for the procurement shall give notice to prospective bidders pursuant to Section 13-1-104 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-100.1 — Construction contracts; construction management services.

13-1-100.1. Construction contracts; construction management services.

A. A construction management services contract may be entered into for any construction or state or local public works project when a state agency or local public body makes a determination that it is in the public's interest to utilize construction management services. Construction management services shall not duplicate and are in addition to the normal scope of separate architect or engineer contracts, the need for which may arise due to the complexity or unusual requirements of a project as requested by a state agency or local public body.

B. To insure fair, uniform, clear and effective procedures that will strive for the delivery of a quality project, on time and within budget, the secretary, in conjunction with the appropriate and affected professional associations and contractors, shall promulgate regulations, which shall be adopted by the governing bodies of all using agencies and shall be followed by all using agencies when procuring construction management services as authorized in Subsection A of this section.

C. A state agency shall make the decision on a construction management services contract for a state public works project, and a local public body shall make that decision for a local public works project. A state agency shall not make the decision on a construction management services contract for a local public works project.

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2006 New Mexico Statutes - Section 13-1-102 — Competitive sealed bids required.

13-1-102. Competitive sealed bids required.

All procurement shall be achieved by competitive sealed bid pursuant to Sections 76 through 83 [13-1-103 to 13-1-110 NMSA 1978] of the Procurement Code, except procurement achieved pursuant to the following sections of the Procurement Code [13-1-28 to 13-1-117 and 13-1-118 to 13-1-199 NMSA 1978]:

- A. Sections 84 through 97 [13-1-111 to 13-1-117, 13-1-118, 13-1-119, 13-1-120 to 13-1-124 NMSA 1978], competitive sealed proposals;
- B. Section 98 [13-1-125 NMSA 1978], small purchases;
- C. Section 99 [13-1-126 NMSA 1978], sole source procurement;
- D. Section 100 [13-1-127 NMSA 1978], emergency procurements;
- E. Section 102 [13-1-129 NMSA 1978], existing contracts; and
- F. Section 103 [13-1-130 NMSA 1978], purchases from antipoverty program businesses.

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2006 New Mexico Statutes - Section 13-1-103 — Invitation for bids.

13-1-103. Invitation for bids.

- A. An invitation for bids shall be issued and shall include the specifications for the services, construction or items of tangible personal property to be procured, all contractual terms and conditions applicable to the procurement, the location where bids are to be received and the date, time and place of the bid opening.
- B. If the procurement is to be by sealed bid without electronic submission, the invitation for bids shall include the location where bids are to be received and the date, time and place of the bid opening.
- C. If the procurement is to be by sealed bid with part or all of the bid to be submitted electronically, the invitation for bids shall comply with the requirements of Section 13-1-95.1 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-104 — Competitive sealed bids; public notice.

13-1-104. Competitive sealed bids; public notice.

A. An invitation for bids or a notice thereof shall be published not less than ten calendar days prior to the date set forth for the opening of bids. In the case of purchases made by the state purchasing agent, the invitation or notice shall be published at least once in at least three newspapers of general circulation in this state; in addition, an invitation or notice may be published electronically on the state purchasing agent's web site that is maintained for that purpose. In the case of purchases made by other central purchasing offices, the invitation or notice shall be published at least once in a newspaper of general circulation in the area in which the central purchasing office is located. These requirements of publication are in addition to any other procedures that may be adopted by central purchasing offices to notify prospective bidders that bids will be received, including publication in a trade journal, if available. If there is no newspaper of general circulation in the area in which the central purchasing office is located, such other notice may be given as is commercially reasonable.

B. Central purchasing offices shall send copies of the notice or invitation for bids involving the expenditure of more than twenty thousand dollars (\$20,000) to those businesses that have signified in writing an interest in submitting bids for particular categories of items of tangible personal property, construction and services and that have paid any required fees. A central purchasing office may set different registration fees for different categories of services, construction or items of tangible personal property, but such fees shall be related to the actual, direct cost of furnishing copies of the notice or invitation for bids to the prospective bidders. The fees shall be used exclusively for the purpose of furnishing copies of the notice or invitation for bids of proposed procurements to prospective bidders.

C. A central purchasing office may satisfy the requirement of sending copies of a notice or invitation for bids by distributing the documents to prospective bidders through electronic media. Central purchasing offices shall not require that prospective bidders receive a notice or invitation for bids through electronic media.

D. As used in this section, "prospective bidders" includes persons considering submission of a bid as a general contractor for the construction contract and persons who may submit bids to a general contractor for work to be subcontracted pursuant to the construction contract. Central purchasing offices shall make copies of invitations for bids for construction contracts available to prospective bidders. A central purchasing office may require prospective bidders who have requested documents for bid on a construction contract to pay a deposit for a copy of the documents for bid. The deposit shall equal the full cost of reproduction and delivery of the documents for bid. The deposit, less delivery charges, shall be refunded if the documents for bid are returned in usable condition within the time limits specified in the documents for bid, which time limits shall be no less than ten calendar days from the date of the bid opening. All forfeited deposits shall be credited to the funds of the applicable central purchasing office.

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2006 New Mexico Statutes - Section 13-1-105 — Competitive sealed bids; receipt and acceptance of bids.

13-1-105. Competitive sealed bids; receipt and acceptance of bids.

A. Bids shall be unconditionally accepted for consideration for award without alteration or correction, except as authorized in the Procurement Code [13-1-28 NMSA 1978]. In addition to the requirement for the prime contractor and subcontractors to be registered as provided in Section 13-4-13.1 NMSA 1978, bids shall be evaluated based on the requirements set forth in the invitation for bids, which requirements may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria such as discounts, transportation costs and total or life-cycle costs that will affect the bid price shall be objectively measurable, which shall be defined by rule. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. A bid submitted by a prime contractor that was not registered as required by Section 13-4-13.1 NMSA 1978 shall not be considered for award. A bid submitted by a registered prime contractor that includes any subcontractor that is not registered in accordance with that section may be considered for award following substitution of a registered subcontractor for any unregistered subcontractor in accordance with Section 13-4-36 NMSA 1978.

B. If the lowest responsible bid has otherwise qualified, and if there is no change in the original terms and conditions, the lowest bidder may negotiate with the purchaser for a lower total bid in order to avoid rejection of all bids for the reason that the lowest bid was up to ten percent higher than budgeted project funds. Such negotiation shall not be allowed if the lowest bid was more than ten percent over budgeted project funds.

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2006 New Mexico Statutes - Section 13-1-106 — Competitive sealed bids; correction or withdrawal of bids.

13-1-106. Competitive sealed bids; correction or withdrawal of bids.

A. A bid containing a mistake discovered before bid opening may be modified or withdrawn by a bidder prior to the time set for bid opening by delivering written or telegraphic notice to the location designated in the invitation for bids as the place where bids are to be received. After bid opening, no modifications in bid prices or other provisions of bids shall be permitted. A low bidder alleging a material mistake of fact which makes his bid nonresponsive may be permitted to withdraw its bid if:

- (1) the mistake is clearly evident on the face of the bid document; or
- (2) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

B. Any decision by a procurement officer to permit or deny the withdrawal of a bid on the basis of a mistake contained therein shall be supported by a determination setting forth the grounds for the decision.

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2006 New Mexico Statutes - Section 13-1-107 — Competitive sealed bids; bid opening.

13-1-107. Competitive sealed bids; bid opening.

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and each bid item, if appropriate, and such other relevant information as may be specified by the state purchasing agent or a central purchasing office, together with the name of each bidder, shall be recorded, and the record and each bid shall be open to public inspection.

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2006 New Mexico Statutes - Section 13-1-108 — Competitive sealed bids; award.

13-1-108. Competitive sealed bids; award.

A contract solicited by competitive sealed bids shall be awarded with reasonable promptness by written notice to the lowest responsible bidder. Contracts solicited by competitive sealed bids shall require that the bid amount exclude the applicable state gross receipts tax or applicable local option tax but that the contracting agency shall be required to pay the applicable tax including any increase in the applicable tax becoming effective after the date the contract is entered into. The applicable gross receipts tax or applicable local option tax shall be shown as a separate amount on each billing or request for payment made under the contract.

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2006 New Mexico Statutes - Section 13-1-109 — Competitive sealed bids; multi-step sealed bidding.

13-1-109. Competitive sealed bids; multi-step sealed bidding.

When the state purchasing agent or a central purchasing office makes a determination that it is impractical to initially prepare specifications to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids.

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2006 New Mexico Statutes - Section 13-1-110 — Competitive sealed bids; identical bids.

13-1-110. Competitive sealed bids; identical bids.

When competitive sealed bids are used and two or more of the bids submitted are identical in price and are the low bid, the state purchasing agent or a central purchasing office may:

- A. award pursuant to the multiple source award provisions of Sections 126 and 127 [13-1-153 and 13-1-154 NMSA 1978] of the Procurement Code;
- B. award to a resident business if the identical low bids are submitted by a resident business and a nonresident business;
- C. award to a resident manufacturer if the identical low bids are submitted by a resident manufacturer and a resident business;
- D. award by lottery to one of the identical low bidders; or
- E. reject all bids and resolicit bids or proposals for the required services, construction or items of tangible personal property.

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2006 New Mexico Statutes - Section 13-1-111 — Competitive sealed proposals; conditions for use.

13-1-111. Competitive sealed proposals; conditions for use.

A. Except as provided in Subsection G of Section 13-1-119.1 NMSA 1978, when a state agency or a local public body is procuring professional services or a design and build project delivery system, or when the state purchasing agent, a central purchasing office or a designee of either officer makes a written determination that the use of competitive sealed bidding for items of tangible personal property or services is either not practicable or not advantageous to the state agency or a local public body, a procurement shall be effected by competitive sealed proposals.

B. Competitive sealed proposals may also be used for contracts for construction and facility maintenance, service and repairs.

C. Competitive qualifications-based proposals shall be used for procurement of professional services of architects, engineers, landscape architects, construction managers and surveyors who submit proposals pursuant to Sections 13-1-120 through 13-1-124 NMSA 1978.

D. Competitive sealed proposals shall also be used for contracts for the design and installation of measures the primary purpose of which is to conserve natural resources, including guaranteed utility savings contracts entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act [6-23-1 NMSA 1978].

E. The governor shall appoint an advisory committee to provide assistance in development of rules for the implementation of this section. The advisory committee shall include one representative from the New Mexico building and construction trades council, American federation of labor - congress for industrial organizations, and a representative of:

- (1) the associated general contractors - New Mexico building branch;
- (2) the New Mexico chapter of the national electrical contractors association;
- (3) the New Mexico sheet metal contractors association;
- (4) the mechanical contractors association of New Mexico;
- (5) the New Mexico association of counties;
- (6) the New Mexico municipal league;
- (7) the public education department;
- (8) the construction industries commission;
- (9) the Rio Grande underground contractors association;
- (10) the American subcontractors association of New Mexico;
- (11) the higher education community; and
- (12) the general public, who is not associated with the construction industry and who will serve as chair of the committee.

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2006 New Mexico Statutes - Section 13-1-112 — Competitive sealed proposals; request for proposals.

13-1-112. Competitive sealed proposals; request for proposals.

A. Competitive sealed proposals, including competitive qualifications-based proposals, shall be solicited through a request for proposals that shall be issued and shall include the specifications for the services or items of tangible personal property to be procured, all contractual terms and conditions applicable to the procurement, the location where proposals are to be received and the date, time and place where proposals are to be received and reviewed. A request for proposals may, pursuant to Section 13-1-95.1 NMSA 1978, require that all or a portion of a responsive proposal be submitted electronically.

B. In the case of requests for competitive qualifications-based proposals, price shall be determined by formal negotiations related to scope of work.

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2006 New Mexico Statutes - Section 13-1-113 — Competitive sealed proposals; public notice.

13-1-113. Competitive sealed proposals; public notice.

Public notice of the request for proposals shall be given in the same manner as provided in Section 77 [13-1-104 NMSA 1978] of the Procurement Code.

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2006 New Mexico Statutes - Section 13-1-114 — Competitive sealed proposals; evaluation factors.

13-1-114. Competitive sealed proposals; evaluation factors.

The request for proposals shall state the relative weight to be given to the factors in evaluating proposals.

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2006 New Mexico Statutes - Section 13-1-115 — Competitive sealed proposals; negotiations.

13-1-115. Competitive sealed proposals; negotiations.

Offerors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Negotiations may be conducted with responsible offerors who submit proposals found to be reasonably likely to be selected for award. This section shall not apply to architects, engineers, landscape architects and surveyors who submit proposals pursuant to Sections 13-1-120 through 13-1-124 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-116 — Competitive sealed proposals; disclosure; record.

13-1-116. Competitive sealed proposals; disclosure; record.

The contents of any proposal shall not be disclosed so as to be available to competing offerors during the negotiation process.

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2006 New Mexico Statutes - Section 13-1-117 — Competitive sealed proposals; award.

13-1-117. Competitive sealed proposals; award.

The award shall be made to the responsible offeror or offerors whose proposal is most advantageous to the state agency or a local public body, taking into consideration the evaluation factors set forth in the request for proposals.

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2006 New Mexico Statutes - Section 13-1-117.1 — Procurement of professional services; local public bodies; legislative branch; selection and award.

13-1-117.1. Procurement of professional services; local public bodies; legislative branch; selection and award.

A. Each agency within the legislative branch of government operating under the provisions of the Procurement Code [13-1-28 NMSA 1978] and each local public body shall adopt regulations regarding its selection and award of professional services contracts.

B. The award shall be made to the responsible offeror or offerors whose proposal is most advantageous to the local public body or legislative agency respectively, taking into consideration the evaluation factors set forth in the request for proposals.

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2006 New Mexico Statutes - Section 13-1-117.2 — Procurement of professional services; local public bodies; professional technical advisory assistance.

13-1-117.2. Procurement of professional services; local public bodies; professional technical advisory assistance.

A. Any local public body which does not have on staff a licensed professional engineer, surveyor, architect or landscape architect shall have appointed to it or have the appointment waived by the appropriate New Mexico professional society listed in Subsection D of this section, an individual to serve as a professional technical advisor. The professional technical advisor shall be a senior member of an architectural, engineering, surveying or landscape architectural business with experience appropriate to the type of local public works project proposed and shall be a resident licensed architect, professional engineer, surveyor or landscape architect in the state who possesses at least ten years of experience in responsible charge as defined in the Architectural Act [61-15-1.1 NMSA 1978], the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] or the Landscape Architects Act [61-24B-1 NMSA 1978], respectively.

B. The professional technical advisor to a local public body shall serve as an agent of the local public body and shall be indemnified and held harmless. He may be reimbursed as provided in the Per Diem and Mileage Act [10-8-1 NMSA 1978] for per diem and mileage in connection with his service as a professional technical advisor and shall receive no other compensation, perquisite or allowance.

C. The duties and responsibilities of the professional technical advisor shall include but may not be limited to the following activities:

- (1) advise the local public body in the development of requests for proposals for engineering, surveying, architectural or landscape architectural services procured by the local public body;
- (2) advise the local public body in giving public notice of requests for proposals;
- (3) advise in the evaluation and selection of professional businesses to perform services for the local public body, based upon demonstrated competence and qualification for the type of professional services required; and
- (4) assist in contract negotiations.

D. Professional technical advisors shall be obtained through the professional technical advisory board, a consortium of the consulting engineers council of New Mexico and the professional engineers in private practice division of the New Mexico society of professional engineers; the New Mexico professional surveyors; the New Mexico society of architects; or the New Mexico chapter of the American society of landscape architects.

E. No individual or firm whose principal, officer, director or employee serves as a professional technical advisor to a local public body shall be permitted to submit a proposal to the local public body during the period in which the individual, principal, officer, director or employee serves as a professional technical advisor to the local public body; however, nothing in this section shall prohibit an individual or firm from submitting a proposal to any municipality in which the individual or a principal, officer, director or employee is not serving as a professional technical advisor.

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2006 New Mexico Statutes - Section 13-1-117.3 — Contracts for the design and installation of measures for the conservation of natural resources.

13-1-117.3. Contracts for the design and installation of measures for the conservation of natural resources.

A state agency or a local public body may solicit competitive sealed proposals for a contract that provides for both the design and installation of measures the primary purpose of which is to conserve natural resources, including guaranteed utility savings contracts entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act [6-23-1 NMSA 1978].

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2006 New Mexico Statutes - Section 13-1-118 — Competitive sealed proposals; professional services contracts; contract review.

13-1-118. Competitive sealed proposals; professional services contracts; contract review.

All contracts for professional services with state agencies shall be reviewed as to form, legal sufficiency and budget requirements by the general services department or the department of finance and administration if required by the regulations of either or both of the departments. This section shall not apply to contracts entered into by the legislative branch of state government, the judicial branch of state government or the boards of regents of state educational institutions named in Article 12, Section 11 of the constitution of New Mexico.

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2006 New Mexico Statutes - Section 13-1-119 — Competitive sealed qualifications-based proposals; architects; engineers; landscape architects; surveyors; additional requirements.

13-1-119. Competitive sealed qualifications-based proposals; architects; engineers; landscape architects; surveyors; additional requirements.

In addition to compliance with the requirements of Sections 13-1-112 through 13-1-114 and 13-1-116 through 13-1-118 NMSA 1978, a state agency or local public body, when procuring the services of architects, landscape architects, engineers or surveyors for state public works projects or local public works projects, shall comply with Sections 13-1-120 through 13-1-124 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-119.1 — Public works project delivery system; design and build projects authorized.

13-1-119.1. Public works project delivery system; design and build projects authorized.

A. Except for road and highway construction or reconstruction projects, a design and build project delivery system may be authorized when the state purchasing agent or a central purchasing office makes a determination in writing that it is appropriate and in the best interest of the state or local public body to use the system on a specific project with a maximum allowable construction cost of more than ten million dollars (\$10,000,000). The determination shall be issued only after the state purchasing or central purchasing office has taken into consideration the following criteria, which shall be used as the minimum basis in determining when to use the design and build process:

- (1) the extent to which the project requirements have been or can be adequately defined;
- (2) time constraints for delivery of the project;
- (3) the capability and experience of potential teams with the design and build process;
- (4) the suitability of the project for use of the design and build process as concerns time, schedule, costs and quality; and
- (5) the capability of the using agency to manage the project, including experienced personnel or outside consultants, and to oversee the project with persons who are familiar with the design and build process.

B. When a determination has been made by the state purchasing agent or a central purchasing office that it is appropriate to use a design and build project delivery system, the design and build team shall include, as needed, a New Mexico registered engineer or architect and a contractor properly licensed in New Mexico for the type of work required.

C. Except as provided in Subsections F and G of this section, for each proposed state or local public works design and build project, a two-phase procedure for awarding design and build contracts shall be adopted and shall include at a minimum the following:

- (1) during phase one, and prior to solicitation, documents shall be prepared for a request for qualifications by a registered engineer or architect, either in-house or selected in accordance with Sections 13-1-120 through 13-1-124 NMSA 1978, and shall include minimum qualifications, a scope of work statement and schedule, documents defining the project requirements, the composition of the selection committee and a description of the phase-two requirements and subsequent management needed to bring the project to completion. Design and build qualifications of responding firms shall be evaluated and a maximum of five firms shall be short-listed in accordance with technical and qualifications-based criteria; and
- (2) during phase two, the short-listed firms shall be invited to submit detailed specific technical concepts or solutions, costs and scheduling. Unsuccessful firms may be paid a stipend to cover proposal expenses. After evaluation of these submissions, selection shall be made and the contract awarded to the highest ranked firm.

D. Except as provided in Subsections F and G of this section, to ensure fair, uniform, clear and effective procedures that will strive for the delivery of a quality project on time and within budget, the secretary, in conjunction with the

appropriate and affected professional associations and contractors, shall promulgate rules applicable to all using agencies, which shall be followed by all using agencies when procuring a design and build project delivery system.

E. A state agency shall make the decision on a design and build project delivery system for a state public works project, and a local public body shall make that decision for a local public works project. A state agency shall not make the decision on a design and build project delivery system for a local public works project.

F. The requirements of Subsections C and D of this section and the minimum construction cost requirement of Subsection A of this section do not apply to a design and build project delivery system and the services procured for the project if:

(1) the maximum allowable construction cost of the project is four hundred thousand dollars (\$400,000) or less; and

(2) the only requirement for architects, engineers, landscape architects or surveyors is limited to either site improvements or adaption for a pre-engineered building or system.

G. The procurement of a design and build project delivery system qualifying for exemptions pursuant to Subsection F of this section, including the services of any architect, engineer, landscape architect, construction manager or surveyor needed for the project, shall be accomplished by competitive sealed bids pursuant to Sections 13-1-102 through 13-1-110 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-120 — Competitive sealed qualifications-based proposals; architects; engineers; landscape architects; surveyors; selection process.

13-1-120. Competitive sealed qualifications-based proposals; architects; engineers; landscape architects; surveyors; selection process.

A. For each proposed state public works project, local public works project or construction management contract, the architect, engineer, landscape architect, construction management and surveyor selection committee, state highway and transportation department selection committee or local selection committee, as appropriate, shall evaluate statements of qualifications and performance data submitted by at least three businesses in regard to the particular project and may conduct interviews with and may require public presentation by all businesses applying for selection regarding their qualifications, their approach to the project and their ability to furnish the required services.

B. The appropriate selection committee shall select, ranked in the order of their qualifications, no less than three businesses deemed to be the most highly qualified to perform the required services, after considering the following criteria together with any criteria, except price, established by the using agency authorizing the project:

(1) specialized design and technical competence of the business, including a joint venture or association, regarding the type of services required;

(2) capacity and capability of the business, including any consultants, their representatives, qualifications and locations, to perform the work, including any specialized services, within the time limitations;

(3) past record of performance on contracts with government agencies or private industry with respect to such factors as control of costs, quality of work and ability to meet schedules;

(4) proximity to or familiarity with the area in which the project is located;

(5) the amount of design work that will be produced by a New Mexico business within this state;

(6) the volume of work previously done for the entity requesting proposals which is not seventy-five percent complete with respect to basic professional design services, with the objective of effecting an equitable distribution of contracts among qualified businesses and of assuring that the interest of the public in having available a substantial number of qualified businesses is protected; provided, however, that the principle of selection of the most highly qualified businesses is not violated; and

(7) notwithstanding any other provisions of this subsection, price may be considered in connection with construction management contracts, unless the services are those of an architect, engineer, landscape architect or surveyor.

C. Notwithstanding the requirements of Subsections A and B of this section, if fewer than three businesses have submitted a statement of qualifications for a particular project, the appropriate committee may:

(1) rank in order of qualifications and submit to the secretary or local governing authority of the public body for award those businesses which have submitted a statement of qualifications; or

(2) recommend termination of the selection process pursuant to Section 13-1-131 NMSA 1978 and sending out of new notices of the resolicitation of the proposed procurement pursuant to Section 13-1-104 NMSA 1978. Any proposal received in response to the terminated solicitation is not public information and shall not be made available to competing offerors.

D. The names of all businesses submitting proposals and the names of all businesses, if any, selected for interview shall be public information. After an award has been made, the appropriate selection committee's final ranking and evaluation scores for all proposals shall become public information. Businesses which have not been selected for contract award shall be so notified in writing within fifteen days after an award is made.

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2006 New Mexico Statutes - Section 13-1-121 — Competitive sealed qualifications-based proposals; architects; engineers; landscape architects; surveyors; selection committee; state public works projects.

13-1-121. Competitive sealed qualifications-based proposals; architects; engineers; landscape architects; surveyors; selection committee; state public works projects.

A. The "architect, engineer, landscape architect and surveyor selection committee" is created. The committee, which shall serve as the selection committee for state public works projects, except for highway projects of the state highway and transportation department, is composed of four members as follows:

- (1) one member of the agency for which the project is being designed;
- (2) the director of the property control division of the general services department who shall be chairman;
- (3) one member designated by the architect-engineer-landscape architect joint practice committee; and
- (4) one member designated by the secretary.

B. The staff architect or his designee of the property control division shall serve as staff to the architect, engineer, landscape architect and surveyor selection committee.

C. The members of the architect, engineer, landscape architect and surveyor selection committee shall be reimbursed by the property control division for per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act [10-8-1 NMSA 1978].

D. The state highway and transportation department shall create a selection committee by rule, after notice and hearing, which shall serve as the selection committee for highway projects of the department.

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2006 New Mexico Statutes - Section 13-1-122 — Competitive sealed qualifications-based proposals; award of architect, engineering, landscape architect and surveying contracts.

13-1-122. Competitive sealed qualifications-based proposals; award of architect, engineering, landscape architect and surveying contracts.

The secretary or his designee, or the secretary of the highway and transportation department or his designee or a designee of a local public body shall negotiate a contract with the highest qualified business for the architectural, landscape architectural, engineering or surveying services at compensation determined in writing to be fair and reasonable. In making this decision, the secretary or his designee or the designee of a local public body shall take into account the estimated value of the services to be rendered and the scope, complexity and professional nature of the services. Should the secretary or his designee or the designee of a local public body be unable to negotiate a satisfactory contract with the business considered to be the most qualified at a price determined to be fair and reasonable, negotiations with that business shall be formally terminated. The secretary or his designee or the designee of a local public body shall then undertake negotiations with the second most qualified business. Failing accord with the second most qualified business, the secretary or his designee or a designee of a local public body shall formally terminate negotiations with that business. The secretary or his designee or the designee of the local public body shall then undertake negotiations with the third most qualified business. Should the secretary or his designee or a designee of a local public body be unable to negotiate a contract with any of the businesses selected by the committee, additional businesses shall be ranked in order of their qualifications and the secretary or his designee or the designee of a local public body shall continue negotiations in accordance with this section until a contract is signed with a qualified business or the procurement process is terminated and a new request for proposals is initiated. The secretary or the representative of a local public body shall publicly announce the business selected for award.

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2006 New Mexico Statutes - Section 13-1-123 — Architectural, engineering, landscape architectural and surveying contracts.

13-1-123. Architectural, engineering, landscape architectural and surveying contracts.

A. All contracts between a state agency and an architect for the construction of new buildings or for the remodeling or renovation of existing buildings shall contain the provision that all designs, drawings, specifications, notes and other work developed in the performance of the contract are the sole property of this state.

B. All documents, including drawings and specifications, prepared by the architect, engineer, landscape architect or surveyor are instruments of professional service. If the plans and specifications developed in the performance of the contract shall become the property of the contracting agency upon completion of the work, the contracting agency agrees to hold harmless, indemnify and defend the architect, engineer, landscape architect or surveyor against all damages, claims and losses, including defense costs, arising out of any reuse of the plans and specifications without the written authorization of the architect, engineer, landscape architect or surveyor.

C. A copy of all designs, drawings and other materials which are the property of this state shall be transmitted to the contracting agency. The contracting agency shall index these materials, and a copy of the index shall be provided to the records center.

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2006 New Mexico Statutes - Section 13-1-124 — Architect rate schedule.

13-1-124. Architect rate schedule.

The secretary shall adopt by regulation an architect rate schedule which shall set the highest permissible rates for each building-type group, which shall be defined in the regulations. The rate schedule shall be in effect upon the approval of the state board of finance and compliance with the State Rules Act [14-4-1 NMSA 1978] and shall apply to all contracts between a state agency and an architect which are executed after the effective date of the architect rate schedule.

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2006 New Mexico Statutes - Section 13-1-125 — Small purchases.

13-1-125. Small purchases.

- A. A central purchasing office shall procure services, construction or items of tangible personal property having a value not exceeding twenty thousand dollars (\$20,000) in accordance with the applicable small purchase regulations adopted by the secretary, a local public body or a central purchasing office that has the authority to issue regulations.
- B. Notwithstanding the requirements of Subsection A of this section, a central purchasing office may procure professional services having a value not exceeding thirty thousand dollars (\$30,000), excluding applicable state and local gross receipts taxes, except for the services of architects, landscape architects, engineers or surveyors for state public works projects or local public works projects, in accordance with professional services procurement regulations promulgated by the department of finance and administration, the general services department or a central purchasing office with the authority to issue regulations.
- C. Notwithstanding the requirements of Subsection A of this section, a state agency or a local public body may procure services, construction or items of tangible personal property having a value not exceeding five thousand dollars (\$5,000) by issuing a direct purchase order to a contractor based upon the best obtainable price.
- D. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

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2006 New Mexico Statutes - Section 13-1-126 — Sole source procurement.

13-1-126. Sole source procurement.

A contract may be awarded without competitive sealed bids or competitive sealed proposals regardless of the estimated cost when the state purchasing agent or a central purchasing office makes a determination, after conducting a good-faith review of available sources and consulting the using agency, that there is only one source for the required service, construction or item of tangible personal property. The state purchasing agent or a central purchasing office shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the state agency or a local public body. A contract for the purchase of research consultant services by institutions of higher learning constitutes a sole source procurement.

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2006 New Mexico Statutes - Section 13-1-127 — Emergency procurements.

13-1-127. Emergency procurements.

A. The state purchasing agent, a central purchasing office or a designee of either may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances. A written determination of the basis for the emergency procurement and for the selection of the particular contractor or vendor shall be included in the procurement file. Emergency procurements shall not include the purchase or lease purchase of heavy road equipment.

B. An emergency condition is a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, fires, epidemics, riots, acts of terrorism, equipment failures or similar events and includes the planning and preparing for an emergency response. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (1) the functioning of government;
- (2) the preservation or protection of property; or
- (3) the health or safety of any person.

C. Money expended for planning and preparing for an emergency response shall be accounted for and reported to the legislative finance committee and the department of finance and administration within sixty days after the end of each fiscal year.

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2006 New Mexico Statutes - Section 13-1-128 — Sole source and emergency procurements; content and submission or record.

13-1-128. Sole source and emergency procurements; content and submission or record.

All central purchasing offices shall maintain, for a minimum of three years, records of sole source and emergency procurements. The record of each such procurement shall be public record and shall contain:

- A. the contractor's name and address;
- B. the amount and term of the contract;
- C. a listing of the services, construction or items of tangible personal property procured under the contract; and
- D. the justification for the procurement method.

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2006 New Mexico Statutes - Section 13-1-129 — Procurement under existing contracts.

13-1-129. Procurement under existing contracts.

A. Notwithstanding the requirements of Sections 13-1-102 through 13-1-118 NMSA 1978, the state purchasing agent or a central purchasing office may contract for services, construction or items of tangible personal property without the use of competitive sealed bids or competitive sealed proposals as follows:

(1) at a price equal to or less than the contractor's current federal supply contract price (GSA), providing the contractor has indicated in writing a willingness to extend such contractor pricing, terms and conditions to the state agency or local public body and the purchase order adequately identifies the contract relied upon; or

(2) with a business which has a current exclusive or nonexclusive price agreement with the state purchasing agent or a central purchasing office for the item, services or construction meeting the same standards and specifications as the items to be procured if the following conditions are met:

(a) the quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement; and

(b) the purchase order adequately identifies the price agreement relied upon.

B. The central purchasing office shall retain for public inspection and for the use of auditors a copy of each federal supply contractor state purchasing agent price agreement relied upon to make purchases without seeking competitive bids or proposals.

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2006 New Mexico Statutes - Section 13-1-130 — Purchases; antipoverty program business.

13-1-130. Purchases; antipoverty program business.

A. Without regard to the bid requirements of Section 75 [13-1-102 NMSA 1978] of the Procurement Code, a central purchasing office may negotiate a contract for materials grown, processed or manufactured in this state by small businesses, cooperatives, community self-determination corporations or other such enterprises designed and operated to alleviate poverty conditions and aided by state or federal antipoverty programs or through private philanthropy.

B. Prior to negotiating a contract under this section, a central purchasing office shall make a determination of the reasonableness of the price and the quality of the materials and that the public interest will best be served by the procurement.

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2006 New Mexico Statutes - Section 13-1-131 — Rejection or cancellation of bids or requests for proposals; negotiations.

13-1-131. Rejection or cancellation of bids or requests for proposals; negotiations.

An invitation for bids, a request for proposals or any other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part when it is in the best interest of the state agency or a local public body. A determination containing the reasons for cancellation shall be made part of the procurement file. If no bids are received or if all bids received are rejected and if the invitation for bid was for any tangible personal property, construction or service, then new invitations for bids shall be requested. If upon rebidding the tangible personal property, construction or services, the bids received are unacceptable, or if no bids are secured, the central purchasing office may purchase the tangible personal property, construction or services in the open market at the best obtainable price.

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2006 New Mexico Statutes - Section 13-1-132 — Irregularities in bids or proposals.

13-1-132. Irregularities in bids or proposals.

The state purchasing agent or a central purchasing office may waive technical irregularities in the form of the bid or proposal of the low bidder or offeror which do not alter the price, quality or quantity of the services, construction or items of tangible personal property bid or offered.

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2006 New Mexico Statutes - Section 13-1-133 — Responsibility of bidders and offerors.

13-1-133. Responsibility of bidders and offerors.

If a bidder or offeror who otherwise would have been awarded a contract is found not to be a responsible bidder or offeror, a determination that the bidder or offeror is not a responsible bidder or offeror, setting forth the basis of the finding, shall be prepared by the state purchasing agent or a central purchasing office. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination that the bidder or offeror is not a responsible bidder or offeror.

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2006 New Mexico Statutes - Section 13-1-134 — Prequalification of bidders.

13-1-134. Prequalification of bidders.

A business may be prequalified by a central purchasing office as a bidder or offeror for particular types of services, construction or items of tangible personal property. Mailing lists of potential bidders or offerors shall include but shall not be limited to such prequalified businesses.

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2006 New Mexico Statutes - Section 13-1-135 — Cooperative procurement authorized.

13-1-135. Cooperative procurement authorized.

A. Any state agency or local public body may either participate in, sponsor or administer a cooperative procurement agreement for the procurement of any services, construction or items of tangible personal property with any other state agency, local public body or external procurement unit in accordance with an agreement entered into and approved by the governing authority of each of the state agencies, local public bodies or external procurement units involved. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which the purpose will be accomplished. Any power exercised under a cooperative procurement agreement entered into pursuant to this subsection shall be limited to the central purchasing authority common to the contracting parties, even though one or more of the contracting parties may be located outside this state. An approved and signed copy of all cooperative procurement agreements entered into pursuant to this subsection shall be filed with the state purchasing agent. A cooperative procurement agreement entered into pursuant to this subsection is limited to the procurement of items of tangible personal property, services or construction.

B. Notwithstanding the provisions of Subsection A of this section, a cooperative procurement agreement providing for mutually held funds or for other terms and conditions involving public funds or property included in Section 11-1-4 NMSA 1978 shall be entered into pursuant to the provisions of the Joint Powers Agreements Act [11-1-1 NMSA 1978].

C. Central purchasing offices other than the state purchasing agent may cooperate by agreement with the state purchasing agent in obtaining contracts or price agreements, and such contract or agreed prices shall apply to purchase orders subsequently issued under the agreement.

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2006 New Mexico Statutes - Section 13-1-135.1 — Recycled content goods; cooperative procurement.

13-1-135.1. Recycled content goods; cooperative procurement.

A. Beginning July 1, 1995, each central purchasing office shall, whenever its price, quality, quantity, availability and delivery requirements are met, purchase recycled content goods through contracts established by the purchasing division of the general services department or with other central purchasing offices.

B. For purposes of this section, "recycled content goods" means supplies and materials composed in whole or in part of recycled materials; provided that the recycled materials content meets or exceeds the minimum content standards required by bid specifications.

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2006 New Mexico Statutes - Section 13-1-136 — Cooperative procurement; reports required.

13-1-136. Cooperative procurement; reports required.

The general services department and the department of finance and administration shall notify the state purchasing agent on or before January 1 of each year of the cooperative procurement agreements entered into by state agencies with local public bodies or external procurement units during the preceding fiscal year.

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2006 New Mexico Statutes - Section 13-1-137 — Sale, acquisition or use of property by a state agency or a local public body.

13-1-137. Sale, acquisition or use of property by a state agency or a local public body.

Any state agency or local public body may sell property to, acquire property from or cooperatively use any items of tangible personal property or services belonging to another state agency or a local public body or external procurement unit:

- A. in accordance with an agreement entered into with the approval of the state board of finance or the data processing and data communications planning council [information technology commission systems council]; or
- B. subject to the provisions of Sections 3-46-1 through 3-46-45; 3-54-1 through 3-54-3; 3-60-1 through 3-60-37 and 3-60A-1 through 3-60A-48 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-138 — Cost or pricing data required.

13-1-138. Cost or pricing data required.

When required by the state purchasing agent or a central purchasing office, a prospective contractor shall submit cost or pricing data when the contract is expected to exceed twenty-five thousand dollars (\$25,000) and is to be awarded by a method other than competitive sealed bids.

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2006 New Mexico Statutes - Section 13-1-139 — Cost or pricing data not required.

13-1-139. Cost or pricing data not required.

The cost or pricing data relating to the award of a contract shall not be required when:

- A. the procurement is based on competitive sealed bid;
- B. the contract price is based on established catalogue prices or market prices;
- C. the contract price is set by law or regulation;
- D. the contract is for professional services; or
- E. the contract is awarded pursuant to the Public Building Energy Efficiency Act [6-23-1 NMSA 1978].

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2006 New Mexico Statutes - Section 13-1-140 — Cost or pricing data; change orders or contract modifications.

13-1-140. Cost or pricing data; change orders or contract modifications.

When required by the state purchasing agent or a central purchasing office, a contractor shall submit cost or pricing data prior to the execution of any change order or contract modification, whether or not cost or pricing data was required in connection with the initial award of the contract, when the change order or modification involves aggregate increases or aggregate decreases that are expected to exceed twenty-five thousand dollars (\$25,000).

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2006 New Mexico Statutes - Section 13-1-141 — Cost or pricing data; change orders; contract modifications; exceptions.

13-1-141. Cost or pricing data; change orders; contract modifications; exceptions.

The submission of cost or pricing data relating to the execution of a change order or contract modification shall not be required when unrelated change orders or contract modifications for which cost or pricing data would not be required are consolidated for administrative convenience.

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2006 New Mexico Statutes - Section 13-1-142 — Cost or pricing data; certification required.

13-1-142. Cost or pricing data; certification required.

A contractor, actual or prospective, required to submit cost or pricing data shall certify that to the best of its knowledge and belief the cost or pricing data submitted was accurate, complete and current as of a specified date.

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2006 New Mexico Statutes - Section 13-1-143 — Cost or pricing data; price adjustment provision required.

13-1-143. Cost or pricing data; price adjustment provision required.

Any contractor award, change order or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the state agency or a local public body, including profit or fee, shall be adjusted to exclude any significant sums by which the state agency or a local public body reasonably finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date specified.

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2006 New Mexico Statutes - Section 13-1-144 — Cost or price analysis.

13-1-144. Cost or price analysis.

A cost analysis or a price analysis, as appropriate, may be conducted prior to the award of a contract other than one awarded by competitive sealed bidding. A written record of such cost or price analysis shall be made a part of the procurement file.

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2006 New Mexico Statutes - Section 13-1-145 — Cost principles; regulations.

13-1-145. Cost principles; regulations.

The secretary, a local public body or a central purchasing office which has the authority to issue regulations may promulgate regulations setting forth principles to be used to determine the allowability of incurred costs for the purpose of reimbursing costs to a contractor.

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2006 New Mexico Statutes - Section 13-1-146 — Requirement for bid security.

13-1-146. Requirement for bid security.

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

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2006 New Mexico Statutes - Section 13-1-147 — Bid security; rejection of bids.

13-1-147. Bid security; rejection of bids.

A. When the invitation for bids requires bid security, noncompliance by the bidder requires that the bid be rejected.

B. If a bidder is permitted to withdraw its bid before award, no action shall be had against the bidder or the bid security.

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2006 New Mexico Statutes - Section 13-1-148 — Bid and performance bonds; additional requirements.

13-1-148. Bid and performance bonds; additional requirements.

A. Bid and performance bonds or other security may be required for contracts for items of tangible personal property or services as the state purchasing agent or a central purchasing office deems necessary to protect the interests of the state agency or a local public body. Any such bonding requirements shall not be used as a substitute for a determination of the responsibility of a bidder or offeror.

B. As to performance and payment bonds for construction contracts, see the requirements of Section 13-4-18 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-148.1 — Bonding of subcontractors.

13-1-148.1. Bonding of subcontractors.

A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is fifty thousand dollars (\$50,000) or more.

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2006 New Mexico Statutes - Section 13-1-149 — Types of contracts.

13-1-149. Types of contracts.

Subject to the limitations of Sections 123 through 127 [13-1-150 to 13-1-154 NMSA 1978] of the Procurement Code, any type of contract, including but not limited to definite quantity contracts, indefinite quantity contracts and price agreements, which will promote the best interests of the state agency or a local public body may be used; provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited except for the purchase of insurance. A cost-reimbursement contract may be used when such contract is likely to be less costly or it is impracticable to otherwise obtain the services, construction or items of tangible personal property required.

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2006 New Mexico Statutes - Section 13-1-150 — Multi-term contracts; specified period.

13-1-150. Multi-term contracts; specified period.

A. A multi-term contract for items of tangible personal property, construction or services except for professional services, in an amount under twenty-five thousand dollars (\$25,000), may be entered into for any period of time deemed to be in the best interests of the state agency or a local public body not to exceed four years; provided that the term of the contract and conditions of renewal or extension, if any, are included in the specifications and funds are available for the first fiscal period at the time of contracting. If the amount of the contract is twenty-five thousand dollars (\$25,000) or more, the term shall not exceed eight years, including all extensions and renewals, except that for any such contract entered into pursuant to the Public Building Energy Efficiency and Water Conservation Act [Public Facility Energy Efficiency and Water Conservation Act, Chapter 6, Article 23 NMSA 1978], the term shall not exceed ten years, including all extensions and renewals. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

B. A contract for professional services may not exceed four years, including all extensions and renewals, except for the following:

- (1) services required to support or operate federally certified medicaid, financial assistance and child support enforcement management information or payment systems;
- (2) services to design, develop or implement the taxation and revenue information management systems project authorized by Laws 1997, Chapter 125;
- (3) a multi-term contract for the services of trustees, escrow agents, registrars, paying agents, letter of credit issuers and other forms of credit enhancement and other similar services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities remain outstanding; and
- (4) services relating to the implementation, operation and administration of the Education Trust Act [21-21K-1 NMSA 1978].

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2006 New Mexico Statutes - Section 13-1-151 — Multi-term contracts; determination prior to use.

13-1-151. Multi-term contracts; determination prior to use.

Prior to the utilization of a multi-term contract, the state purchasing agent or the central purchasing office involved shall make a determination that:

- A. the estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- B. the contract will serve the best interests of the state agency or a local public body.

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2006 New Mexico Statutes - Section 13-1-152 — Multi-term contracts; cancellation due to unavailability of funds.

13-1-152. Multi-term contracts; cancellation due to unavailability of funds.

When funds are not appropriated or otherwise made available to support continuation of performance of a multi-term contract in a subsequent fiscal period, the contract shall be cancelled.

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2006 New Mexico Statutes - Section 13-1-153 — Multiple source award; limitations on use.

13-1-153. Multiple source award; limitations on use.

A multiple source award may be made pursuant to Section 83 [13-1-110 NMSA 1978] of the Procurement Code when awards to two or more bidders or offerors are necessary for adequate delivery or service. Multiple source awards shall not be made when a single award will meet the needs of the state agency or a local public body without sacrifice of economy or service. Awards shall be limited to the least number of suppliers in one geographical area necessary to meet the requirements of the state agency or a local public body. A multiple source award shall be based upon the lowest responsible bid or proposal received in each geographical area.

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2006 New Mexico Statutes - Section 13-1-154 — Multiple source award; determination required.

13-1-154. Multiple source award; determination required.

The state purchasing agent or central purchasing office shall make a determination setting forth the reasons for a multiple source award.

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2006 New Mexico Statutes - Section 13-1-155 — Procurement of used items; appraisal required; county road equipment exception for auctions.

13-1-155. Procurement of used items; appraisal required; county road equipment exception for auctions.

A. A central purchasing office, when procuring used items of tangible personal property the estimated cost of which exceeds five thousand dollars (\$5,000), shall request bids as though the items were new, adding specifications that permit used items under conditions to be outlined in the bid specifications, including but not limited to requiring a written warranty for at least ninety days after date of delivery and an independent "certificate of working order" by a qualified mechanic or appraiser.

B. Notwithstanding the provisions of Subsection A of this section, the purchasing office for a county may purchase, at public or private auctions conducted by established, recognized commercial auction companies, used heavy equipment, having an estimated cost that exceeds five thousand dollars (\$5,000), for use in construction and maintenance of county streets, roads and highways, subject to the following provisions:

- (1) the commercial auction company shall have been in business for at least three years preceding the date of purchase and shall conduct at least five auctions annually;
- (2) the value of each piece of equipment shall be appraised prior to the auction by a qualified disinterested appraiser retained and paid by the county, who shall make a written appraisal report stating the basis for the appraisal, including the age, condition and comparable sales, and stating that the appraiser has exercised his independent judgment without prior understanding or agreement with any person as to a target value or range of value;
- (3) an independent "certificate of working condition" shall be obtained prior to the auction from a qualified mechanic who shall have made a detailed inspection of each major working or major functional part and certified the working condition of each; and
- (4) the price paid, including all auction fees and buyer's surcharges, shall not exceed the appraised value.

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2006 New Mexico Statutes - Section 13-1-156 — Trade or exchange of used items; appraisal required.

13-1-156. Trade or exchange of used items; appraisal required.

A. A central purchasing office, when trading in or exchanging used items of tangible personal property the estimated value of which exceeds five thousand dollars (\$5,000) as part-payment on the procurement of new items of tangible personal property, shall:

(1) have an independent appraisal made of the items to be traded in or exchanged. The appraisal shall be in writing, shall be made part of the procurement file and shall be a public record. The invitation for bids or request for proposals shall contain notice to prospective bidders or offerors of the description and specifications of the items to be traded in or exchanged, the appraised value of the items to be traded in or exchanged and the location where the items to be traded in or exchanged may be inspected; or

(2) have two written quotes for purchase of the property at a specified price.

B. Award shall be based upon the net bid. Bidders or offerors shall compute their net bid or offer by deducting the appraised value or highest quote of the items to be traded in or exchanged from the gross bid or offer on the new items of tangible personal property to be procured. If an amount offered in trade is less than the appraised value or the highest quote but is found to be a fair reflection of the current market, representative of the condition of the items of tangible personal property and in the best interest of the agency, the bid or offer may be accepted. Documentation of the terms of acceptance shall be in writing, shall be made a part of the procurement file and shall be a public record.

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2006 New Mexico Statutes - Section 13-1-157 — Receipt; inspection; acceptance or rejection of deliveries.

13-1-157. Receipt; inspection; acceptance or rejection of deliveries.

The using agency is responsible for inspecting and accepting or rejecting deliveries. The using agency shall determine whether the quantity is as specified in the purchase order or contract and whether the quality conforms to the specifications referred to or included in the purchase order or contract. If inspection reveals that the delivery does not conform to the quantity or quality specified in the purchase order or contract, the using agency shall immediately notify the central purchasing office. The central purchasing office shall notify the vendor that the delivery has been rejected and shall order the vendor to promptly make a satisfactory replacement or supplementary delivery. In case the vendor fails to comply, the central purchasing office shall have no obligation to pay for the nonconforming items of tangible personal property. If the delivery does conform to the quantity and quality specified in the purchase order or contract, the using agency shall certify to the central purchasing office that delivery has been completed and is satisfactory.

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2006 New Mexico Statutes - Section 13-1-158 — Payments for purchases.

13-1-158. Payments for purchases.

A. No warrant, check or other negotiable instrument shall be issued in payment for any purchase of services, construction or items of tangible personal property unless the central purchasing office or the using agency certifies that the services, construction or items of tangible personal property have been received and meet specifications or unless prepayment is permitted under Section 13-1-98 NMSA 1978 by exclusion of the purchase from the Procurement Code [13-1-28 NMSA 1978].

B. Unless otherwise agreed upon by the parties or unless otherwise specified in the invitation for bids, request for proposals or other solicitation, within fifteen days from the date the central purchasing office or using agency receives written notice from the contractor that payment is requested for services or construction completed or items of tangible personal property delivered on site and received, the central purchasing office or using agency shall issue a written certification of complete or partial acceptance or rejection of the services, construction or items of tangible personal property.

C. Except as provided in Subsection D of this section, upon certification by the central purchasing office or the using agency that the services, construction or items of tangible personal property have been received and accepted, payment shall be tendered to the contractor within thirty days of the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the contractor at the rate of one and one-half percent per month. For purchases funded by state or federal grants to local public bodies, if the local public body has not received the funds from the federal or state funding agency, payments shall be tendered to the contractor within five working days of receipt of funds from that funding agency.

D. If the central purchasing office or the using agency finds that the services, construction or items of tangible personal property are not acceptable, it shall, within thirty days of the date of receipt of written notice from the contractor that payment is requested for services or construction completed or items of tangible personal property delivered on site, provide to the contractor a letter of exception explaining the defect or objection to the services, construction or delivered tangible personal property along with details of how the contractor may proceed to provide remedial action.

E. Late payment charges that differ from the provisions of Subsection C of this section may be assessed if specifically provided for by contract or pursuant to tariffs approved by the New Mexico public utility commission or the state corporation commission [public regulation commission].

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2006 New Mexico Statutes - Section 13-1-159 — Right to inspect plant.

13-1-159. Right to inspect plant.

A contract or a solicitation therefor may include a provision permitting a state agency or a local public body, at reasonable times, to inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded.

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2006 New Mexico Statutes - Section 13-1-160 — Audit of cost or pricing data.

13-1-160. Audit of cost or pricing data.

A state agency or a local public body may, at reasonable times and places, audit the books and records of any person who has submitted cost or pricing data, to the extent that such books and records relate to such cost or pricing data. Any person who receives a contract, change order or contract modification for which cost or pricing data is required shall maintain books and records that relate to such cost or pricing data for three years from the date of final payment under the contract unless a shorter period is otherwise authorized in writing.

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2006 New Mexico Statutes - Section 13-1-161 — Contract audit.

13-1-161. Contract audit.

A state agency or a local public body shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract unless a shorter period is otherwise authorized in writing.

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2006 New Mexico Statutes - Section 13-1-162 — State procurement standards and specifications committee; terms; staff.

13-1-162. State procurement standards and specifications committee; terms; staff.

A. There is created a "state procurement standards and specifications committee." The state purchasing agent is a member and the chairman of the committee.

B. The committee consists of eleven members knowledgeable in procurement procedures, appointed by the secretary with the approval of the governor as follows:

- (1) one representative of the state highway department;
- (2) one representative of the health and environment department;
- (3) one representative of the corrections department;
- (4) one person who is an elected county official or is a full-time county employee;
- (5) one person who is an elected municipal official or is a full-time municipal employee;
- (6) one person who is an elected district school board member or is a full-time school employee;
- (7) two persons representing other state departments; and
- (8) two persons representing the private sector.

C. The terms of all committee members are limited to the term of the governor under whom they were appointed; provided, however, that the terms of the county, municipal and district school board members are further conditioned upon their continuing service with the local governing body which qualified their appointment.

D. The state purchasing agent shall provide the necessary staff for the committee.

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2006 New Mexico Statutes - Section 13-1-163 — Committee powers and duties; special committees; annual report.

13-1-163. Committee powers and duties; special committees; annual report.

- A. The committee shall prepare standards, specifications and a list of acceptable brand-name items and shall seek the advice and assistance of state agencies and local public bodies to ascertain their common and special requirements.
- B. The committee shall develop model specifications for all state agencies and local public bodies.
- C. The committee shall assist the state purchasing agent in the preparation of rules and regulations.
- D. The committee shall appoint special committees consisting of representatives of state departments, local public bodies and private industry, including technical consultants, for the study of any commodity or commodity group whenever such appointment is necessary or reasonable. The special committee shall automatically dissolve upon the completion of its specific task.
- E. The committee and special committees may make use of the laboratories, engineering facilities and technical staff of any state department or agency, including educational institutions, in connection with the performance of their duties.
- F. The state purchasing agent shall report annually to the secretary on the work done by the committee and its special committees during the calendar year. The report shall be made available to the legislature by delivering a copy to the legislative finance committee prior to the beginning of each annual legislative session.
- G. No standard, specification, acceptable brand list, rule or regulation recommended by the committee shall be construed to alter the authority of any state agency or local public body.

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2006 New Mexico Statutes - Section 13-1-164 — Specifications; maximum practicable competition.

13-1-164. Specifications; maximum practicable competition.

All specifications shall be drafted so as to ensure maximum practicable competition and fulfill the requirements of state agencies and local public bodies.

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2006 New Mexico Statutes - Section 13-1-165 — Brand-name specification; use.

13-1-165. Brand-name specification; use.

A brand-name specification may be used only when the state purchasing agent or a central purchasing office makes a determination that only the identified brand-name item or items will satisfy the needs of the state agency or a local public body.

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2006 New Mexico Statutes - Section 13-1-166 — Brand-name specification; competition.

13-1-166. Brand-name specification; competition.

The state purchasing agent or a central purchasing office shall seek to identify sources from which the designated brand-name items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 99 [13-1-126 NMSA 1978] of the Procurement Code.

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2006 New Mexico Statutes - Section 13-1-167 — Brand-name or equal specification; required characteristics.

13-1-167. Brand-name or equal specification; required characteristics.

Unless the state purchasing agent or a central purchasing office makes a determination that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand-name or equal specifications shall include a description of the particular design, function or performance characteristics which are required.

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2006 New Mexico Statutes - Section 13-1-168 — Brand-name or equal specification; required language.

13-1-168. Brand-name or equal specification; required language.

Where a brand-name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

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2006 New Mexico Statutes - Section 13-1-169 — Purchase request; specifications; purchase orders.

13-1-169. Purchase request; specifications; purchase orders.

A. All using agency requests for procurement shall contain:

- (1) a statement of need and the general characteristics of the item, construction or service desired; and
- (2) a statement of the quantity desired and a general statement of quality.

B. The central purchasing office may consolidate procurements and may contract for items of tangible personal property or services at a firm price at which the items or services needed during the year or portion of a year shall be purchased.

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2006 New Mexico Statutes - Section 13-1-170 — Uniform contract clauses.

13-1-170. Uniform contract clauses.

A. A state agency, local public body or central purchasing office with the power to issue regulations may require by regulation that contracts include uniform clauses providing for termination of contracts, adjustments in prices, adjustments in time of performance or other contract provisions as appropriate, including but not limited to the following subjects:

- (1) the unilateral right of a state agency or a local public body to order in writing:
 - (a) changes in the work within the scope of the contract; and
 - (b) temporary stoppage of the work or the delay of performance;
- (2) variations occurring between estimated quantities of work in a contract and actual quantities;
- (3) liquidated damages;
- (4) permissible excuses for delay or nonperformance;
- (5) termination of the contract for default;
- (6) termination of the contract in whole or in part for the convenience of the state agency or a local public body;
- (7) assignment clauses providing for the assignment by the contractor to the state agency or a local public body of causes of action for violation of state or federal antitrust statutes;
- (8) identification of subcontractors by bidders in bids; and
- (9) uniform subcontract clauses in contracts.

B. A state agency, local public body or central purchasing office with the power to issue regulations shall require by regulation that contracts include a clause imposing late payment charges against the state agency or local public body in the amount and under the conditions stated in Section 13-1-158 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-171 — Price adjustments.

13-1-171. Price adjustments.

Adjustments in price shall be computed in one or more of the following ways as specified in the contract:

- A. by agreement on a fixed-price adjustment before commencement of performance or as soon thereafter as practicable;
- B. by unit prices specified in the contract or subsequently agreed upon by the parties;
- C. by the costs attributable to the events or conditions as specified in the contract or subsequently agreed upon by the parties;
- D. by a provision for both upward and downward revision of stated contract price upon the occurrence of specified contingencies if the contract is for commercial items sold in substantial quantities to the general public with prices based upon established catalogue or list prices in a form regularly maintained by the manufacturer or vendor and published or otherwise available for customer inspection. In the event of revision of the stated contract price, the contract file shall be promptly documented by the state purchasing agent or central purchasing office.
- E. in such other manner as the contracting parties may mutually agree; or
- F. in the absence of agreement by the parties, by a unilateral determination reasonably computed by the state agency or a local public body of the costs attributable to the events or conditions.

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2006 New Mexico Statutes - Section 13-1-172 — Right to protest.

13-1-172. Right to protest.

Any bidder or offeror who is aggrieved in connection with a solicitation or award of a contract may protest to the state purchasing agent or a central purchasing office. The protest shall be submitted in writing within fifteen calendar days after knowledge of the facts or occurrences giving rise to the protest.

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2006 New Mexico Statutes - Section 13-1-173 — Procurements after protest.

13-1-173. Procurements after protest.

In the event of a timely protest under Section 145 [13-1-172 NMSA 1978] of the Procurement Code, the state purchasing agent or a central purchasing office shall not proceed further with the procurement unless the state purchasing agent or a central purchasing office makes a determination that the award of the contract is necessary to protect substantial interests of the state agency or a local public body.

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2006 New Mexico Statutes - Section 13-1-174 — Authority to resolve protests.

13-1-174. Authority to resolve protests.

The state purchasing agent, a central purchasing office or a designee of either shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved bidder or offeror. This authority shall be exercised in accordance with regulations promulgated by the secretary, a local public body or a central purchasing office which has the authority to issue regulations but shall not include the authority to award money damages or attorneys' fees.

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2006 New Mexico Statutes - Section 13-1-175 — Protest; determination.

13-1-175. Protest; determination.

The state purchasing agent, a central purchasing office or a designee of either shall promptly issue a determination relating to the protest. The determination shall:

- A. state the reasons for the action taken; and
- B. inform the protestant of the right to judicial review of the determination pursuant to Section 156 [13-1-183 NMSA 1978] of the Procurement Code.

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2006 New Mexico Statutes - Section 13-1-176 — Protest; notice of determination.

13-1-176. Protest; notice of determination.

A copy of the determination issued under Section 148 [13-1-175 NMSA 1978] of the Procurement Code shall immediately be mailed to the protestant and other bidders or offerors involved in the procurement.

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2006 New Mexico Statutes - Section 13-1-177 — Authority to debar or suspend.

13-1-177. Authority to debar or suspend.

The state purchasing agent or a central purchasing office, after reasonable notice to the business involved, shall have authority to recommend to the governing authority of a state agency or a local public body the suspension or debarment of a business for cause from consideration for award of contracts, other than contracts for professional services. The debarment shall not be for a period of more than three years, and a suspension shall not exceed three months. The authority to debar or suspend shall be exercised by the governing authority of a state agency or a local public body in accordance with regulations which shall provide for reasonable notice and a fair hearing prior to suspension or debarment.

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2006 New Mexico Statutes - Section 13-1-178 — Causes for debarment or suspension; time limit.

13-1-178. Causes for debarment or suspension; time limit.

The causes for debarment or suspension occurring within three years of a procurement include but are not limited to the following:

- A. conviction of a bidder, offeror or contractor for commission of a criminal offense related to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- B. conviction of a bidder, offeror or contractor under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records or receiving stolen property;
- C. conviction of a bidder, offeror or contractor under state or federal antitrust statutes arising out of the submission of bids or proposals;
- D. violation by a bidder, offeror or contractor of contract provisions, as set forth in this subsection, of a character which is reasonably regarded by the state purchasing agent or a central purchasing office to be so serious as to justify suspension or debarment action:
 - (1) willful failure to perform in accordance with one or more contracts, provided that this failure has occurred within a reasonable time preceding the decision to impose debarment; or
 - (2) a history of failure to perform, or of unsatisfactory performance of, one or more contracts, provided that this failure or unsatisfactory performance has occurred within a reasonable time preceding the decision to impose debarment and provided further that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- E. any other cause occurring within three years of a procurement which the state purchasing agent or a central purchasing office determines to be so serious and compelling as to affect responsibility as a contractor; or
- F. for a willful violation by a bidder, offeror or contractor of the provisions of the Procurement Code [13-1-28 NMSA 1978] within three years of a procurement.

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2006 New Mexico Statutes - Section 13-1-179 — Debarment or suspension; determination.

13-1-179. Debarment or suspension; determination.

The governing authority of a state agency or a local public body shall issue a written determination to debar or suspend. The determination shall:

- A. state the reasons for the action taken; and
- B. inform the debarred or suspended business involved of its rights to judicial review pursuant to Section 156 [13-1-183 NMSA 1978] of the Procurement Code.

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2006 New Mexico Statutes - Section 13-1-180 — Debarment or suspension; notice of determination.

13-1-180. Debarment or suspension; notice of determination.

A copy of the determination under Section 152 [13-1-179 NMSA 1978] of the Procurement Code shall immediately be mailed to the debarred or suspended business.

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2006 New Mexico Statutes - Section 13-1-181 — Remedies prior to execution of contract.

13-1-181. Remedies prior to execution of contract.

If prior to the execution of a valid, written contract by all parties and necessary approval authorities, the state purchasing agent or a central purchasing office makes a determination that a solicitation or proposed award of the proposed contract is in violation of law, then the solicitation or proposed award shall be canceled.

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2006 New Mexico Statutes - Section 13-1-182 — Ratification or termination after execution of contract.

13-1-182. Ratification or termination after execution of contract.

If after the execution of a valid, written contract by all parties and necessary approval authorities, the state purchasing agent or a central purchasing office makes a determination that a solicitation or award of the contract was in violation of law and if the business awarded the contract did not act fraudulently or in bad faith:

- A. the contract may be ratified, affirmed and revised to comply with law, provided that a determination is made that doing so is in the best interests of a state agency or a local public body; or
- B. the contract may be terminated, and the contractor shall be compensated for the actual expenses reasonably incurred under the contract plus a reasonable profit prior to termination.

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2006 New Mexico Statutes - Section 13-1-183 — Judicial review.

13-1-183. Judicial review.

All actions authorized by the Procurement Code [13-1-28 NMSA] for judicial review of a determination shall be filed pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

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2006 New Mexico Statutes - Section 13-1-184 — Assistance to small business; policy.

13-1-184. Assistance to small business; policy.

It shall be the policy of this state to encourage small businesses to do business with state agencies and local public bodies.

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2006 New Mexico Statutes - Section 13-1-185 — Assistance to small business; duties of the state purchasing agent.

13-1-185. Assistance to small business; duties of the state purchasing agent.

- A. The state purchasing agent shall issue publications designed to assist small businesses in learning how to do business with the state agencies and local public bodies.
- B. The state purchasing agent shall compile, maintain and make available source lists of small businesses for the purpose of encouraging procurement by the state agencies and local public bodies from small businesses.
- C. The state purchasing agent and central purchasing offices shall take all reasonable action to ensure that small businesses are solicited on each procurement for which they appear to be qualified.
- D. The state purchasing agent shall develop training programs to assist small businesses in learning how to do business with the state agencies and local public bodies.
- E. The state purchasing agent or a central purchasing office may make special provisions for progress payments as such office or officer may deem reasonably necessary to encourage procurement from small businesses in accordance with regulations promulgated by the secretary or a central purchasing office with authority to issue regulations.

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2006 New Mexico Statutes - Section 13-1-186 — Assistance to small business; bid bonds; reduction.

13-1-186. Assistance to small business; bid bonds; reduction.

The state purchasing agent or central purchasing office may reduce bid bond, performance bond or payment bond requirements authorized by the Procurement Code [13-1-28 NMSA 1978] to encourage procurement from small businesses.

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2006 New Mexico Statutes - Section 13-1-187 — Small business; report to the legislature.

13-1-187. Small business; report to the legislature.

The state purchasing agent shall annually, before January 1, report in writing to the legislature concerning the awarding of state contracts to small businesses during the preceding fiscal year.

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2006 New Mexico Statutes - Section 13-1-188 — Public acquisition of American-made motor vehicles required.

13-1-188. Public acquisition of American-made motor vehicles required.

A state agency shall only acquire motor vehicles assembled in North America except for gas-electric hybrid vehicles until these vehicles are assembled in North America. For the purposes of this section, "motor vehicle" means a light duty vehicle under 8,500 pounds.

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2006 New Mexico Statutes - Section 13-1-189 — Procurements pursuant to the Corrections Industries Act.

13-1-189. Procurements pursuant to the Corrections Industries Act.

A. All state agencies shall purchase and all local public bodies may purchase items of tangible personal property and services offered pursuant to the provisions of the Corrections Industries Act [33-8-1 NMSA 1978].

B. The corrections industries commission shall prepare a catalogue containing an accurate and complete description of all items of tangible personal property and services available. A copy of the catalogue shall be provided to each state agency and local public body. The catalogue shall contain an approximate time required for delivery of each item of tangible personal property and service.

C. The state purchasing agent or a central purchasing office shall purchase available items of tangible personal property and services from the catalogue unless a determination is made that:

- (1) an emergency exists requiring immediate action to procure the items of tangible personal property or service;
- (2) the specifications for the items of tangible personal property or service, including quality, quantity and delivery requirements, cannot be met within a reasonable time by the corrections department; or
- (3) the price to be paid to the corrections department for the items of tangible personal property or service is higher than the bid price of comparable items of tangible personal property or services.

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2006 New Mexico Statutes - Section 13-1-190 — Unlawful employee participation prohibited.

13-1-190. Unlawful employee participation prohibited.

A. Except as permitted by the University Research Park Act [21-28-1 NMSA 1978], it is unlawful for any state agency or local public body employee, as defined in the Procurement Code [13-1-28 NMSA 1978], to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract.

B. An employee or any member of an employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a financial interest with regard to matters pertaining to that trust.

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2006 New Mexico Statutes - Section 13-1-191 — Bribes; gratuities and kickbacks; contract reference required.

13-1-191. Bribes; gratuities and kickbacks; contract reference required.

All contracts and solicitations therefor shall contain reference to the criminal laws prohibiting bribes, gratuities and kickbacks.

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2006 New Mexico Statutes - Section 13-1-192 — Contingent fees prohibited.

13-1-192. Contingent fees prohibited.

It is unlawful for a person or business to be retained or for a business to retain a person or business to solicit or secure a contract upon an agreement or understanding that the compensation is contingent upon the award of the contract, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business and persons or businesses employed by a local public body which are providing professional services to the local public body in anticipation of the receipt of federal or state grants or loans.

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2006 New Mexico Statutes - Section 13-1-193 — Contemporaneous employment prohibited.

13-1-193. Contemporaneous employment prohibited.

It is unlawful for any state agency or local public body employee who is participating directly or indirectly in the procurement process to become or to be, while such an employee, the employee of any person or business contracting with the governmental body by whom the employee is employed.

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2006 New Mexico Statutes - Section 13-1-194 — Waivers from contemporaneous employment and unlawful employee participation permitted.

13-1-194. Waivers from contemporaneous employment and unlawful employee participation permitted.

A state agency or a local public body may grant a waiver from unlawful employee participation pursuant to Section 163 [13-1-190 NMSA 1978] of the Procurement Code, or contemporaneous employment pursuant to Section 166 [13-1-193 NMSA 1978] of the Procurement Code, upon making a determination that:

- A. the contemporaneous employment or financial interest of the employee has been publicly disclosed;
- B. the employee will be able to perform his procurement functions without actual or apparent bias or favoritism;
and
- C. the employee participation is in the best interests of the state agency or a local public body.

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2006 New Mexico Statutes - Section 13-1-195 — Use of confidential information prohibited.

13-1-195. Use of confidential information prohibited.

It is unlawful for any state agency or local public body employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.

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2006 New Mexico Statutes - Section 13-1-196 — Civil penalty.

13-1-196. Civil penalty.

Any person, firm or corporation that knowingly violates any provision of the Procurement Code [13-1-28 NMSA 1978] is subject to a civil penalty of not more than one thousand dollars (\$1,000) for each procurement in violation of any provision of the Procurement Code. The attorney general or the district attorney in the jurisdiction in which the violation occurs is empowered to bring a civil action for the enforcement of any provision of the Procurement Code. Any penalty collected under the provisions of this section shall be credited to the general fund of the political subdivision in which the violation occurred and on whose behalf the suit was brought.

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2006 New Mexico Statutes - Section 13-1-197 — Recovery of value transferred or received; additional civil penalty.

13-1-197. Recovery of value transferred or received; additional civil penalty.

An amount equal to the value of anything transferred or received in violation of the provisions of the Procurement Code [13-1-28 NMSA 1978] by a transferor and transferee may be imposed as a civil penalty upon both the transferor and transferee. The civil penalty provided for in this section is imposed in addition but pursuant to the terms and conditions of Section 169 [13-1-196 NMSA 1978] of the Procurement Code.

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2006 New Mexico Statutes - Section 13-1-198 — Kickbacks; additional civil penalty.

13-1-198. Kickbacks; additional civil penalty.

Upon a showing that a subcontractor made a kickback to a prime contractor or a higher-tier subcontractor in connection with the award of a subcontract or order thereunder, it is conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the state agency or a local public body. An amount equal to the kickback is imposed as a civil penalty by the state agency or a local public body upon the recipient and upon the subcontractor making such kickbacks in addition but pursuant to the terms and conditions of Section 169 [13-1-196 NMSA 1978] of the Procurement Code.

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2006 New Mexico Statutes - Section 13-1-199 — Misdemeanor.

13-1-199. Misdemeanor.

Any business or person which violates the Procurement Code [13-1-28 NMSA 1978] is guilty of a misdemeanor.

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MEMORANDUM

To: Northern New Mexico College Board of Regents

From: Ricky A. Bejarano, CPA, CGMA
VP Finance & Administration

Date: May 29, 2018

Re: College of Nursing and Health Sciences and GIS Course Fees

Issue

Increased cost of standardized testing for nursing students enrolled in the associate degree nursing program.

Overview

Nursing students pay a variety of program specific course fees that cover the additional costs of nursing education, such as standardized testing, student uniforms, criminal background checks, and malpractice liability insurance (See attached list of Course Fees). These course fees are approved by the Board of Regents, attached to specific courses, and covered by financial aid awards. Any changes to the amounts of the course fee or the addition of new course fees are brought to the Board of Regents on a regular basis for approval. The Cost of Materials and Certification for EMT-Basic, Fingerprinting and Criminal background check have increased as follows:

**Materials and Certification for EMT-Basic \$184 (increase from \$100)
Fingerprinting (\$17); Criminal Background (\$74) Total fees: \$91 (new fee)**

The associate degree nursing program requests approval of the increase in course fees for standardized testing (see bolded items above and in the attached list of course fees).

GIS Course Fees:

Dr. Teresa Beaty, Assistant Professor, Biology created course curriculum for ES 203: Introduction to GIS/GPS that will provide students with useful skills that are practical in real world application. In this process she realized many of these skills overlap with the skills that are tested in a certification by ESRI, the creator of the most widely used GIS software ArcMap. The fee associated with ES 203 will pay for the testing fee for Arc Desktop Entry. This certificate is an industry recognized standard for basic level map creation and GIS skills. The certification will make students to be more competitive in the workforce, as more and more employers are interested in GIS skills. ES 203 is currently designed that the Arc Desktop Entry certification exam will be the final exam for the

course. The current price for the test is \$225, however, the course fee requested is \$250 as Dr. Beaty anticipates the price will increase over the next couple of semesters. The logic is the College will not continually ask the Board of Regents for an increase in fee every time the exam increases by \$5.00.

Recommendation

Staff recommends that the Board of Regents approve the increase to nursing student course fees and GIS Course Fees effective fall semester 2018.



Northern New Mexico College
College of Nursing & Health Sciences
Course fees

Effective fall semester 2018

(Fees that are bolded are either new or changed and need BOR approval)

HSCI 102	\$5 CPR cards and \$16 for textbook for total of \$21
HSCI 109	\$ 27 CPR Cards and \$23 textbook for total of \$50
HSCI 160L	\$184 Materials and Certification for EMT-Basic (increase from \$100)
NURS 100L	\$15 Student malpractice liability insurance, \$17 fingerprinting, \$74 Criminal background check for a total of \$106
NURS 113	\$135 Standardized Testing (increase from \$125)
NURS113L	\$15 Student malpractice liability insurance; \$17 fingerprinting; \$74 Criminal background check; \$42 drug screening; \$100 student uniform; \$70 for student lab supply tote for a total of \$318
NURS 114L	\$75 Docucare® Computerized Charting Program
NURS 125	\$135 Standardized Testing (increase from \$112.50)
NURS 225	\$124.75 Standardized Testing (increase from \$112.50). Increase to \$135 effective 8/15/17.
NURS 225L	\$15 Student malpractice liability insurance, \$17 fingerprinting, \$74 Criminal background check for a total of \$106
NURS 235	\$124.75 Standardized Testing (increase from \$112.50). Increase to \$135 effective 8/15/17.
NURS 235L	\$45 Capital Challenge
NURS 400	\$17 Fingerprinting; \$74 Criminal background check. Total \$91 (new fee)
NURS 430	\$15 Student malpractice liability insurance
NURS 440	\$45 Capital Challenge
NURS 451	\$15 Malpractice liability insurance
IHS 358	\$35 Herbal supplies

Revised 4/30/18



Emergency Medical Services Academy

December 15, 2016

Greetings EMS training partners:

Below are listed the fees to hold most UNM EMSA classes. Minimum enrollment for initial licensing courses, to provide a large enough cohort for an effective learning environment, is 6 students.


Full Initial Licensure courses	First Responder (6-12 students)	First Responder (each additional student over 12)	EMT- Basic (6-12 students)	EMT- Basic (each additional student over 12)	EMT- Intermediate (6-12 students)	EMT- Intermediate (each additional student over 12)
Instructor salary and supplies provided by EMSA*	\$ 6120.00	\$ 510.00	\$ 11,700.00	\$ 975.00	\$ 13,980.00	\$1165.00
Instructor salary provided by EMSA, supplies provided by service	\$ 4680.00	\$ 390.00	\$ 10,680.00	\$ 890.00	\$ 11,100.00	\$ 925.00
Instructor salary provided by service, supplies provided by EMSA*	\$ 3180.00	\$ 265.00	\$ 5280.00	\$ 440.00	\$ 8160.00	\$ 680.00
Supplies and Instructor salary provided by service	\$ 2076.00	\$ 173.00	\$ 3900.00	\$ 325.00	\$ 4440.00	\$ 370.00
UNM branch and non-UNM campus partners (no minimum enrollment, cost is per student)	\$75.00	\$75.00	\$184.00	\$184.00	\$184.00	\$184.00
Transition courses (no minimum enrollment, cost is per student)	\$105.00	\$105.00	\$105.00	\$105.00	\$105.00	\$105.00

*The supply fee now includes a trailer as needed (and when available).

The UNM EMS Academy strives to keep course fees as low as possible. We will remain focused on making courses accessible, and assisting neighboring communities in coordination to encourage course enrollment and successful student outcomes.

We suggest you submit your course request 60 days in advance of course start date, as a best practice. Beginning March 1, 2017 course requests received less than 45 days in advance of start-date are subject to a \$500.00 expediting fee along with the regular approval process.

Respectfully,


 Lindsay Eakes, MBA, NRP
 Assistant Director, EMS Academy
 Director, Paramedic Programs
 Department of Emergency Medicine

University of New Mexico School of Medicine Emergency Department EMS Academy
 3 University of New Mexico • MSC11 6260 • Albuquerque, NM 87131
 Phone: 505-272-5757 • Fax: 505-272-6503 • email: emsa@salud.unm.edu • website: www.unmems.org



MEMORANDUM

To: Northern New Mexico College Board of Regents

From: Ricky A. Bejarano, CPA, CGMA
VP Finance & Administration

Date: May 29, 2018

Re: Request to Adopt New Mexico Per Diem & Mileage Act and Appertaining Regulations by Board of Regents Resolution

Issue

The yearly audit of NNMC for Fiscal Year Ending 6/30/2017 contained a finding classified as significant deficiency and noncompliance for violation of the Per Diem & Mileage Act. This was a repeat finding. In addition, the forensic review conducted by the McHard firm also found several issues of noncompliance. Of special note, should be the impact that this finding had and could continue to have on Federal Funding (current & future).

2015-001

Recommendation

After lengthy discussions with the auditors as well as review of the recommendations of the auditors within this finding in addition to discussions with Federal Authorities pertaining to their concerns, staff believes that the best course of action is for NNMC to both follow Sections 10-8-1 to 10-8-8 (Per Diem & Mileage Act) *as well as any appertaining regulations and future amendments to either the statutes or regulations*. We recommend that the college cease the adoption of any policies and/or procedures that conflict with either the statutes or regulations pertaining to the procurement code.



RESOLUTION OF NORTHERN NEW MEXICO COLLEGE BOARD OF REGENTS

Effective immediately, the Board of Regents of Northern New Mexico College (The Board) having met on May 29, 2018 at a special meeting scheduled by The Board after sufficient public notice had been given, unanimously resolves that Northern New Mexico College hereby adopts the State of New Mexico Per Diem and Mileage Act (Sections 10-8-1 to 10-8-8, NMSA 1978) and all appertaining regulations as published and subsequently updated. The Board, through this action, hereby repeals all previously-issued policies, procedures, and other such guidance issued by Northern New Mexico College pertaining to Per Diem & Mileage.

Kevin F. Powers
Board of Regents President

Date

Damian L. Martinez
Secretary/Treasurer

Date

New Mexico Statutes Chapter 10, Article 8 § 10-8-1 through 10-8-8 "Per Diem and Mileage Act"

10-8-1. Short title.

Sections 10-8-1 through 10-8-8 NMSA 1978 may be cited as the "Per Diem and Mileage Act".

10-8-2. Purpose of act.

The purpose of the Per Diem and Mileage Act is to establish rates for reimbursement for travel for public officers and employees coming under the Per Diem and Mileage Act. The act is designed to be referred to where applicable in statutes setting compensation of public officers and employees.

10-8-3. Definitions.

As used in the Per Diem and Mileage Act [10-8-1 NMSA 1978]:

- A. "secretary" means the secretary of finance and administration;
- B. "employee" means any person who is in the employ of any state agency, local public body or public post-secondary educational institution and whose salary is paid either completely or in part from public money, but does not include jurors or jury commissioners;
- C. "governing board" means the board of regents of any institution designated in Article 12, Section 11 of the constitution of New Mexico or designated in Chapter 21, Article 14 NMSA 1978, or the board of any institution designated in Chapter 21, Articles 13, 16 and 17 NMSA 1978;
- D. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions, except public post-secondary educational institutions;
- E. "state agency" means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, except public post-secondary educational institutions;
- F. "public post-secondary educational institution" means any institution designated in Article 12, Section 11 of the constitution of New Mexico and any institution designated in Chapter 21, Articles 13, 14, 16 and 17 NMSA 1978; and
- G. "public officer" or "public official" means every elected or appointed officer of the state, local public body or any public post-secondary educational institution. Public officer includes members of advisory boards appointed by any state agency, local public body or public post-secondary educational institution.

10-8-4. Per diem and mileage rates; in lieu of payments.

A. Notwithstanding any other specific law to the contrary and except as provided in Subsection I of this section, every nonsalaried public officer shall receive either reimbursement pursuant to the provisions of Subsection K or L of this section or up to ninety-five dollars (\$95.00) per diem expenses:

- (1) for each board or committee meeting attended; or

(2) for each day spent in discharge of official duties for travel within the state but away from his home.

Nonsalaried public officers who travel to attend a board or committee meeting may elect to be reimbursed per diem under either Paragraph (1) or (2) of this subsection.

B. Every salaried public officer or employee who is traveling within the state but away from his home and away from his designated post of duty on official business shall receive either reimbursement pursuant to the provisions of Subsection K or L of this section or:

(1) up to eighty-five dollars (\$85.00) per diem expenses for each day spent in the discharge of his official duties for a salaried public officer or employee of a local public body or state agency. If the secretary finds that a per diem allowance of eighty-five dollars (\$85.00) is inadequate for reimbursement of expenses in any municipality of this state, the secretary may authorize the reimbursement of per diem for travel to the municipality not to exceed one hundred thirty-five dollars (\$135); or

(2) up to eighty-five dollars (\$85.00) per diem expenses for each day spent in the discharge of his official duties for a salaried public officer or employee of a public post-secondary educational institution. If the governing board finds that a per diem allowance of eighty-five dollars (\$85.00) is inadequate for reimbursement of expenses in any municipality of this state, the governing board may authorize the reimbursement of per diem for travel to the municipality not to exceed one hundred thirty-five dollars (\$135).

C. Every public officer or employee shall receive either reimbursement pursuant to the provisions of Subsection K or L of this section or:

(1) for public officers or employees of a state agency or local public body, up to one hundred fifteen dollars (\$115) per diem expenses for each day of travel outside the state on official business. If the secretary finds that a per diem allowance of one hundred fifteen dollars (\$115) is inadequate for out-of-state travel to a geographical area, the secretary may authorize per diem not to exceed two hundred fifteen dollars (\$215) for out-of-state travel to that geographical area; provided that the secretary may authorize per diem for travel to a locality inside or outside the continental United States for a public officer or employee who is reimbursed solely from federal funds in accordance with the rate allowed by the federal government for travel to that locality. In lieu of per diem, a person trained in the field of accountancy and performing duties in that field of training as an employee while assigned for periods exceeding three weeks per assignment to travel out of state on official business may receive either reimbursement pursuant to the provisions of Subsection K of this section or actual expenses not to exceed two hundred fifteen dollars (\$215) per day. Expenses shall be substantiated in accordance with rules promulgated by the department of finance and administration. The secretary may promulgate

rules defining what constitutes out-of-state travel for purposes of the Per Diem and Mileage Act [10-8-1 NMSA 1978]; or

(2) for public officers or employees of a public post-secondary educational institution, up to one hundred fifteen dollars (\$115) per diem expenses for each day of travel outside the state on official business. If the governing board finds that a per diem allowance of one hundred fifteen dollars (\$115) is inadequate for out-of-state travel to a geographical area, the governing board may authorize per diem not to exceed two hundred fifteen dollars (\$215) for out-of-state travel to that geographical area; provided that the governing board may authorize per diem for travel to a locality inside or outside the continental United States for a public officer or employee who is reimbursed solely from federal funds in accordance with the rate allowed by the federal government for travel to that locality. Expenses shall be substantiated in accordance with rules promulgated by the governing board. The governing board may promulgate rules defining what constitutes out-of-state travel for purposes of the Per Diem and Mileage Act [10-8-1 NMSA 1978].

D. Every public officer or employee shall receive thirty-two cents (\$.32) a mile for each mile traveled in a privately owned vehicle or eighty-eight cents (\$.88) a mile for each mile traveled in a privately owned airplane if the travel is necessary to the discharge of his official duties and if the private conveyance is not a common carrier; provided, however, that only one person shall receive mileage for each mile traveled in a single privately owned vehicle or airplane except in the case of common carriers, in which case the person shall receive the cost of the ticket in lieu of the mileage allowance.

E. The per diem and mileage or per diem and cost of tickets for common carriers paid to salaried public officers or employees is in lieu of actual expenses for transportation, lodging and subsistence.

F. In addition to the in-state per diem set forth in this section, the department of finance and administration, by rule, may authorize a flat subsistence rate in the amount set by the legislature in the general appropriation act for commissioned officers of the New Mexico state police in accordance with rules promulgated by the department of finance and administration.

G. In lieu of the in-state per diem set in Subsection B of this section, the department of finance and administration may, by rule, authorize a flat monthly subsistence rate for certain employees of the state highway and transportation department, provided that the payments made under this subsection shall not exceed the maximum amount that would be paid under Subsection B of this section.

H. Per diem received by nonsalaried public officers for travel on official business or in the discharge of their official duties, other than attending a board or committee meeting, and per diem received by

public officers and employees for travel on official business shall be prorated in accordance with rules of the department of finance and administration or the governing board.

I. The provisions of Subsection A of this section do not apply to payment of per diem expense to a nonsalaried public official of a municipality for attendance at board or committee meetings held within the boundaries of the municipality.

J. In addition to any other penalties prescribed by law for false swearing on an official voucher, it shall be cause for removal or dismissal from office.

K. With prior written approval of the secretary or the secretary's designee or the local public body, a nonsalaried public officer of a state agency or local public body, a salaried public officer of a state agency or local public body or a salaried employee of a state agency or local public body is entitled to per diem expenses under this subsection and shall receive:

- (1) reimbursement for actual expenses for lodging; and
- (2) reimbursement for actual expenses for meals not to exceed thirty dollars (\$30.00) per day for in-state travel and forty-five dollars (\$45.00) per day for out-of-state travel.

L. With prior written approval of the governing board or its designee, a nonsalaried public officer of a public post-secondary educational institution, a salaried public officer of a public post-secondary educational institution or a salaried employee of a public post-secondary educational institution is entitled to per diem expenses under this subsection and shall receive:

- (1) reimbursement for actual expenses for lodging; and
- (2) reimbursement for actual expenses for meals not to exceed thirty dollars (\$30.00) per day for in-state travel and forty-five dollars (\$45.00) per day for out-of-state travel.

10-8-5. Restrictions; regulations.

A. The secretary may promulgate rules and regulations for state agencies and local public bodies for the purpose of carrying out the provisions of the Per Diem and Mileage Act [10-8-1 NMSA 1978]. Public officials of public post-secondary educational institutions and employees of public post-secondary educational institutions shall be subject to the rules and regulations of their governing boards.

B. Public funds may be advanced to any public officer or employee before the travel occurs only with prior written approval of the secretary, the secretary's designee, the local public body or the governing board or its designee. This restriction shall not prohibit the use of authorized credit cards in connection with purchases necessary to the use of vehicles owned by the state, a local public body or a public post-secondary educational institution or for food, lodging or transportation as permitted by the department of finance and administration or the governing board. Public funds shall be paid out under the Per Diem

and Mileage Act only upon vouchers duly presented with any required receipts attached thereto. For employees authorized to receive public funds in advance of travel, payment shall be received only upon vouchers submitted with attached authorization for each travel period. For public officers or employees using authorized credit cards, vouchers with required receipts for each month's travel expenses shall be submitted as a condition to receiving authorization to use the credit card for the next month's travel. Travel expenses may also be advanced if the travel is to be performed under provisions of federal or private contracts and the funds used are not derived from taxes or revenues paid to the state or any of its political subdivisions.

C. Money expended by the governor from the appropriations made for his office and contingent and other expenses are not subject to any of the foregoing provisions of this section and are not subject to audit; provided that the governor shall only use contingent and other expenses for purposes connected with obligations of the office. An expenditure report on the use of the governor's contingent and other expenses shall be submitted annually to the department of finance and administration.

D. The secretary may reduce the rates set for the per diem and mileage for any class of public officials and for employees of state agencies, except public officials of public post-secondary educational institutions, at any time he deems it to be in the public interest, and such reduction shall not be construed to permit payment of any other compensation, perquisite or allowance. The secretary shall exercise this power of reduction in a reasonable manner and shall attempt to achieve a standard rate for all public officers and employees of the same classification. The secretary may, at the request of any state agency and for good cause shown, reduce the rates of per diem and mileage for that state agency. The governing body of any local public body may eliminate or may reduce the rates set for the per diem and mileage for all or any class of public officials and employees of the local public body at any time the local public body deems it to be in the public interest, and such reduction shall not be construed to permit payment of any other compensation, perquisite or allowance. The local public body shall exercise this power of reduction in a reasonable manner and shall attempt to achieve a standard rate for all public officers and employees of the same classification. The secretary may, in extraordinary circumstances and with the prior approval of the state board of finance in public meeting, allow actual expenses rather than the per diem rates set in the Per Diem and Mileage Act.

E. The governing board or its designee may reduce the rates set for the per diem and mileage for public officials of public post-secondary educational institutions and for employees of public post-secondary educational institutions at any time the governing board deems it to be in the public interest, and such reduction shall not be construed to permit payment of any other compensation, perquisite or allowance. The governing board shall exercise this power of reduction in a reasonable manner and shall attempt to achieve a standard rate for public officers and employees of public post-secondary educational institutions. The governing board may reduce the rates of per diem and mileage for its public post-secondary educational institution and may, in extraordinary circumstances and in public meeting, allow actual expenses rather than the per diem rates set in the Per Diem and Mileage Act.

F. No reimbursement for out-of-state travel shall be paid to any elected public officer, including any member of the legislature, if after the last day to do so that officer has not filed a declaration of candidacy for reelection to his currently held office or has been defeated for reelection to his currently held office in a primary election or any general election.

G. Subsection F of this section does not apply to any elected public officer who is ineligible to succeed himself after serving his term in office.

H. Subsection F of this section does not apply to legislators whose travel has been approved by a three-fourths' vote of the New Mexico legislative council at a regularly called meeting.

I. Any person who is not an employee, appointee or elected official of a county or municipality and who is reimbursed under the provisions of the Per Diem and Mileage Act in an amount that singly or in the aggregate exceeds one thousand five hundred dollars (\$1,500) in any one year shall not be entitled to further reimbursement under the provisions of that act until the person furnishes in writing to his department head or, in the case of a department head or board or commission member, to the governor or, in the case of a member of the legislature, to the New Mexico legislative council an itemized statement on each separate instance of travel covered within the reimbursement, the place to which traveled and the executive, judicial or legislative purpose served by the travel.

10-8-6. Application of act.

A. The Per Diem and Mileage Act [10-8-1 NMSA 1978] shall not apply to the members of the legislature unless the legislature by specific reference to the act makes it applicable to the members and such application does not thereby exceed the per diem and mileage rates fixed in the constitution of New Mexico.

B. The provisions of Subsection D of Section 10-8-4 NMSA 1978 pertaining to the mileage reimbursement rate for travel in a privately owned vehicle shall not apply to employees of a hospital facility under the control of the board of trustees of a special hospital district created pursuant to the provisions of the Special Hospital District Act [4-48A-1 NMSA 1978], if the board of trustees has fixed a mileage reimbursement rate for those employees.

10-8-7. Penalty.

Any public officer or employee covered by the Per Diem and Mileage Act [10-8-1 NMSA 1978] who knowingly authorizes or who knowingly accepts payment in excess of the amount allowed by the Per Diem and Mileage Act or in excess of the amount authorized by the secretary or the governing board pursuant to Section 10-8-5 NMSA 1978 is liable to the state in an amount that is twice the excess payment.

10-8-8. Other reimbursements.

A. The secretary may authorize by regulation reimbursement for the following actual expenses incurred by public officers and employees of state agencies:

- (1) moving expenses;
- (2) professional fees or dues;

- (3) tuition and fees for attending educational programs or classes approved by the secretary; and
- (4) registration fees for attending seminars, educational programs or classes.

B. The governing body of any local public body may, by resolution, authorize the reimbursement of public officers and employees for any of the actual expenses set forth in Subsection A of this section. No resolution adopted pursuant to this subsection shall authorize the reimbursement for any expense not authorized by regulation of the secretary pursuant to Subsection A of this section.

C. The governing board may, by regulation, authorize the reimbursement of public officers of public post-secondary educational institutions and employees of public post-secondary educational institutions for any of the actual expenses set forth in Subsection A of this section.

D. No reimbursement shall be made for any expenses unless receipts for all such expenses are attached to the reimbursement voucher.

TITLE 2 PUBLIC FINANCE
CHAPTER 42 TRAVEL AND PER DIEM
PART 2 REGULATIONS GOVERNING THE PER DIEM AND MILEAGE ACT

2.42.2.1 ISSUING AGENCY: Department of Finance and Administration.
 [2.42.2.1 NMAC - N, 07/01/03]

2.42.2.2 SCOPE: In accordance with Section 10-8-1 to 10-8-8 NMSA 1978 (1995 Repl. Pamp.), 2.42.2 NMAC governs the payment of per diem rates and mileage and the reimbursement of expenses for all salaried and non-salaried public officers and employees of all state agencies and local public bodies, except:

- A. state legislators; and
 - B. public officials and employees of state educational institutions specified in Article 12, Section 11 of the New Mexico Constitution and institutions defined in Chapter 21, Articles 13, 14, 16 and 17 NMSA 1978 (hereinafter "public postsecondary educational institutions"). If an official or employee of a public postsecondary educational institution is also a salaried or nonsalaried public officer or employee of any other state agency or local public body, these regulations shall apply when the person seeks payment of per diem rates and mileage or reimbursement of expenses in the capacity of a salaried or nonsalaried public officer or employee of a governmental entity other than a public postsecondary educational institution.
- [2.42.2.2 NMAC - Rn, DFA Rule 95-1, Section 1.A, 07/01/03]

2.42.2.3 STATUTORY AUTHORITY: These regulations are promulgated pursuant to authority granted in Section 10-8-5(A) and Section 9-6-5(E) NMSA 1978.
 [2.42.2.3 NMAC - Rn, DFA Rule 95-1, Section 1.B, 07/01/03]

2.42.2.4 DURATION: Permanent
 [2.42.2.4 NMAC - N, 07/01/03]

2.42.2.5 EFFECTIVE DATE: November 30, 1995
 [2.42.2.5 NMAC - N, 07/01/03]

2.42.2.6 OBJECTIVE: To govern the payment of per diem rates and mileage and the reimbursement of expenses for all salaried and non-salaried public officers and employees of all state agencies and local public bodies except those set forth in Subsections A and B of 2.42.2.2 NMAC.
 [2.42.2.6 NMAC - N, 07/01/03]

2.42.2.7 DEFINITIONS: As used in this rule:

- A. "Agency head" means:
 - (1) the cabinet secretary of departments and their administratively attached boards and commissions;
 - (2) the director for other agencies and institutions and their administratively attached boards and commissions;
 - (3) the superintendent of regulation and licensing for boards and commissions attached to the regulation and licensing department;
 - (4) the chairperson, president or executive secretary for remaining boards and commissions; and
 - (5) the chief executive, chief administrative officer, or governing body for local public bodies.
- B. "Board or committee meeting" means the formal convening of public officers who comprise a board, advisory board, commission or committee even if no further business can take place because of the lack of a quorum.
- C. "Designated post of duty" means the address of a public officer's or employee's assignment as determined by the agency.
- D. "Employee" means any person who is in the employ of any New Mexico state agency or local public body within New Mexico whose salary is paid either completely or partially from public money but does not include jurors or jury commissioners.
- E. "Governmental entity" means a New Mexico state agency or local public body within New Mexico.
- F. "Home" means:
 - (1) for per diem purposes, the area within a 35-mile radius of the place of legal residence as defined in Section 1-1-7 NMSA 1978 (1995 Repl. Pamp.);
 - (2) for mileage purposes, the place of legal residence as defined in Section 1-1-7 NMSA 1978 (1995 Repl. Pamp.). See

appendix A for a copy of Section 1-1-7 NMSA 1978.

G. "Local public body" means every political subdivision of the state, whether created under general or special act including, but not limited, to counties, municipalities, drainage, conservancy, irrigation, school or other districts, that receives or expends public money from whatever source derived.

H. "Nonsalaried public officer" means a public officer serving as a member of a board, advisory board, committee or commission who is not entitled to compensation, but is entitled to payment of per diem rates and mileage.

I. "Out of state" means beyond the exterior boundaries of the state of New Mexico.

J. "Public officer" means every elected or appointed officer of a governmental entity, including but not limited to:

- (1) officers of the judicial branch of state government, including judges;
- (2) officers of the legislative branch of state government, except legislators; and,
- (3) all board, advisory board, committee and commission members elected or appointed to a board, advisory board,

committee or commission specifically authorized by law or validly existing as an advisory committee pursuant to Section 9-1-9 NMSA 1978.

K. "Secretary" means the secretary of finance and administration.

L. "Travel" means: for per diem purposes, being on official business away from home as defined in Subsection F above and at least 35 miles from the designated post of duty of the public officer or employee. However, non-salaried public officers are eligible for per diem for attending meetings in accordance with Subsection C of 2.42.2.8 NMAC and

M. "Travel voucher" means a payment voucher submitted for the purpose of claiming reimbursement for travel expenditures.

[2.42.2.7 NMAC - Rn, DFA Rule 95-1, Section 2, 07/01/03]

2.42.2.8 PER DIEM RATES PRORATION:

A. **Applicability:** Per diem rates shall be paid to public officers and employees only in accordance with the provisions of this section. Per diem rates shall be paid without regard to whether expenses are actually incurred. Where lodging and/or meals are provided or paid for by the agency, the governing body, or another entity, the public officer or employee is entitled to reimbursement only for actual expenses under 2.42.2.9 NMAC.

B. **Per diem rate computation:** Except as provided in Subsections C through I of this Section, per diem rates for travel by public officers and employees shall be computed as follows:

(1) **Partial day per diem rate:** Public officers or employees who occasionally and irregularly travel shall be reimbursed for travel which does not require overnight lodging, but extends beyond a normal work day as follows:

- (a) for less than 2 hours of travel beyond normal work day, none;
- (b) for 2 hours, but less than 6 hours beyond the normal work day, \$12.00;
- (c) for 6 six hours, but less than 12 hours beyond the normal work day, \$20.00;
- (d) for 12 hours or more beyond the normal work day, \$30.00;
- (e) "Occasionally and irregularly" means not on a regular basis and infrequently as determined by the agency. For

example, an employee is not entitled to per diem rates under this subparagraph if the employee either travels once a week or travels every fourth Thursday of the month. However, the employee is entitled to per diem rates under this subparagraph if the employee either travels once a month with irregular destinations and at irregular times or travels four times in one month and then does not travel again in the next two months, so long as this is not a regular pattern.

(f) "Normal work day" means 8 hours within a nine-hour period for all public officers and employees both salaried and nonsalaried, regardless of the officers' or employees' regular work schedule.

(2) **Overnight travel:** Regardless of the number of hours traveled, travel for public officers and employees where overnight lodging is required shall be reimbursed as follows:

- (a) in state areas \$85.00
- (b) in state special areas \$135.00
- (c) out of state areas \$115.00;
- (d) or actual lodging and meal expenses under 2.42.2.9 NMAC.

(3) **Return from overnight travel:** On the last day of travel when overnight lodging is no longer required, partial day reimbursement shall be made. To calculate the number of hours in the partial day, begin with the time the traveler initially departed. Divide the number of hours traveled by 24. The hours remaining constitute the partial day which shall be reimbursed as follows:

- (a) for less than 2 hours, none;
- (b) for 2 hours, but less than 6 hours, \$12.00;
- (c) for 6 hours or more, but less than 12 hours, \$20.00;

(d) for 12 hours or more, \$30.00.

(4) **Special area designations:** For all officers and employees, the in state special area shall be Santa Fe.

C. **Board, commission and committee members:** Nonsalaried public officers may receive per diem as follows:

(1) **Official board, commission and committee meetings:**

(a) **State nonsalaried public officers:** Nonsalaried public officers of the state may elect to receive either:

- (i) \$95.00 per meeting day for attending each board or committee meeting; or
- (ii) per diem rates in accordance with Subsection B of this Section.

(b) **Local nonsalaried public officers:** Nonsalaried public officers of local public bodies may elect to receive

either:

- (i) \$95.00 per meeting day for attending each board or committee meeting; or
- (ii) per diem rates in accordance with subsection B of this Section provided that the local governing body has not established a lesser rate.

(c) **Municipal nonsalaried public officers:** Nonsalaried public officers of municipalities may elect to receive

either:

- (i) \$95.00 per meeting day for attending each board or committee meeting; or
- (ii) per diem rates in accordance with Subsection B of this Section, provided that the board or commission meeting is held outside of the municipal boundaries.

(2) **Other official meetings:** Nonsalaried public officers may receive per diem rates for travel on official business that does not constitute a board, advisory board, committee or commission meeting only in accordance with Subsection B of this Section.

(3) **Members serving in dual capacities:** Nonsalaried public officers who also serve as public officers or employees of state agencies or local public bodies may receive mileage or per diem rates from only one public entity for any travel or meeting attended. Furthermore, nonsalaried public officers who are also public officers or employees may not receive per diem rates for attending meetings held in the place of their home or at their designated posts of duty unless they are on leave from their positions as public officers or employees. Local public bodies may adopt regulations with respect to the receipt of per diem rates by employees or officers of local public bodies who also serve on boards or commissions subject to this rule.

D. **Temporary assignment:** Public officers and employees may be reassigned temporarily to another duty station.

(1) **Routine reassignment:** Public officers and employees subject to periodic reassignment of duty stations or districts as a normal requirement of their employment will not be eligible for per diem rates after the time of arrival at the new duty station or district.

(2) **Nonroutine reassignment:** Public officers or employees not normally subject to periodic reassignments who are temporarily assigned to another office of a state agency away from home will receive per diem for the first 30 calendar days of their assignment only, unless approval of the secretary is given to extend per diem payments upon showing that the assignment is necessary and temporary. Except in such extraordinary circumstances, after 30 calendar days, the place where the employee or officer is assigned will be regarded as the designated post of duty.

E. **New Mexico department of transportation:** The New Mexico department of transportation may adopt special policies pertaining to payment of per diem rates for temporary assignments. Such policies shall be subject to the annual approval of the secretary.

F. **Department of public safety:** The department of public safety may adopt special policies pertaining to payment of per diem rates, mileage and subsistence allowances authorized by law for commissioned officers. Such policies shall be subject to the annual approval of the secretary.

G. **Travel for educational purposes:** A public officer or employee shall not be reimbursed for more than 30 calendar days of per diem in any fiscal year for attending educational or training programs unless approval has been obtained from the secretary.

H. **Per diem in conjunction with other leave:** While traveling, if a public officer or employee takes sick, annual or authorized leave without pay for more than four hours of the normal work day, per diem shall not be allowed for that day unless authorized in writing by the agency head.

I. **Illness or emergency:** Agency heads may grant permission, in writing, to pay per diem rates and travel reimbursement to an employee or public officer who becomes ill or is notified of a family emergency while traveling on official business and must either remain away from home or discontinue the official business to return home.

[2.42.2.8 NMAC - Rn, DFA Rule 95-1, Section 3, 07/01/03; A, 01/15/04]

2.42.2.9 REIMBURSEMENT OF ACTUAL EXPENSES IN LIEU OF PER DIEM RATES:

A. **Applicability:** Upon written request of a public officer or an employee, agency heads may grant written approval for a public officer or employee of that agency or local public body to be reimbursed actual expenses in lieu of the per diem rate where

overnight travel is required.

B. **Overnight travel:** For overnight travel for state officers and employees where overnight lodging is required, the public officer or employee will be reimbursed as follows:

(1) **Actual reimbursement for lodging:** A public officer or an employee may elect to be reimbursed actual expenses for lodging not exceeding the single occupancy room charge (including tax) in lieu of the per diem rate set forth in this Section. Whenever possible, public officers and employees should stay in hotels which offer government rates. Agencies, public officers or employees who incur lodging expenses in excess of \$215.00 per night must obtain the signature of the agency head or chairperson of the governing board on the travel voucher prior to requesting reimbursement and on the encumbering document at the time of encumbering the expenditure.

(2) **Actual reimbursement for meals:** Actual expenses for meals are limited by Section 10-8-4(K)(2) NMSA 1978 (1995 Repl. Pamp.) to a maximum of \$30.00 for in-state travel and \$45.00 for out-of-state travel for a 24-hour period.

(3) **Receipts required:** The public officer or employee must submit receipts for the actual meal and lodging expenses incurred. Under circumstances where the loss of receipts would create a hardship, an affidavit from the officer or employee attesting to the expenses may be substituted for actual receipts. The affidavit must accompany the travel voucher and include the signature of the agency head or governing board. See Appendix B for a sample affidavit.

C. **Return from overnight travel:** On the last day of travel when overnight lodging is no longer required, partial day reimbursement shall be made. To calculate the number of hours in the partial day, begin with the time the traveler initially departed on the travel. Divide the total number of hours traveled by 24. The hours remaining constitute the partial day which shall be reimbursed as follows:

- (1) for less than 2 hours, none;
- (2) for 2 hours but less than 6 hours, \$12.00;
- (3) for 6 hours or more, but less than 12 hours, \$20.00;
- (4) for 12 hours or more, \$30.00;
- (5) no reimbursement for actual expenses will be granted in lieu of partial day per diem rates.

[2.42.2.9 NMAC - Rn, DFA Rule 95-1, Section 4, 07/01/03; A, 01/15/04]

2.42.2.10 TRAVEL ADVANCES:

A. **Authorizations:** Upon written request accompanied by a travel voucher, agency heads and governing boards of local public bodies or their authorized designees may approve a public officer's or employee's request to be advanced up to 80 percent of per diem rates and mileage cost or for the actual cost of lodging and meals pursuant to 2.42.2.8 NMAC and 2.42.2.9 NMAC and for other travel expenses that may be reimbursed under 2.42.2.12 NMAC. Requests for travel advances shall not be submitted to the financial control division of the department of finance and administration more than two weeks prior to travel unless, by processing the request earlier, significant savings can be realized for travel by common carrier or for registration fees for seminars and conferences.

B. **Travel period:** A travel advance may be authorized either for a single trip or on a monthly basis for public officers and employees who travel continually throughout the month. Payment shall be made only upon vouchers submitted with attached authorization for each travel period.

(1) **Single trip advances:** Where a travel advance is made for a single trip, the officer or employee shall remit, within 5 working days of the return from the trip, a refund of any excess advance payment to the agency. The agency or local public body shall deposit the refund and reduce the disbursement recorded when the money was advanced.

(2) **Monthly advances:** Where monthly advances are made, employees shall remit to the agency, at the end of each month, any excess advance payments together with a thorough accounting of all travel advances and expenditures as required by the secretary. Where a travel advance is approved for the next month, the agency head may authorize the use of excess advance payments from the previous month as part of the advance for the next month in lieu of having the employee remit the excess funds.

C. **Agency records:** Each agency is responsible for maintaining records of travel advances authorized by the agency head or the agency head's authorized designee.

(1) **Employee ledgers:** Each state agency shall keep individual employee ledgers for travel advances. The ledger shall include the following information to provide an adequate audit trail:

- (a) employee
- (b) no.
- (c) division
- (d) fiscal year
- (e) date of travel advance
- (f) date of destination

- (g) per diem advance
- (h) earned
- (i) additional per diem or refund due

(2) **Year-end closing:** Each state agency shall review all travel advances prior to the end of the fiscal year and collect or pay all outstanding amounts if possible. Any receivables or payables outstanding at year-end must be recorded on the books and records of the agency.

D. **Local public bodies:** Local public bodies may grant prior written approval for travel advances as authorized by regulation of the governing body of the local public body.
[2.42.2.10 NMAC - Rn, DFA Rule 95-1, Section 5, 07/01/03]

2.42.2.11 MILEAGE-PRIVATE CONVEYANCE:

A. **Applicability:** Mileage accrued in the use of a private conveyance shall be paid only in accordance with the provisions of this section.

B. **Rate:** Public officers and employees of state agencies shall be reimbursed for mileage accrued in the use of a private automobile or aircraft in the discharge of official duties as follows:

(1) unless the secretary has reduced the rates set for mileage for any class of public officials and for employees of state agencies pursuant to Section 10-8-5 (D) NMSA 1978, 80% of the internal revenue service standard mileage rate set January 1 of the previous year for each mile traveled in a privately owned vehicle;

(2) privately owned airplane, eighty-eight cents (\$0.88) per nautical mile.

C. **Local public bodies:** Public officers and employees of local public bodies may be reimbursed for mileage accrued in the use of a private conveyance in the discharge of official duties, at the statutory rates unless such rates have been reduced by the governing bodies of the local public body pursuant to Section 10-8-5 (D) NMSA 1978.

D. **Privately owned automobile:** For conveyance in the discharge of official duties by privately owned automobile, mileage accrued shall be reimbursed at the rate set forth in this section as follows:

(1) pursuant to the mileage chart of the official state map published by the state highway and transportation department for distances in New Mexico and the most recent edition of the Rand-McNally road atlas for distances outside of New Mexico; or

(2) pursuant to actual mileage if the beginning and ending odometer reading is certified as true and correct by the traveler; and

(a) the destination is not included on the official state map or on the Rand McNally road atlas, or,

(b) at the destination(s) of the public officer or employee, the public officer or employee was required to use the private conveyance in performance of official duties.

E. **Privately owned airplane:** Mileage accrued in the use of a privately owned airplane shall be reimbursed at the rate set forth in this section as follows:

(1) pursuant to the New Mexico aeronautical chart published by the state highway and transportation department, aviation division, for distances in New Mexico and other states' air maps for distances outside of New Mexico; or

(2) pursuant to actual air mileage if certification is provided by the pilot, or a beginning and ending reading of actual mileage if the reading is certified as true and correct by the traveler, and the destination is not included on an air map.

F. **Reimbursement limit for out of state travel:** Total mileage reimbursement for out of state travel by privately owned automobile or privately owned airplane shall not exceed the total coach class commercial airfare that would have been reimbursed those traveling had they traveled by common carrier. This subsection shall not apply to a public school when transporting students.

G. **Additional mileage provision:** Mileage accrued while on official business shall be reimbursed for travel on official business. An agency head or designee may authorize by memorandum reimbursement for mileage from a point of origin farther from the destination than the designated post of duty in appropriate circumstances. The memorandum must accompany the payment voucher. If official business is transacted while commuting from home to post of duty or from post of duty to home, mileage shall not be paid for the number of miles between post of duty and home. Odometer readings showing additional miles accrued for official business must be provided to the agency for payment.

[2.42.2.11 NMAC - Rn, DFA Rule 95-1, Section 6 & A, 07/01/03; A/E, 06/19/09]

2.42.2.12 **REIMBURSEMENT FOR OTHER EXPENSES:** Public officers and employees may be reimbursed for certain actual expenses in addition to per diem rates.

A. **Receipts not required:** Public officers and employees may be reimbursed without receipts for the following expenses in an amount of \$6.00 per day not to exceed a total of \$30.00 per trip:

- (1) taxi or other transportation fares at the destination of the traveler;
- (2) gratuities as allowed by the agency head or designee; and
- (3) parking fees
- (4) If more than \$6.00 per day or \$30.00 per trip is claimed, the entire amount of the reimbursement claim must be accompanied by receipts.

B. **Receipts required:** Public officers and employees may be reimbursed for the following expenses provided that receipts for all such expenses are attached to the reimbursement voucher:

- (1) actual costs for travel by common carrier, provided such travel is accomplished in the most economical manner practical;
- (2) rental cars or charter aircraft, provided less expensive public transportation is not available or appropriate;
- (3) registration fees for educational programs or conferences, provided, if the fee includes lodging or meals, then no per diem rates shall be paid and only actual expenses paid by the officer or employee and not included in the fee shall be reimbursed within the limits of 2.42.2.9 NMAC; and
- (4) professional fees or dues that are beneficial to the agency’s operations or mission.
- (5) Under circumstances where the loss of receipts would deny reimbursement and create a hardship, an affidavit from the officer or employee attesting to the expenses may be substituted for actual receipts. The affidavit must accompany the travel voucher and include the signature of the agency head or governing board. See Appendix B for a sample affidavit.

C. **Local public bodies:** Local public bodies may adopt regulations governing the reimbursement of actual expenses incurred in addition to per diem rates and mileage.

[2.42.2.12 NMAC - Rn, DFA Rule 95-1, Section 7, 07/01/03]

2.42.2.13 TRAVEL VOUCHERS: Travel vouchers and supporting schedules and documents shall conform to the policies and procedures manuals issued by the financial control division of the department of finance and administration.

[2.42.2.13 NMAC - Rn, DFA Rule 95-1, Section 8, 07/01/03]

2.42.2.14 EFFECTIVE DATES: All sections shall be effective upon publication in the *New Mexico Register*.

[2.42.2.14 NMAC - Rn, DFA Rule 95-1, Section 9, 07/01/03]

APPENDIX A: 1-1-7 NMSA 1978, Residence; rules for determining.

APPENDIX B:

DEPARTMENT OF FINANCE AND ADMINISTRATION
 FINANCIAL CONTROL DIVISION
 AFFIDAVIT FOR LOST RECEIPTS
 Travel and Per Diem

I, _____ certify that actual receipts for expenses in the amount of
 (print name)
 \$ _____ incurred while in the conduct of business for the State of New Mexico, were lost.

Travel Dates	Lodging Expenses	Meal Expenses	Other Expenses

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Employee Signature

Date

Agency Head Signature

Date

HISTORY OF 2.42.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

DFA 71-4 (Directive DFA 71-1) State Transportation Pool Rules and Regulations, filed 6/23/71

DFA 72-5 Directive DFA 61-1, Transportation Pool Rules and Regulations, filed 6/30/72

DFA 75-4 (Directive-DFA 63-4) State Transportation Pool Rules and Regulations, filed 3/3/75

DFA 71-9 (Directive DFA 60-5C) Chapter 116, Laws of 1971, filed 6/30/71

DFA 74-2 Per Diem and Mileage Act (Sections 5-10-1 through 5-10-4 NMSA 1953 as Amended) being Chapter 26, Laws of 1974, filed 5/6/74

DFA 75-6 (Directive LGD 63-49) Out-of-State Travel, filed 5/6/75

DFA 74-4 (Directive-DFA 62-3B) Procedures for In-State and Out-of-State Travel, Laws of 1974, Chapter 26, filed 5/7/74

DFA 75-8* (Directive-DFA 63-6) Procedures for In-State and Out-of-State Travel, filed 6/10/75

DFA 75-9* (Directive LGD 64-5) Per Diem and Mileage Act as amended, filed 8/7/75

DFA 75-17* (Directive DFA 64-16) Expenses of Advisory Committees, Task Forces and other Bodies Appointed by State Agencies, filed 10/9/75

DFA 78-3.1* (Rules 78-3) Relating to Reimbursement of Public Officers and Employees for Travel Expenses & Attending Meetings, filed 6/30/78

DFA 81-3 (Rule 78-3) Related to the Reimbursement of Public Officers and Employees for Travel and Attending Meetings, filed 6/26/81

DFA 82-2 (Rule 78-3) Related to the Reimbursement of Public Officers and Employees for Travel Expenses and Attending Meetings, filed 10/20/82

DFA Rule No. 87-2 Related to the Reimbursement of Public Officers and Employees for Travel Expenses and for Attending Meetings; filed 9/30/87

DFA Rule No. 90-2 Department of Finance and Administration, DFA 90-2, Governing Per Diem, Mileage and Other Reimbursements to Public Officers and Employees; filed 3/30/90

DFA Rule No. 92-1 Regulations Governing the Per Diem and Mileage Act; filed 10/7/92

DFA Rule 95-1 Regulations Governing the Per Diem and Mileage Act; filed 11/17/95.

History of Repealed Material: [RESERVED]

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 4 STATE PROCUREMENT
PART 1 PROCUREMENT CODE REGULATIONS

1.4.1.1 ISSUING AGENCY: General Services Department - State Purchasing Division.
 [1.4.1.1 NMAC - Rp, 1.4.1.1 NMAC, 8/30/2013]

1.4.1.2 SCOPE: All executive branch state agencies.

A. Except as otherwise provided in the Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, the code applies to every expenditure by state agencies and local public bodies for the procurement of items of tangible personal property, services and construction.

B. General. Except as otherwise provided in this section, this rule applies to every agency and to every transaction to which the Procurement Code applies except the following:

- (1) procurement of highway construction or reconstruction by the state highway and transportation department;
- (2) procurement by the judicial branch of state government;
- (3) procurement by the legislative branch of state government;
- (4) procurement by the boards of regents of state educational institutions named in Article 12 Section 11 of the constitution of New Mexico;
- (5) procurement by the state fair commission of tangible personal property, services and construction under twenty thousand dollars (\$20,000);
- (6) purchases from the instructional material fund;
- (7) procurement by all local public bodies;
- (8) procurement by regional education cooperatives;
- (9) procurement by charter schools;
- (10) procurement by each state health care institution that provides direct patient care and that is, or a part of which is, medicaid certified and participating in the New Mexico medicaid program; and
- (11) procurement by the public school facilities authority.

[1.4.1.2 NMAC - Rp, 1.4.1.2 NMAC, 8/30/2013]

1.4.1.3 STATUTORY AUTHORITY: NMSA 1978, 9-17-5, Laws of 1983, Chapter 301, Section 5; and 13-1-95, Laws of 1984, Chapter 65, Section 68 (Repl. Pamp. 1997). Subject to the authority of the secretary of the general services department, Section 13-1-95 NMSA 1978 designates the state purchasing agent as both the administrator and chief executive of the state purchasing division. The cite further designates the state purchasing agent and purchasing division shall be responsible for the procurement of items of tangible personal property, services and construction for all state agencies except as otherwise provided in the Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, and shall administer the code for those state agencies not excluded from the requirement of procurement through the state purchasing agent. Among the statutory duties and responsibilities afforded the state purchasing agent is to recommend procurement regulations to the secretary of the general services department.

[1.4.1.3 NMAC - Rp, 1.4.1.3 NMAC, 8/30/2013]

1.4.1.4 DURATION: Permanent.

[1.4.1.4 NMAC - Rp, 1.4.1.4 NMAC, 8/30/2013]

1.4.1.5 EFFECTIVE DATE: August 30, 2013, unless a later date is cited at the end of a section.

[1.4.1.5 NMAC - Rp, 1.4.1.5 NMAC, 8/30/2013]

1.4.1.6 OBJECTIVE: Section 13-1-29 C NMSA 1978 states that, the purposes of the Procurement Code are to provide for the fair and equal treatment of all persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity. The objective of this rule is to have the force and effect of law to implement, interpret or make statute specific as it applies to the Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978 and the purposes stated therein.

[1.4.1.6 NMAC - Rp, 1.4.1.6 NMAC, 8/30/2013]

1.4.1.7 DEFINITIONS:

- A.** Most of the terms which appear in this rule are defined in the Procurement Code.
- B.** In these rules and regulations the following definitions apply.
- (1) **“Anti-poverty program businesses”** means small businesses, cooperatives, community self-determination corporations or other such enterprises designed and operated to alleviate poverty conditions and aided by state or federal antipoverty programs or through private philanthropy.
- (2) **“Best obtainable price”** means that price at which services or goods can be purchased which is most advantageous to the purchasing entity; best obtainable price can be found by obtaining quotes or other appropriate methods; where there is only one vendor available for such a purchase utilizing a direct purchase order in accordance with statute (such as an entity requiring dues, for example), the price would be the best obtainable price since it is the only possible price for that particular procurement.
- (3) **“Bidding time”** means the period of time between the date the invitation to bid notice is published and the date and time set for receipt of bids.
- (4) **“Bidder”** means one who submits a bid in response to an invitation for bid or submits a quote in response to a call for formal or informal quotes.
- (5) **“Central purchasing office”** means that office within a state agency or a local public body responsible for the control of procurement of items of tangible personal property, services or construction. “Central purchasing office” includes the purchasing division of the general services department.
- (6) **“Chief information officer”** means the administrative head of the department of information and technology.
- (7) **“Chief procurement officer”** means that person within a state agency’s or local public body’s central purchasing office who is responsible for the control of procurement of items of tangible personal property, services or construction. “Chief procurement officer” includes the state purchasing agent.
- (8) **“Competitive sealed bid”** means the response from a bidder to an invitation to bid (ITB).
- (9) **“Competitive sealed proposal”** means the response from an offeror to a request for proposals (RFP).
- (10) **“Contract”** means any written, binding agreement for the procurement of items of tangible personal property, services or construction. A purchase order alone can be a binding contract.
- (11) **“Information systems resources”** means computer voice and data communications hardware and software including imaging systems, terminals, radio and communications networks and facilities as well as information systems services and professional services contracts required for the implementation, operation, maintenance or support of an executive branch state agency computer or communication system.
- (12) **“Invitation for bid (IFB)”** means all documents, including those attached or incorporated by reference, used for soliciting competitive sealed bids. Also sometimes referred to as an invitation to bid (ITB).
- (13) **“Offeror”** means one who submits a proposal in response to a request for proposals.
- (14) **“Request for proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting competitive sealed proposals.
- (15) **“Sole source”** means tangible personal property, services or construction for which there is only one source and that source is unique and no other similar items of tangible personal property, services or construction can meet the intended purpose of the procurement.

[1.4.1.7 NMAC - Rp, 1.4.1.7 NMAC, 8/30/2013]

1.4.1.8 CENTRALIZATION OF PROCUREMENT ACTIVITY (1.4.1.8 - 1.4.1.13 NMAC):

- A.** State purchasing agent. All procurement for state agencies shall be performed by the state purchasing agent except the following:
- (1) professional services;
- (2) small purchases having a value not exceeding one thousand five hundred dollars (\$1,500);
- (3) emergency procurements; and
- (4) the types of procurement specified in Subsection B of 1.4.1.2 NMAC.
- B.** Central purchasing offices. All procurement for state agencies excluded from the requirement of procurement through the state purchasing agent shall be performed by a central purchasing office designated by statute, the governing authority of that state agency or as otherwise provided in the Procurement Code.
- C.** Cooperative procurement. Nothing in this section should be interpreted as limiting the ability of state agencies to make procurements under existing contracts or enter into cooperative procurement agreements in accordance with 13-1-135 and 13-1-

136 NMSA 1978.

[1.4.1.8 NMAC - Rp, 1.4.1.8 NMAC, 8/30/2013]

1.4.1.9 INSPECTION OF PUBLIC RECORDS: The inspection of public records is governed by the Inspection of Public Records Act, 14-2-1 through 14-2-12 NMSA 1978. To the extent that any provision of this rule conflicts with the Inspection of Public Records Act, as interpreted by the courts of this state, that act shall control. Furthermore, no obligation to keep data confidential which is contained in this rule is intended to create any liability that would not otherwise exist under state law.

[1.4.1.9 NMAC - Rp, 1.4.1.9 NMAC, 8/30/2013]

1.4.1.10 DOLLAR AMOUNTS: Whenever a dollar amount appears in this rule, such amount is exclusive of applicable gross receipts and local option taxes as the term is defined in Subsection Q of Section 7-9-3 NMSA 1978.

[1.4.1.10 NMAC - Rp, 1.4.1.10 NMAC, 8/30/2013]

1.4.1.11 INDEMNIFICATION AND INSURANCE:

A. Tort liability. Except as provided for in the Tort Claims Act, 41-4-1 through 41-4-27 NMSA 1978, no contract governed by this rule shall contain any provision whereby a state agency agrees to indemnify or provide tort liability insurance for any contractor. The indemnification and insurance provisions of contracts provided for in the Tort Claims Act shall be approved in writing by GSD's risk management division before they become effective.

B. Other risks. No contract governed by this rule shall contain any provision whereby a state agency agrees to indemnify or provide a contractor with insurance for non-tort risks unless the provision has been approved in writing by GSD's risk management division.

C. Contract provisions void. Any indemnification or insurance provision in any contract executed in violation of this section shall be void and of no effect.

[1.4.1.11 NMAC - Rp, 1.4.1.11 NMAC, 8/30/2013]

1.4.1.12 [RESERVED]

1.4.1.13 SEVERABILITY: If any provision of this rule, or any application thereof, to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application.

[1.4.1.13 NMAC - Rp, 1.4.1.13 NMAC, 8/30/2013]

1.4.1.14 APPLICATION (COMPETITIVE SEALED BIDS; 1.4.1.14 -1.4.1.28 NMAC): The provisions of 1.4.1.14 through 1.4.1.28 NMAC apply to every procurement made by competitive sealed bids.

[1.4.1.14 NMAC - Rp, 1.4.1.14 NMAC, 8/30/2013]

1.4.1.15 COMPETITIVE SEALED BIDS REQUIRED: All procurement shall be achieved by competitive sealed bids except procurement achieved pursuant to the following methods:

- A.** competitive sealed proposals;
- B.** small purchases;
- C.** sole source procurement;
- D.** emergency procurement;
- E.** procurement under existing contracts; and
- F.** purchases from anti-poverty program businesses.

[1.4.1.15 NMAC - Rp, 1.4.1.15 NMAC, 8/30/2013]

1.4.1.16 INVITATION FOR BIDS ("IFB"):

A. General. The invitation for bids ("IFB"), also sometimes referred to as the invitation to bid (ITB), is used to initiate a competitive sealed bid procurement. The IFB shall include the following:

(1) the specifications for the services, construction or items of tangible personal property to be procured, except that professional services and a design and build project delivery system cannot be procured with an IFB pursuant to 13-1-111 NMSA 1978;

(2) all contractual terms and conditions applicable to the procurement including any requirements for

complying with applicable preferences provided in law;

(3) the term of the contract and conditions of renewal or extension, if any;

(4) instructions and information to bidders, including the location where bids are to be received and the date, time and place of the bid opening;

(5) a notice that the IFB may be canceled and that any and all bids may be rejected in whole or in part when it is in the best interest of the state of New Mexico; and

(6) a notice that reads substantially as follows: The Procurement Code, 13-1-28 through 13-1-199 NMSA 1978, imposes civil, misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.

B. Incorporation by reference. The IFB may incorporate documents by reference, provided that the IFB specifies where such documents can be obtained.

C. Evaluation criteria. The IFB shall set forth the evaluation criteria that will be used to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria such as discounts, transportation costs and total or life-cycle costs that will affect the bid price shall be objectively measurable. No criteria may be used in bid evaluation that are not set forth in the IFB.

D. Bid form. The IFB shall provide a form which shall include space in which the bid price shall be inserted and which the bidder shall sign and submit along with all other necessary submissions. A bidder may submit a reasonable facsimile of the bid form. Oral, telephonic and telegraphic bids except as provided in this subsection are invalid and shall not be considered. Telegraphic or bids sent via FAX to a third party and delivered in a sealed envelope to the location where bids are to be received by the date and time shown in the bid, will be accepted for consideration.

E. Bid samples and descriptive literature.

(1) "Descriptive literature" means information available in the ordinary course of business that shows the characteristics, construction, or operation of an item.

(2) "Bid sample" means a sample furnished by a bidder that shows the characteristics of an item offered in the bid.

(3) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the item bid.

(4) Bid samples, when required, shall be furnished free of expense to the state and prior to the time set for the opening of bids. Samples not destroyed or mutilated in testing will be returned upon request by mail, express or freight, collect. Each sample must be labeled to clearly show the bid number and the bidder's name.

F. Bidding time. Bidding time is the period of time between the date of distribution of the IFB and the time and date set for receipt of bids. In each case bidding time shall be set to provide bidders a reasonable time to prepare their bids. In no case shall the bidding time be shorter than the time required for publication under 1.4.1.17 NMAC of this rule.

[1.4.1.16 NMAC - Rp, 1.4.1.16 NMAC, 8/30/2013]

1.4.1.17 PUBLIC NOTICE INVITATION FOR BID: Publication. The IFB or notice thereof shall be published not less than ten calendar days prior to the date set for the opening of bids. The IFB or notice must be published once in at least three newspapers of general circulation in this state.

A. These requirements of publication are in addition to any other procedures that may be adopted by the state purchasing agent to notify prospective bidders that bids will be received, including but not limited to publication in trade journals, if available.

B. Bidder lists. The state purchasing agent shall send copies of the notice or IFB involving the expenditure of more than sixty thousand dollars (\$60,000) to those businesses which have signified in writing an interest in submitting bids for particular categories of items of tangible personal property, construction and services and which have paid any required fees. (13-1-104 NMSA 1978). Reference is also given to 1.4.1.48 NMAC of this rule.

C. Public availability. A copy of the IFB shall be made available for public inspection at the office of the state purchasing agent.

[1.4.1.17 NMAC - Rp, 1.4.1.17 NMAC, 8/30/2013]

1.4.1.18 PRE-BID CONFERENCES: Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received the IFB. The conference should be held long enough after the IFB has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the IFB unless a change is made by

written amendment as provided in this rule.

[1.4.1.18 NMAC - Rp, 1.4.1.18 NMAC, 8/30/2013]

1.4.1.19 AMENDMENTS TO THE INVITATION FOR BIDS:

A. Form. An amendment to the IFB shall be identified as such and shall require that bidders acknowledge its receipt. The amendment shall refer to the portions of the IFB it amends.

B. Distribution. Amendments shall be sent to all prospective bidders known to have received the IFB.

C. Timeliness. Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the time shall be increased to the extent possible in the amendment or, if necessary, by telegram or telephone or by other electronic means and confirmed in the amendment.

D. Use of amendments. Amendments should be used to:

(1) make any changes in the IFB such as changes in quantity, purchase descriptions, delivery schedules, and opening dates;

(2) correct defects or ambiguities; or

(3) furnish to other bidders information given to one bidder if such information will assist the other bidders in submitting bids or if the lack of such information would prejudice the other bidders.

[1.4.1.19 NMAC - Rp, 1.4.1.19 NMAC, 8/30/2013]

1.4.1.20 PRE-OPENING MODIFICATION OR WITHDRAWAL OF BIDS:

A. Procedure. A bid may be modified or withdrawn by a bidder prior to the time set for bid opening by delivering written or telegraphic notice to the location designated in the IFB as the place where bids are to be received.

B. Disposition of bid security. If a bid is withdrawn in accordance with this section, the bid security, if any, shall be returned to the bidder.

C. Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

[1.4.1.20 NMAC - Rp, 1.4.1.20 NMAC, 8/30/2013]

1.4.1.21 LATE BIDS, LATE WITHDRAWALS AND LATE MODIFICATIONS:

A. Definition. Any bid or any withdrawal or modification of a bid received after the time and date for opening of bids at the place designated for opening is late.

B. General rule. No late bid, late modification, or late withdrawal will be considered unless received before contract award, and the bid, modification, or withdrawal would have been timely but for the action or inaction of state personnel directly serving the procurement activity.

C. Records. All documents relating to late bids, late modifications, or late withdrawals shall be made a part of the appropriate procurement file.

[1.4.1.21 NMAC - Rp, 1.4.1.21 NMAC, 8/30/2013]

1.4.1.22 BID OPENING:

A. Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening.

B. No bids received. Except as provided in 1.4.1.68 through 1.4.1.72 NMAC of this rule, if no bids are received or if all bids received are rejected in accordance with the provisions of 1.4.1.68 through 1.4.1.72 NMAC of this rule, a new IFB shall be issued. If upon re-bidding with no change in specifications from the first IFB, the bids received are unacceptable, or if no bids are secured, the state purchasing agent may purchase (i.e., as opposed to procure) the items of tangible personal property, construction or services in the open market at the best obtainable price.

C. Opening and recording. Bids and modifications shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB. The name of each bidder, the amount of each bid and each bid item, if appropriate, the names and addresses of the required witnesses, and such other relevant information as may be specified by the state purchasing agent shall be recorded. The record shall be open for public inspection. Each bid, except those portions for which a bidder has made a written request for confidentiality, shall also be open to public inspection. Any data, which a bidder believes should be kept confidential shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. Prices and makes and models or catalogue numbers of the items offered, deliveries, and terms of payment shall be publicly

available at the time of bid opening regardless of any designation to the contrary.

[1.4.1.22 NMAC - Rp, 1.4.1.22 NMAC, 8/30/2013]

1.4.1.23 MISTAKES IN BIDS:

- A.** Consideration for award. Bids shall be unconditionally accepted for consideration for award without alteration or correction, except as authorized in 1.4.1.14 through 1.4.1.28 NMAC of this rule.
- B.** General principles. Correction or withdrawal of a bid because of an inadvertent, nonjudgmental mistake in the bid requires careful consideration to protect the integrity of the competitive bidding system, and to assure fairness. If the mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of a nonjudgmental mistake is permissible but only to the extent authorized in 1.4.1.14 through 1.4.1.28 NMAC of this rule.
- C.** Mistakes discovered before opening. A bidder may correct mistakes discovered before bid opening by withdrawing or correcting the bid as provided in 1.4.1.20 NMAC of this rule.
- D.** Confirmation of bid. When the procurement officer knows or has reason to conclude that a mistake has been made in the low bid, the procurement officer should request the low bidder to confirm the bid. Situations in which confirmation should be requested include obvious, apparent errors on the face of the low bid or a bid unreasonably lower than the other bids submitted. If the low bidder alleges mistake, the bid may be corrected or withdrawn if the conditions set forth in Subsection E of this section are met.
- E.** Mistakes discovered after opening. This subsection sets forth procedures to be applied in three situations in which mistakes in bids are discovered after the time and date set for bid opening.
- (1)** Technical irregularities. Technical irregularities are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, when there is no effect on price, quality or quantity. The procurement officer may waive such irregularities or allow the low bidder to correct them if either is in the best interest of the state. Examples include the failure of the low bidder to:
- (a)** return the number of signed bids required by the IFB;
 - (b)** sign the bid, but only if the unsigned bid is accompanied by other material indicating the low bidder's intent to be bound; or
 - (c)** acknowledge receipt of an amendment to the IFB, but only if:
 - (i)** it is clear from the bid that the low bidder received the amendment and intended to be bound by its terms; or
 - (ii)** the amendment involved had no effect on price, quality or quantity.
- (2)** Mistakes where intended correct bid is evident. If the mistake and the intended correct bid are clearly evident on the face of a bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of a bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors. It is emphasized that mistakes in unit prices cannot be corrected.
- (3)** Mistakes where intended correct bid is not evident. A low bidder alleging a material mistake of fact which makes the bid non-responsive may be permitted to withdraw the bid if:
- (a)** a mistake is clearly evident on the face of the bid document but the intended correct bid is not; or
 - (b)** the low bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.
- (4)** Written determination. When a bid is corrected or withdrawn, or a correction or withdrawal is denied, the procurement officer shall prepare a written determination showing that the relief was granted or denied in accordance with this section.

[1.4.1.23 NMAC - Rp, 1.4.1.23 NMAC, 8/30/2013]

1.4.1.24 BID EVALUATION AND AWARD:

- A.** General. A contract solicited by competitive sealed bids shall be awarded with reasonable promptness by written notice to the lowest responsible bidder. The IFB shall set forth the requirements and criteria that will be used to determine the lowest responsive bid. No bid shall be evaluated for any requirement or criterion that is not disclosed in the IFB. Contracts solicited by competitive sealed bids shall require that the bid amount exclude the applicable state gross receipts tax or local option tax but that the contracting agency shall be required to pay the tax including any increase in the tax becoming effective after the contract is entered into. The tax shall be shown as a separate amount on each billing or request for payment made under the contract.
- B.** Product acceptability. The IFB shall set forth all evaluation criteria to be used in determining product acceptability. It may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for accomplishing any or all of the following prior to award:

- (1) inspection or testing of a product for such characteristics as quality or workmanship;
- (2) examination of such elements as appearance, finish, taste or feel; or
- (3) other examinations to determine whether it conforms with other purchase description requirements.

C. Purpose of acceptability evaluation. An acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another's but only to determine that a bidder's offering is acceptable as set forth in the IFB. Any bidder's offering which does not meet the acceptability requirements shall be rejected as non-responsive.

D. Brand-name or equal specification. Where a brand-name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition. When bidding an "or equal" the burden of persuasion is on the supplier or manufacturer who has not been specified to convince the procurement officer that their product is, in fact, equal to the one specified. The procurement officer is given the responsibility and judgement for making a final determination on whether a proposed substitution is an "or equal".

E. Determination of lowest bidder. Following determination of product acceptability as set forth in Subsections B, C and D of this Section, if any is required, bids will be evaluated to determine which bidder offers the lowest cost to the state in accordance with the evaluation criteria set forth in the IFB. Only objectively measurable criteria that are set forth in the IFB shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, discounts, transportation costs and ownership or life-cycle formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the state has available concerning future use.

(1) Prompt payment discounts. Prompt payment discounts shall not be considered in computing the low bid. Such discounts may be considered after award of the contract.

(2) Trade discounts. Trade discounts shall be considered in computing the low bid. Such discounts may be shown separately, but must be deducted by the bidder in calculating the unit price quoted.

(3) Quantity discounts. Quantity discounts shall be included in the price of an item. Such discounts may not be considered where set out separately unless the IFB so specifies.

(4) Transportation costs. Transportation costs shall be considered in computing the low bid. Such costs may be computed into the bid price or be listed as a separate item.

(5) Total or life-cycle costs. Award may be determined by total or life-cycle costing if so indicated in the IFB. Life-cycle cost evaluation may take into account operative, maintenance, and money costs, other costs of ownership and usage and resale or residual value, in addition to acquisition price, in determining the lowest bid cost over the period the item will be used.

(6) Energy efficiency. Award may be determined by an evaluation consisting of acquisition price plus the cost of energy consumed over a projected period of use.

F. Restrictions. Nothing in 1.4.1.24 NMAC of this rule shall be deemed to permit contract award to a bidder submitting a higher quality item than designated in the IFB unless the bidder is also the lowest bidder as determined under Subsection E of this section. Further, except as provided in this subsection, 1.4.1.24 NMAC of this rule does not permit negotiations with any bidder. If the lowest responsive bid has otherwise qualified, and if there is no change in the original terms and conditions, the lowest responsible bidder may negotiate with the purchaser (i.e., this exception applies only to purchases and does not apply to procurements generally) for a lower total bid to avoid rejection of all bids for the reason that the lowest bid was up to 10 percent higher than budgeted project funds. Such negotiation shall not be allowed if the lowest bid was more than ten percent over budgeted project funds.

G. Documentation of award. Following award, a record showing the basis for determining the successful bidder shall be made a part of the procurement file. Award in this context means the final required state agency signature on the contract(s) resulting from the procurement.

H. Publicizing awards. Written notice of award shall be sent to the successful bidder. Notice of award shall also be posted at the state purchasing agent's office.

[1.4.1.24 NMAC - Rn 1.4.1.24 NMAC, 8/30/2013]

1.4.1.25 STATUTORY PREFERENCES: Statutory preferences to be applied in determining low bidder or low offeror. New Mexico law provides certain statutory preferences to resident businesses, resident veteran businesses, resident contractors and resident veteran contractors as well as for recycled content goods (13-1-21 and 13-1-22 NMSA 1978). These preferences must be applied in regard to invitations for bids and requests for proposals in accordance with statute in determining the lowest bidder or offeror.

[1.4.1.25 NMAC - Rp, 1.4.1.25 NMAC, 8/30/2013]

1.4.1.26 IDENTICAL LOW BIDS:

A. Definition. Identical low bids are low responsive bids, from responsible bidders, which are identical in price after the application of the preferences referred to in 1.4.1.25 NMAC of this rule and which meet all the requirements and criteria set forth in the IFB.

B. Award. When two or more identical low bids are received, the state purchasing agent may:

- (1) award pursuant to the multiple source award provisions of 13-1-153 and 13-1-154 NMSA 1978;
- (2) award to a resident business or a resident veteran business or a resident contractor or a resident veteran contractor if the identical low bids are submitted by a resident business or a resident veteran business or a resident contractor or a resident veteran contractor and a nonresident business or nonresident contractor;
- (3) award to a bidder offering recycled content goods if the identical low bids are for recycled content goods and virgin goods;
- (4) award by lottery to one of the identical low bidders; or
- (5) reject all bids and re-solicit bids or proposals for the required services, construction or items of tangible personal property.

[1.4.1.26 NMAC - Rp, 1.4.1.26 NMAC, 8/30/2013]

1.4.1.27 MULTI-STEP SEALED BIDS:

A. General. Multi-step bidding is a variant of the competitive sealed bidding method. This method may be utilized when the state purchasing agent or a central purchasing office makes a determination that it is impractical initially to prepare specifications to support an award based on price, or that specifications are inadequate or are too general to permit full and free competition without technical evaluation and discussion.

B. Phased process. Multi-step bidding is a phased process which combines elements of both the competitive sealed proposal method, seeking necessary information or unpriced technical offers in the initial phase; and regular competitive sealed bidding, inviting bidders who submitted technically acceptable offers in the initial phase, to submit competitive sealed price bids on the technical offers in the final phase. The contract shall be awarded to the lowest responsible bidder. If time is a factor, the state purchasing agent or a central purchasing office may require offerors to submit a separate sealed bid during the initial phase to be opened after the technical evaluation.

C. Public notice. Whenever multi-step sealed bids are used, public notice for the first phase shall be given in accordance with 1.4.1.17 NMAC of this rule. Public notice is not required for the second phase.

[1.4.1.27 NMAC - Rp, 1.4.1.27 NMAC, 8/30/2013]

1.4.1.28 PAYMENTS FOR PURCHASES: Contract clause. All contracts resulting from an invitation for bids shall contain a clause allowing for late payment charges against the state agency in the amount and under the conditions set forth in 13-1-158 NMSA 1978.

[1.4.1.28 NMAC - Rp, 1.4.1.28 NMAC, 8/30/2013]

1.4.1.29 APPLICATION (COMPETITIVE SEALED PROPOSALS; 1.4.1.29-1.4.1.47 NMAC):

A. General. Except as provided in Subsections B and C of this section, the provisions of 1.4.1.29 through 1.4.1.47 NMAC of this rule apply to every procurement made by competitive sealed proposals.

B. Architects, engineers, landscape architects and surveyors. The provisions of 1.4.1.29 through 1.4.1.47 NMAC of this rule do not apply to the procurement of professional services of architects, engineers, landscape architects and surveyors for state public works projects or local public works projects. Except that when procuring such professional services for state public works projects or local public works projects state agencies and local public bodies shall comply with 13-1-120 through 13-1-124 NMSA 1978, competitive sealed qualifications-based proposals.

C. Procurement of professional services by state agencies with rulemaking authority. A state agency with rule making authority may adopt its own regulations for the procurement of professional services by competitive sealed proposals under the following conditions:

- (1) the state agency must receive prior written authorization from the GSD secretary;
- (2) the state agency's proposed regulations must provide that RFPs or notices thereof having a value exceeding sixty thousand dollars (\$60,000) will be provided to the state purchasing agent for distribution to prospective offerors who have registered with the state purchasing agent's office in accordance with the terms of Subsection B of 1.4.1.17 NMAC and Subsection A of 1.4.1.32 NMAC of this rule.

D. "Professional services" are defined in 13-1-76 NMSA 1978. The section of statute acknowledges the difficulty of any attempt made to recognize and list each and every service that could conceivably fall within the definition of "professional

services". Instead, the statute provides in relevant part that "...other persons or businesses providing similar professional services to those listed may be designated as such by a determination issued by the state purchasing agent or a central purchasing office." In instances where "...other persons or businesses providing similar professional services...", as cited in 13-1-76, NMSA 1978, is not clearly defined, state agencies shall submit a written request to the state purchasing agent for issuance of a determination and a finding that the service is to be designated as a professional service. State agencies shall not make such a determination independent of the state purchasing agent.

[1.4.1.29 NMAC - Rp, 1.4.1.29 NMAC, 8/30/2013]

1.4.1.30 GENERAL DISCUSSION:

A. Use of competitive sealed proposals. When a state agency procures professional services that are not related to a design and build project delivery system in accordance with 13-1-119.1 NMSA 1978, or when the state purchasing agent or a designee makes a determination that the use of competitive sealed bids is either not practicable or not advantageous to the state, a procurement shall be effected by competitive sealed proposals. Note well: 13-1-111 NMSA 1978 only authorizes state agencies other than the state purchasing agent to procure professional services by means of competitive sealed proposals. 13-1-111 NMSA 1978 does not authorize state agencies to avoid centralized purchasing through the state purchasing agent by issuing RFPs for items of tangible personal property, or nonprofessional services.

B. Definitions. The words "practicable" and "advantageous" are to be given ordinary dictionary meanings. The term "practicable" denotes what may be accomplished or put into practical application. "Advantageous" denotes a judgmental assessment of what is in the state's best interest. The use of competitive sealed bids may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the state's best interest.

C. Proposals offer flexibility. The key element in determining advantageousness is the need for flexibility. The competitive sealed proposal method differs from the competitive sealed bid method in two important ways:

- (1) it permits discussions with competing offerors and changes in their proposals including price; and;
- (2) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of a contract.

D. Determinations by category. The state purchasing agent may make determinations by category of services or items of tangible personal property that it is either not practicable or not advantageous to procure specified types of service or items of tangible personal property by competitive sealed bids in which case competitive sealed proposals shall be utilized. The state purchasing agent may modify or revoke such determinations at any time.

[1.4.1.30 NMAC - Rp, 1.4.1.30 NMAC, 8/30/2013]

1.4.1.31 REQUEST FOR PROPOSALS ("RFP"):

A. Initiation. The request for proposals ("RFP") is used to initiate a competitive sealed proposal procurement. All state agencies shall follow published guidelines and procedures issued by the state purchasing agent from development stage through award of RFP-based procurements. At a minimum the RFP shall include the following:

- (1) the specifications for the services or items of tangible personal property to be procured;
- (2) all contractual terms and conditions applicable to the procurement;
- (3) instructions concerning the submission and response to questions;
- (4) the term of the contract and conditions of renewal or extension, if any;
- (5) instructions and information to offerors, including the location where proposals are to be received and

the date, time and place where proposals are to be received and reviewed;

- (6) all of the evaluation factors, and the relative weights to be given to the factors in evaluating proposals;
- (7) a statement that discussions may be conducted with offerors who submit proposals determined to be

reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions;

- (8) a notice that the RFP may be canceled and that any and all proposals may be rejected in whole or in part when it is in the best interest of the state of New Mexico; and

- (9) a statement of how proposed costs should be submitted;

- (10) a notice that reads substantially as follows: The Procurement Code, 13-1-28 through 13-1-199 NMSA

1978, imposes civil, misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.

B. Incorporation by reference. The RFP may incorporate documents by reference, provided that the RFP specifies where such documents can be obtained.

C. Form of proposal. The manner in which proposals are to be submitted, including any forms for that purpose,

should be designated in the RFP.

D. Proposal preparation time. 30 calendar days between the date of issue and the proposal due date is the recommended minimum proposal preparation time. A longer preparation time may be required for complex procurements or for procurements that require substantial offeror resources to prepare an acceptable proposal.

[1.4.1.31 NMAC - Rp, 1.4.1.31 NMAC, 8/30/2013]

1.4.1.32 PUBLIC NOTICE REQUEST FOR PROPOSAL:

A. Procurements by the state purchasing agent. The state purchasing agent shall give public notice of the RFP in the same manner as provided in 1.4.1.17 NMAC of this rule. However, an RFP or a notice shall be published not less than 20 days prior to the date set for receipt of proposals unless a shorter time frame is requested and approval granted by the state purchasing agent.

B. Procurements of all tangible personal property or services. The procurement manager shall deliver to the state purchasing agent or designee the following listed items no later than 15 calendar days prior to the proposed issue date:

(1) a one-page notice suitable for distribution that contains the procurement title, purpose statement, the issue date, the name of the agency conducting the procurement, the place where a copy of the RFP document may be obtained, the date and location of the pre-proposal conference, if one is held, the name, address and phone number of the procurement manager and the deadline for submission of proposals;

(2) a completed state of New Mexico purchase document;

(3) a list containing the names and addresses of suggested sources, if any;

(4) a copy of the complete RFP document; for large or complex procurements, the draft RFP document shall be delivered to the state purchasing agent for review at least thirty days prior to the proposed issue date.

C. Procurements of professional services by other central purchasing offices. When procuring professional services, central purchasing offices other than the state purchasing agent shall provide the following notice:

(1) the RFP or a notice thereof shall be published not less than 10 calendar days prior to the date set for the receipt of proposals; it is recommended, however, that the time period between the published date and the date set for receipt of proposals be no less than 20 days; the RFP or notice shall be published at least once in a newspaper of general circulation in the area in which the central purchasing office is located; if there is no newspaper of general circulation in the area, such other notice may be given as is commercially reasonable; and

(2) a copy of the RFP and notice shall be delivered to the state purchasing agent not less than 15 calendar days prior to the date set for the issuance; the state purchasing agent shall distribute the RFP or notice to prospective offerors who have registered with the state purchasing agent's office in accordance with the terms of Subsection B of 1.4.1.17 NMAC of this rule and Subsection A of this Section; and

(3) a copy of the RFP shall be made available for public inspection at the central purchasing office.

D. Additional notice. The requirements of Subsections A, B and C of this section are in addition to any other procedures which may be adopted by the state purchasing agent or central purchasing offices to notify prospective offerors that proposals will be received, including but not limited to publication in professional journals, if available.

[1.4.1.32 NMAC - Rn 1.4.1.32 NMAC, 8/30/2013]

1.4.1.33 PRE-PROPOSAL CONFERENCES: Pre-proposal conferences may be conducted in accordance with 1.4.1.18 NMAC of this rule. Any such conference should be held prior to submission of initial proposals.

[1.4.1.33 NMAC - Rp, 1.4.1.33 NMAC, 8/30/2013]

1.4.1.34 AMENDMENTS TO THE REQUEST FOR PROPOSALS:

A. Prior to submission of proposals. Prior to submission of proposals, amendments to the RFP may be made in accordance with 1.4.1.19 NMAC of this rule.

B. After submission of proposals. After submission of proposals, amendments to the RFP shall be distributed only to short-listed offerors. The short-listed offerors shall be permitted to submit new proposals or to amend those submitted. If in the opinion of the procurement officer or procurement manager, a contemplated amendment will significantly change the nature of the procurement, the RFP shall be canceled in accordance with 1.4.1.68 through 1.4.1.72 NMAC of this rule, and a new RFP issued.

[1.4.1.34 NMAC - Rp, 1.4.1.34 NMAC, 8/30/2013]

1.4.1.35 MODIFICATION OR WITHDRAWAL OF PROPOSALS: Proposals may be modified or withdrawn prior to the established due date in accordance with 1.4.1.20 NMAC of this rule. The established due date is either the time and date announced for receipt of proposals or receipt of modifications to proposals, if any; or, if discussions have begun, it is the time and date by which

best and final offers must be submitted by short-listed offerors.

[1.4.1.35 NMAC - Rp, 1.4.1.35 NMAC, 8/30/2013]

1.4.1.36 LATE PROPOSALS, LATE WITHDRAWALS AND LATE MODIFICATIONS: Any proposal, withdrawal, or modification received after the established due date at the place designated for receipt of proposals is late. (See 1.4.1.35 NMAC of this rule for the definition of "established due date.") They may be considered only in accordance with 1.4.1.21 NMAC of this rule.

[1.4.1.36 NMAC - Rp, 1.4.1.36 NMAC, 8/30/2013]

1.4.1.37 RECEIPT AND OPENING OF PROPOSALS:

A. Receipt. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. (See 1.4.1.35 of this rule for the definition of "established due date.")

B. Opening. Proposals shall not be opened publicly and shall not be open to public inspection until after award of a contract. An offeror may request in writing nondisclosure of confidential data. Such data shall accompany the proposal and shall be readily separable from the proposal in order to facilitate eventual public inspection of the nonconfidential portion of the proposal.

[1.4.1.37 NMAC - Rp, 1.4.1.37 NMAC, 8/30/2013]

1.4.1.38 EVALUATION OF PROPOSALS:

A. Evaluation factors: The evaluation shall be based on the evaluation factors and the relative weights set forth in the RFP. Numerical rating systems are required for requests for proposals-based procurements.

B. Evaluation committee. The state agency management shall appoint an evaluation committee prior to the due date for receipt of proposals. The size of the committee should be manageable and include both user and technical support representatives.

C. Classified proposals. For the purpose of conducting discussions under 1.4.1.39 NMAC of this rule, proposals shall be initially classified as:

- (1) responsive;
- (2) potentially responsive, that is, reasonably susceptible of being made responsive; or
- (3) non-responsive.

D. Disqualification. Non-responsive proposals are disqualified and eliminated from further consideration. A written determination in the form of a letter must be sent promptly to the disqualified offeror setting forth the grounds for the disqualification, and made a part of procurement file.

[1.4.1.38 NMAC - Rp, 1.4.1.38 NMAC, 8/30/2013]

1.4.1.39 PROPOSAL DISCUSSIONS AND NEGOTIATIONS WITH INDIVIDUAL OFFERORS:

A. Discussions authorized. Discussions may be conducted with responsible offerors who submit acceptable or responsive, potentially acceptable or potentially responsive proposals.

B. Purposes of discussions. Discussions are held to clarify technical or other aspects of the proposals.

C. Conduct of discussions. If during discussions there is a need for any substantial clarification or change in the request for proposals, the request for proposals shall be amended to incorporate such clarification or change. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror. Proposals may be accepted and evaluated without such discussion. This is not an opportunity for the offerors to amend the substance of their proposals.

D. Short list. All responsible offerors who submit acceptable proposals are eligible for the short list. If numerous acceptable proposals have been submitted, however, the procurement officer or procurement manager may rank the proposals and select the highest ranked proposals for the short list. Those responsible offerors who are selected for the short list are the "short-listed offerors" or "finalist offerors".

E. Competitive negotiations. Competitive negotiations may be held among the short-listed offerors to:

- (1) promote understanding of a state agency's requirements and short-listed offerors' proposal; and
- (2) facilitate arriving at a contract that will be most advantageous to a state agency taking into consideration the evaluation factors set forth in the RFP;
- (3) except for circumstances and situations otherwise approved by the state purchasing agent, negotiations of the relevant terms and conditions as well as any other important factors in an RFP and proposed contract are negotiated prior to award of a contract, not after award.

F. Conduct of competitive negotiations. Short-listed offerors shall be accorded fair and equal treatment with respect to any negotiations and revisions of proposals. The procurement officer should establish procedures and schedules for conducting negotiations. If during discussions there is a need for any substantial clarification of or change in the RFP, the RFP shall be amended to

incorporate such clarification or change. Any substantial oral clarification of a proposal shall be reduced to writing by the short-listed offeror.

[1.4.1.39 NMAC - Rp, 1.4.1.39 NMAC, 8/30/2013]

1.4.1.40 DISCLOSURE: The contents of any proposal shall not be disclosed so as to be available to competing offerors during the negotiation process and prior to award. Award in this context means the final required state agency signature on the contract(s) resulting from the procurement.

[1.4.1.40 NMAC - Rp, 1.4.1.40 NMAC, 8/30/2013]

1.4.1.41 BEST AND FINAL OFFERS: Best and final offers in a request for proposals are strongly discouraged. An offeror's best offer should be included in that offeror's original proposal. No discussion or changes to that offer should be allowed prior to selection of the offeror as the successful offeror unless negotiations are undertaken pursuant to 1.4.1.39 NMAC of this rule. After such selection of a successful offeror or offerors (for a multiple award procurement) and before final award, an agency may negotiate with the selected successful offeror(s) for the best possible terms for the state but such negotiations shall not change the successful offeror's or offerors' (for a multiple award procurement) proposal(s) to the detriment of the state. Award in this context means the final required state agency signature on the contract(s) resulting from the procurement.

[1.4.1.41 NMAC - Rp, 1.4.1.41 NMAC, 8/30/2013]

1.4.1.42 MISTAKES IN PROPOSALS:

A. Modification or withdrawal of proposals. Proposals may be modified or withdrawn as provided in 1.4.1.35 NMAC of this rule.

B. Mistakes discovered after receipt of proposals. This subsection sets forth procedures to be applied in several situations in which mistakes in proposals are discovered after receipt of proposals.

(1) Confirmation of proposal. When the procurement officer or procurement manager knows or has reason to conclude before award that a mistake has been made, the procurement officer or procurement manager should request the offeror to confirm the proposal. If the offeror alleges mistake, the proposal may be corrected or withdrawn during any discussions that are held or if the conditions set forth in Subsection C of this section are met.

(2) During negotiations. If best and final offers are requested in the RFP, between the period of selecting short-listed/finalist offerors and the date set for best and final offers, any short-listed or finalist offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.

C. Technical irregularities. Technical irregularities are matters of form rather than substance evident from the proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other offerors; that is, when there is no effect on price, quality or quantity. If discussions are not held or if best and final offers upon which award will be made have been received, the procurement officer or procurement manager may waive such irregularities or allow an offeror to correct them if either is in the best interest of the state. Examples include, but are not limited to, the failure of an offeror to:

(1) return the number of signed proposals required by the RFP;

(2) sign the proposal, but only if the unsigned proposal is accompanied by other material indicating the

offeror's intent to be bound; or

(3) acknowledge receipt of an amendment to the RFP, but only if:

(a) it is clear from the proposal that the offeror received the amendment and intended to be bound

by its terms; or

(b) the amendment involved had no effect on price, quality or quantity.

D. Correction of mistakes. If discussions are not held, or if the best and final offers upon which award will be made have been received, mistakes shall be corrected to the intended correct offer whenever the mistake and the intended correct offer are clearly evident to the evaluation committee members or the procurement officer or the procurement manager on the face of the proposal, in which event the proposal may not be withdrawn.

E. Withdrawal of proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, an offeror alleging a material mistake of fact which makes a proposal non-responsive may be permitted to withdraw the proposal if:

(1) the mistake is clearly evident to the evaluation committee members or the procurement officer or the procurement manager on the face of the proposal but the intended correct offer of the offeror is not; or

(2) the offeror submits evidence which clearly and convincingly demonstrates that a mistake was made.

F. Determination required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied under

Subsections C through E of this section, the procurement officer or procurement manager shall prepare a written determination showing that the relief was granted or denied in accordance with this section.

[1.4.1.42 NMAC - Rp, 1.4.1.42 NMAC, 8/30/2013]

1.4.1.43 AWARD: PROFESSIONAL SERVICES:

A. Procedure. An award shall be made to the responsible offeror whose proposal is most advantageous to a state agency, taking into consideration the evaluation factors set forth in the RFP. The procurement officer shall make a written determination showing the basis on which an award was found to be most advantageous to a state agency based on the factors set forth in the RFP. Award in this context means the final required state agency signature on the contract(s) resulting from the procurement.

B. Publicizing awards. The procurement manager or procurement officer shall promptly provide all offerors who submitted responsive proposals written notice of the award. Award in this context means the final required state agency signature on the contract(s) resulting from the procurement.

C. Publicizing awards. The procurement manager or procurement officer shall promptly provide all offerors who submitted responsive proposals written notice of the award which notice shall be sent via certified mail, return receipt requested, and shall include the expiration date and time of the protest period, if there was a change from the date and time published in the RFP.

[1.4.1.43 NMAC - Rp, 1.4.1.43 NMAC, 8/30/2013]

1.4.1.44 AWARD: ALL TANGIBLE PERSONAL PROPERTY OR SERVICES: (INCLUDES SOFTWARE, HARDWARE, NON-PROFESSIONAL SERVICES, etc):

A. Procedure. The award shall be made by the state purchasing agent or designee to the responsible offeror whose proposal is most advantageous to the state agency, taking into consideration the evaluation factors set forth in the RFP. The procurement manager shall make a written determination in the form of an evaluation committee report showing the basis on which the recommended award was found to be most advantageous to the state agency based on the factors set forth in the RFP.

B. Publicizing awards. The procurement manager shall promptly provide all offerors who submitted responsive proposals written notice of the award. The written notice shall be sent via certified mail, return receipt requested, and shall include the expiration date and time of the protest period, if there was a change from the date and time published in the RFP.

[1.4.1.44 NMAC - Rp, 1.4.1.44 NMAC, 8/30/2013]

1.4.1.45 PUBLIC INSPECTION:

A. General. After award, any written determinations made pursuant to these rules, the evaluation committee report and each proposal, except those portions for which the offeror has made a written request for confidentiality, shall be open to public inspection. Confidential data is 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 may not be designated as confidential information. Award in this context means the final required state agency signature on the contract(s) resulting from the procurement.

B. Confidential data. If a request is received for disclosure of data, for which an offeror has made a written request for confidentiality, the state purchasing agent or central purchasing office shall examine the offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. If it is determined that an offeror's requested confidential data should be disclosed, that offeror will receive reasonable notice in order to afford the offeror the opportunity to take legal action to prevent the disclosure. Unless the offeror takes legal action to prevent the disclosure, the data will be so disclosed. After award the proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

[1.4.1.45 NMAC - Rp, 1.4.1.45 NMAC, 8/30/2013]

1.4.1.46 PAYMENTS FOR PURCHASES: Contract clause. All contracts resulting from a request for proposals shall contain a clause allowing for late payment charges against the state agency in the amount and under the conditions set forth in 13-1-158 NMSA 1978.

[1.4.1.46 NMAC - Rp, 1.4.1.46 NMAC, 8/30/2013]

1.4.1.47 DFA CONTRACT REVIEW: All contracts for professional services with state agencies shall be reviewed as to budget requirements by the department of finance and administration, if such review is required by DFA or subsequent DFA rules.

[1.4.1.47 NMAC - Rp, 1.4.1.47 NMAC, 8/30/2013]

1.4.1.48 APPLICATION (SMALL PURCHASES; 1.4.1.48 - 1.4.1.52 NMAC): The provisions of 1.4.1.48 through

1.4.1.52 NMAC of this rule apply to the procurement of nonprofessional services, construction or items of tangible personal property having a value not exceeding sixty thousand dollars (\$60,000) and to the procurement of professional services having a value not exceeding sixty thousand dollars (\$60,000) the use of a statewide price agreement, an existing contract or the methods of procurement set forth in 1.4.1.50 through 1.4.1.52 NMAC of this rule provide alternatives to the competitive sealed bid and competitive sealed proposal methods of procurement. If an existing statewide price agreement, an existing contract or, the procurement methods set forth in 1.4.1.50 through 1.4.1.52 NMAC of this rule are not used, the competitive sealed bid or competitive sealed proposal methods shall apply.

[1.4.1.48 NMAC - Rp, 1.4.1.48 NMAC, 8/30/2013]

1.4.1.49 DIVISION OF REQUIREMENTS: Procurement requirements shall not be artificially divided so as to constitute a small purchase under 1.4.1.48 through 1.4.1.52 NMAC of this rule.

[1.4.1.49 NMAC - Rp, 1.4.1.49 NMAC, 8/30/2013]

1.4.1.50 SMALL PURCHASES OF \$20,000 OR LESS: A state agency may procure services, construction or items of tangible personal property having a value not exceeding twenty thousand dollars (\$20,000) by issuing a direct purchase order to a contractor based upon the best obtainable price and in accordance with any procedures or processes set forth by the state purchasing agent.

[1.4.1.50 NMAC - Rp, 1.4.1.50 NMAC, 8/30/2013]

1.4.1.51 SMALL PURCHASES OF ITEMS OF TANGIBLE PERSONAL PROPERTY, CONSTRUCTION AND NONPROFESSIONAL SERVICES:

A. Quotation to be obtained. Insofar as it is practical for small purchases of nonprofessional services, construction or items of tangible personal property having a value exceeding twenty thousand dollars (\$20,000) but not exceeding sixty thousand dollars (\$60,000), and in accordance with any procedures or processes set forth by the state purchasing agent, no fewer than three businesses shall be solicited via written requests containing the specifications for the procurement to submit written quotations that are recorded and placed in the procurement file. If three written quotes cannot be obtained, the agency shall document the reasons and include the document in the procurement file. Such notations as “does not carry” or “did not return my phone call” do not qualify as a valid quotation. If the lowest quotation is not acceptable, the central purchasing office must issue a written determination as to the reasons for such a decision. These reasons must not be arbitrary or capricious. The written determination becomes a part of the procurement file.

B. Disclosure. Prior to award, the contents of any response to a quotation shall not be disclosed to any other business from which the same request for quotation is also being solicited. Award in this context means the final required state agency signature on the contract(s) resulting from the procurement.

C. Award. Award shall be made to the business offering the lowest acceptable quotation.

D. Records. The names of the businesses submitting quotations and the date and the amount of each quotation shall be recorded and maintained as a public record.

[1.4.1.51 NMAC - Rp, 1.4.1.51 NMAC, 8/30/2013]

1.4.1.52 SMALL PURCHASES OF PROFESSIONAL SERVICES:

A. Application. A central purchasing office may procure professional services having a value not to exceed sixty thousand dollars (\$60,000) except for the services of architects, engineers, landscape architects, or surveyors for state public works projects, as that term is defined in 13-1-91 NMSA 1978, in accordance with Subsections B, C, and D of this section and 2.40.2 through 2.40.17 NMAC.

B. Examination of offeror list. Before contacting any business, a central purchasing office is encouraged to examine the state purchasing agent's current list of potential offerors, if any. Central purchasing offices are encouraged to contact at least three businesses for written offers before selecting a contractor.

C. Negotiations. A central purchasing office shall negotiate a contract for the required services at a fair and reasonable price to the state agency.

D. Disclosure. If more than one business is contacted, the contents of the written or oral offer of one business shall not be disclosed to another business until award is made. Award in this context means the final required state agency signature on the contract(s) resulting from the procurement.

[1.4.1.52 NMAC - Rp, 1.4.1.52 NMAC, 8/30/2013]

1.4.1.53 APPLICATION (SOLE SOURCE PROCUREMENTS, 1.4.1.53 - 1.4.1.57 NMAC): The provisions of 1.4.1.53 through 1.4.1.57 NMAC of this rule apply to all sole source procurements unless emergency conditions exist as defined in 1.4.1.59 NMAC of this rule.

[1.4.1.53 NMAC - Rp, 1.4.1.53 NMAC, 8/30/2013]

1.4.1.54 SOLE SOURCE PROCUREMENT OF ITEMS OF TANGIBLE PERSONAL PROPERTY, CONSTRUCTION AND NONPROFESSIONAL SERVICES:

A. Conditions for use. A contract may be awarded without competitive sealed bids or competitive sealed proposals, regardless of the estimated cost, when the state purchasing agent or a central purchasing office, employing due diligence, determines, in writing, that:

- (1) there is only one source for the required service, construction or item of tangible personal property;
- (2) the service, construction or item of tangible personal property is unique and this uniqueness is substantially related to the intended purpose of the contract; and
- (3) other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract.

B. Request by using agency. Any request by a using agency that a procurement be restricted to one potential contractor shall be accompanied by a written explanation as to why no other will be suitable or acceptable to meet the need. The written explanation shall be made upon a form provided by the state purchasing agent and available on-line.

C. Posting. Prior to the award of a sole source procurement contract, the state purchasing agent or central purchasing office shall:

- (1) provide the information set forth in statute and listed upon the form made available by the state purchasing agent on the state purchasing agent's website to the department of information technology for posting on the sunshine portal; and
- (2) forward the same information to the legislative finance committee.

D. A local public body central purchasing office, prior to award of a sole source contract, shall post the information required by statute on the local public body website, if one exists.

E. Negotiations. The state purchasing agent or a central purchasing office shall conduct negotiations, as appropriate, as to price, delivery and quantity, in order to obtain the price most advantageous to the state.

F. Notice; protest. At least 30 days before a sole source contract is awarded, the state purchasing agent, a central purchasing office, or a designee of either shall post notice of the intent to award a sole source contract on its website. If a central purchasing office does not maintain a website, it may post the notice on the state purchasing agent's website. Any qualified potential contractor who was not awarded a sole source contract may protest to the state purchasing agent or a central purchasing office. The protest shall be submitted:

- (1) in writing; and
- (2) within 15 calendar days of the notice of intent to award a contract being posted by the state purchasing agent or a central purchasing office.

G. Specifications. The state purchasing agent or a central purchasing office shall not circumvent the sole source request and posting and award process by narrowly drafting specifications so that only one predetermined source would satisfy those specifications.

[1.4.1.54 NMAC - Rp, 1.4.1.54 NMAC, 8/30/2013]

1.4.1.55 [RESERVED]

1.4.1.56 [RESERVED]

1.4.1.57 RECORDS OF SOLE SOURCE PROCUREMENTS: The state purchasing agent or central purchasing office shall maintain records of sole source procurements for a minimum of three years. The party responsible for the procurement must retain the records. Posting such procurements on the state purchasing agent's website does not remove the central purchasing office's responsibility to maintain these records if the central purchasing office was responsible for the procurement. The record of each such procurement shall be a public record and shall contain:

- A.** the contractor's name and address;
- B.** the amount and term of the contract;
- C.** a listing of the services, construction, or items of tangible personal property procured under the contract; and

D. the justification for the procurement method which shall include any written determinations and written approvals required by any provision of 1.4.1.53 through 1.4.1.57 NMAC of this rule.

[1.4.1.57 NMAC - Rp, 1.4.1.57 NMAC, 8/30/2013]

1.4.1.58 APPLICATION (EMERGENCY PROCUREMENTS, 1.4.1.58 - 1.4.1.64 NMAC): The provisions of 1.4.1.58 through 1.4.1.64 NMAC of this rule apply to every procurement made under emergency conditions that will not permit other source selection methods to be used.

[1.4.1.58 NMAC - Rp, 1.4.1.58 NMAC, 8/30/2013]

1.4.1.59 DEFINITION OF EMERGENCY CONDITIONS: An emergency condition is a situation which creates a threat to public health, welfare, safety or property such as may arise by reason of floods, epidemics, riots, equipment failures or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- A.** the functioning of government;
- B.** the preservation or protection of property; or
- C.** the health or safety of any person.

[1.4.1.59 NMAC - Rp, 1.4.1.59 NMAC, 8/30/2013]

1.4.1.60 SCOPE OF EMERGENCY PROCUREMENTS: Emergency procurements shall be limited to those services, construction, or items of tangible personal property necessary to meet the emergency. Such procurement shall not include the purchase or lease-purchase of heavy road equipment.

[1.4.1.60 NMAC - Rp, 1.4.1.60 NMAC, 8/30/2013]

1.4.1.61 AUTHORITY TO MAKE EMERGENCY PROCUREMENTS: The state purchasing agent or a central purchasing office, employing due diligence, may make emergency procurements when an emergency condition arises; provided that emergency procurements shall be made with such competition as is practicable under the circumstances.

[1.4.1.61 NMAC - Rp, 1.4.1.61 NMAC, 8/30/2013]

1.4.1.62 PROCEDURE: The procedure used shall be selected to assure that the required services, construction, or items of tangible personal property are procured in time to meet the emergency. Given this constraint, such competition as is practicable shall be obtained.

[1.4.1.62 NMAC - Rp, 1.4.1.62 NMAC, 8/30/2013]

1.4.1.63 WRITTEN DETERMINATION AND POSTING REQUIRED: A written determination of the basis for the emergency procurement shall be made containing the information set forth in statute and listed on the form issued by the state purchasing agent and available on the state purchasing agent's website. Within three business days of awarding an emergency procurement, the awarding central purchasing office within a state agency shall:

- A.** provide the information required by statute to the department of information technology for posting on the sunshine portal; and
- B.** forward the same information to the legislative finance committee.

[1.4.1.63 NMAC - Rp, 1.4.1.63 NMAC, 8/30/2013]

1.4.1.64 RECORDS OF EMERGENCY PROCUREMENTS: The state purchasing agent or central purchasing office shall maintain records of emergency procurements for a minimum of three years. The party responsible for the procurement must retain the records. Posting such procurements on the state purchasing agent's website does not remove the central purchasing office's responsibility to maintain these records if the central purchasing office was responsible for the procurement. The record of each such procurement shall be a public record and shall contain:

- A.** the contractor's name and address;
- B.** the amount and term of the contract;
- C.** a listing of the services, construction, or items of tangible personal property procured under the contract; and
- D.** the justification for the procurement method.

[1.4.1.64 NMAC - Rp, 1.4.1.64 NMAC, 8/30/2013]

1.4.1.65 PROCUREMENT UNDER EXISTING CONTRACTS AUTHORIZED: The state purchasing agent or a central purchasing office may contract for services, professional services, construction, or items of tangible personal property without the use of competitive sealed bids or competitive sealed proposals as follows:

A. at a price equal to or less than the contractor's current federal supply contract (GSA), providing the contractor has indicated in writing a willingness to extend the contract's pricing, terms and conditions to the state agency and the purchase order adequately identifies the contract relied upon; or

B. with a business which has a current price agreement with the state purchasing agent or a central purchasing office for the item, services, or construction meeting the same standards and specifications as the items to be procured, if the following conditions are met:

(1) the total quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement; and

(2) the purchase order adequately identifies the price agreement relied upon;

C. other than Subsection A and B of this section and cooperative procurements as authorized by statute (and described in 13-1-135 NMSA 1978) or the state procurement card program (described in 6-5-9.1 NMSA 1978), no other procurement under existing contracts is authorized; no central purchasing office of a state agency or any other governmental entity may utilize a contract entered into by a different state agency or other governmental entity if not involved in the procurement itself (i.e., so-called "piggybacking" of contracts; the practice of "piggybacking" is not allowed under the Procurement Code); purchases under contracts developed through cooperative procurement authorized under 13-1-135 NMSA 1978 or contracts which qualify under 13-1-129 NMSA 1978 is permitted and does not constitute "piggybacking."

[1.4.1.65 NMAC - Rp, 1.4.1.65 NMAC, 8/30/2013]

1.4.1.66 LIMITATION ON SUBSECTION A OF 1.4.1.65 OF THIS RULE RELATING TO GSA CONTRACTS: It should be understood, the state is not authorized to utilize a GSA contract per se. It is imperative, therefore, that the contractor, not a dealer or distributor, who has a current GSA contract indicate in writing a willingness to extend the contract's pricing, terms and conditions to the state of New Mexico. Therefore, a state agency shall not procure services, construction or items of tangible personal property directly under a general services administration (GSA) contract. Rather, a state agency must procure pursuant to a state purchasing agent price agreement which reflects the prices, terms and conditions of the respective GSA contract. If no such state purchasing agent price agreement exists, a state agency may make a written request to the state purchasing agent for the issuance of one. The request must be accompanied by a current copy of the applicable GSA contract, a letter from the contractor expressing a willingness to extend the contract's pricing, terms and conditions to the state of New Mexico and a letter from the state agency indicating a commitment to utilize the price agreement. The state purchasing agent will ascertain whether it is current and whether the proposed price is equal to or less than the federal supply contract price. If everything is in order, the state purchasing agent will issue a price agreement or purchase order reflecting the prices, terms and conditions of the GSA contract. A state agency shall make no procurements from the GSA contractor until a state purchasing agent price agreement has been issued.

[1.4.1.66 NMAC - Rp, 1.4.1.66 NMAC, 8/30/2013]

1.4.1.67 COPIES OF CONTRACTS AND PRICE AGREEMENTS: A central purchasing office shall retain for public inspection and for the use of auditors a copy of each state purchasing agent contract or current price agreement relied upon to make purchases without seeking competitive bids.

[1.4.1.67 NMAC - Rp, 1.4.1.67 NMAC, 8/30/2013]

1.4.1.68 APPLICATION (CANCELLATION OF SOLICITATIONS OR REJECTION OF BIDS OR PROPOSALS; 1.4.1.68 - 1.4.1.72 NMAC): The provisions of 1.4.1.68 through 1.4.1.72 NMAC of this rule shall govern the cancellation of any solicitations whether issued by the state purchasing agent under competitive sealed bids, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.

[1.4.1.68 NMAC - Rp, 1.4.1.68 NMAC, 8/30/2013]

1.4.1.69 POLICY: Any solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part when it is in the best interest of the state of New Mexico.

[1.4.1.69 NMAC - Rp, 1.4.1.69 NMAC, 8/30/2013]

1.4.1.70 CANCELLATION OF SOLICITATIONS OR REJECTION OF ALL BIDS OR PROPOSALS:

A. Prior to opening.

(1) As used in this section, "opening" means the date set for opening of bids or receipt of proposals.

(2) Prior to opening, a solicitation may be canceled in whole or in part when the state purchasing agent or central purchasing office makes a written determination that such action is in the state's best interest for reasons including but not limited to:

- (a) the services, construction, or items of tangible personal property are no longer required;
- (b) the using agency no longer can reasonably expect to fund the procurement;
- (c) proposed amendments to the solicitation would significantly change the nature of the

procurement.

(3) When a solicitation is canceled prior to opening, notice shall be sent to all businesses solicited. The

notice shall:

- (a) identify the solicitation;
- (b) briefly explain the reason for cancellation; and
- (c) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar services, construction, or items of tangible personal property.

B. After opening.

(1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the state purchasing agent or central purchasing office makes a written determination that such action is in the state's best interest for reasons including but not limited to:

- (a) all of the bids and proposals are nonresponsive;
- (b) the services, construction, or items of tangible personal property are no longer required;
- (c) ambiguous or otherwise inadequate specifications were part of the solicitation;
- (d) the solicitation did not provide for consideration of all factors of significance to the using

agency;

- (e) prices exceed available funds and it would not be appropriate to adjust quantities to come

within available funds;

- (f) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
- (g) there is reason to believe that the bids or proposals may not have been independently arrived at

in open competition, may have been collusive, or may have been submitted in bad faith.

(2) A notice of rejection should be sent to all businesses that submitted bids or proposals, and it shall conform to Paragraph (3) of Subsection A of this section.

[1.4.1.70 NMAC - Rp, 1.4.1.70 NMAC, 8/30/2013]

1.4.1.71 REJECTION OF INDIVIDUAL BIDS OR PROPOSALS:

A. Reasons for rejection.

(1) Bids. As used in this section, "bid" includes both competitive sealed bids and small purchase quotations. Reasons for rejecting a bid shall include but are not limited to:

- (a) the business that submitted the bid is nonresponsive as determined under 1.4.1.73 NMAC of
- (b) the bid is not responsive; or
- (c) the service, construction, or item of tangible personal property offered in the bid is

unacceptable by reason of its failure to meet the requirements of the specifications, or permissible alternates, or other acceptability criteria set forth in the IFB.

(2) Proposals. As used in this section, "proposal" includes both competitive sealed proposals and small purchase offers. Unless the solicitation states otherwise, proposals need not be unconditionally accepted without alteration or correction and a using agency's stated requirements may be revised or clarified after proposals are submitted. This flexibility must be considered in determining whether reasons exist for rejecting all or any part of a proposal. Reasons for rejecting proposals include but are not limited to:

- (a) the business that submitted the proposal is nonresponsive as determined under 1.4.1.75

through 1.4.1.79 NMAC of this rule;

- (b) the proposal is not responsive; or
- (c) the proposed price is clearly unreasonable; or
- (d) the proposal failed to adequately address one or more material mandatory requirements as set

forth in the request for proposals.

B. Written determination required. A written determination which contains the reasons for the rejection of an individual bid or proposal shall be prepared by the state purchasing agent or central purchasing office and made a part of the procurement file.

[1.4.1.71 NMAC - Rp, 1.4.1.71 NMAC, 8/30/2013]

1.4.1.72 "ALL OR NONE" BIDS: When the term "all or none" is used.

A. By the purchaser in a solicitation. A solicitation may require bidders to submit bids or offers on all items listed in the solicitation, or may identify certain groups of items in which all items must be bid. If the solicitation is properly so limited, a bidder's failure to bid all items identified as "all or none" items may render the bid nonresponsive.

B. By the bidder or offeror, and not the purchaser. If the bidder restricts acceptance of the bid, or a portion thereof, by such a statement as "all or none", the bidder has "qualified" the offer which may render the bid as nonresponsive.

C. In instances as stated in both Subsections A and B of this section such a bid or offer may be accepted only if the state purchasing agent or a central purchasing office issues a determination setting forth the basis for accepting the bid or offer as being in the best interest of the state. Also in both, instances, the bid or offer is only eligible for award if it is the overall low bid for the item or items so restricted.

[1.4.1.72 NMAC - Rp, 1.4.1.72 NMAC, 8/30/2013]

1.4.1.73 APPLICATION (RECEIPT; INSPECTION; ACCEPTANCE OR REJECTION OF DELIVERIES; 1.4.1.73 - 1.4.1.74 NMAC): The using agency is responsible for inspecting and accepting or rejecting deliveries.

A. The using agency shall determine whether the quantity is as specified in the purchase order or contract.

B. The using agency shall determine whether the quality conforms to the specifications referred to or included in the purchase order or contract.

C. If inspection reveals that the delivery does not meet or conform to the quantity or quality specified in the purchase order or contract, the using agency shall notify the vendor that the delivery has been rejected and shall order the vendor to promptly make a satisfactory replacement or supplementary delivery.

D. In case the vendor fails to comply, the using agency shall promptly file a purchasing complaint with the state purchasing agent.

E. Also, in case the vendor fails to comply, the using agency shall have no obligation to pay for the nonconforming items of tangible personal property.

F. If the delivery does conform to the quantity and quality specified in the purchase order or contract, the using agency shall certify that delivery has been completed and is satisfactory.

[1.4.1.73 NMAC - Rp, 1.4.1.73 NMAC, 8/30/2013]

1.4.1.74 SUMMARY: Notwithstanding the requirements of 1.4.1.73 NMAC, if, after delivery and acceptance of goods, the goods or a portion thereof are later found to be non-conforming to the specifications referred to or included in the purchase order or contract, such acceptance does not waive any rights or remedies which are otherwise granted to the buyer in accordance with other applicable sections of laws of New Mexico.

[1.4.1.74 NMAC - Rp, 1.4.1.74 NMAC, 8/30/2013]

1.4.1.75 APPLICATION (RESPONSIBILITY OF BIDDERS AND OFFERORS; 1.4.1.75 - 1.4.1.79 NMAC): A determination of responsibility or non-responsibility shall be governed by 1.4.1.75 through 1.4.1.79 NMAC.

[1.4.1.75 NMAC - Rp, 1.4.1.75 NMAC, 8/30/2013]

1.4.1.76 STANDARDS OF RESPONSIBILITY:

A. Standards for bidders. Factors to be considered in determining whether the standard of responsibility has been met include whether a bidder has:

(1) submitted a responsive bid;

(2) adequate financial resources, production or service facilities, personnel, service reputation and experience to make satisfactory delivery of the services, construction, or items of tangible personal property described in the IFB;

(3) a satisfactory record of performance;

(4) a satisfactory record of integrity;

(5) qualified legally to contract with the state; and

(6) supplied all necessary information and data in connection with any inquiry concerning responsibility.

B. Standards for offerors. Factors to be considered in determining whether the standard of responsibility has been met include whether an offeror has:

- (1) submitted a responsive proposal;
- (2) adequate financial resources, production or service facilities, personnel, service reputation and experience to make satisfactory delivery of the services or items of tangible personal property described in the proposal;
- (3) a satisfactory record of performance;
- (4) a satisfactory record of integrity;
- (5) qualified legally to contract with the state; and
- (6) supplied all necessary information and data in connection with any inquiry concerning responsibility.

[1.4.1.76 NMAC -Rp, 1.4.1.76 NMAC, 8/30/2013]

1.4.1.77 ABILITY TO MEET STANDARDS: A bidder or offeror may demonstrate the availability of adequate financial resources, production or service facilities, personnel and experience by submitting, upon request:

- A. evidence that the bidder or offeror possesses the necessary items;
- B. acceptable plans to subcontract for the necessary items; or
- C. a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

[1.4.1.77 NMAC - Rp, 1.4.1.77 NMAC, 8/30/2013]

1.4.1.78 INQUIRY BY PROCUREMENT OFFICER: Before awarding a contract, the procurement officer or procurement manager must be satisfied that the bidder or offeror is responsible. Therefore, a bidder or offeror shall supply information and data requested by the procurement officer concerning the responsibility of the bidder or offeror. The unreasonable failure of a bidder or offeror to promptly supply information or data in connection with such an inquiry is grounds for a determination that the bidder or offeror is not responsible.

[1.4.1.78 NMAC - Rp, 1.4.1.78 NMAC, 8/30/2013]

1.4.1.79 DETERMINATION REQUIRED: If a bidder or offeror who otherwise would have been awarded a contract is found to be non-responsible, a written determination, setting forth the basis of the finding, shall be prepared by the state purchasing agent or central purchasing office. The written determination shall be made part of the procurement file, and a copy of the determination shall be sent to the non-responsible bidder or offeror.

[1.4.1.79 NMAC - Rp, 1.4.1.79 NMAC, 8/30/2013]

1.4.1.80 APPLICABILITY (PROTESTS; 1.4.1.80 - 1.4.1.93 NMAC): The provisions of 1.4.1.80 through 1.4.1.93 NMAC of this rule apply to all protests filed with the state purchasing agent and all central purchasing offices that have not adopted regulations for resolving protests. Central purchasing offices with rulemaking authority, other than the state purchasing agent, may adopt regulations for resolving protests filed within their jurisdictions.

[1.4.1.80 NMAC - Rp, 1.4.1.80 NMAC, 8/30/2013]

1.4.1.81 RIGHT TO PROTEST: Any bidder or offeror who is aggrieved in connection with a solicitation or award of a contract, including a sole source procurement, may protest to the state purchasing agent or central purchasing office.

[1.4.1.81 NMAC - Rp, 1.4.1.81 NMAC, 8/30/2013]

1.4.1.82 FILING OF PROTEST:

- A. Protest must be written. Protests must be in writing and addressed to the state purchasing agent or central purchasing office, whichever has control and administration over the procurement.
- B. Contents. The protest shall:
 - (1) include the name and address of the protestant;
 - (2) include the solicitation number;
 - (3) contain a statement of the grounds for protest;
 - (4) include supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time in which case the expected availability date shall be indicated; and
 - (5) specify the ruling requested from the state purchasing agent or central purchasing office.
- C. Pleadings. No formal pleading is required to initiate a protest, but protests should be concise, logically arranged, and direct.

D. Time limit. Protests shall be submitted within 15 calendar days after knowledge of the facts or occurrences giving rise to the protest. Any person or business that has been sent written notice of any fact or occurrence is presumed to have knowledge of the fact or occurrence.

[1.4.1.82 NMAC - Rp, 1.4.1.82 NMAC, 8/30/2013]

1.4.1.83 PROCUREMENTS AFTER PROTEST:

A. In the event of a timely protest, as defined in Subsection D of 1.4.1.82 NMAC of this rule, the state purchasing agent or central purchasing office shall not proceed further with the procurement unless the state purchasing agent or central purchasing office makes a written determination that the award of the contract is necessary to protect substantial interests of a state agency. Such written determination should set forth the basis for the determination. As used in 1.4.1.80 through 1.4.1.93 NMAC of this rule, the point in time in which a contract is awarded is that point at which a legally enforceable contract is created unless the context clearly requires a different meaning.

B. A procurement shall not be halted after a contract has been awarded merely because a protest has been filed. After a contract has been awarded, the state purchasing agent or central purchasing office may, in its sole discretion, halt a procurement in exceptional circumstances or for good cause shown.

[1.4.1.83 NMAC - Rp, 1.4.1.83 NMAC, 8/30/2013]

1.4.1.84 PROCEDURE:

A. Upon the filing of a timely protest, the state purchasing agent or central purchasing office shall give notice of the protest to the contractor if award has been made or, if no award has been made, to all bidders or offerors who appear to have a substantial and reasonable prospect of receiving an award if the protest is denied.

B. The protestant and every business that receives notice pursuant to Subsection A of this section will automatically be parties to any further proceedings before the state purchasing agent or central purchasing office. In addition, any other person or business may move to intervene at any time during the course of the proceedings. Intervention will be granted upon a showing of a substantial interest in the outcome of the proceedings. Interveners shall accept the status of the proceedings at the time of their intervention; in particular, they must abide by all prior rulings and accept all previously established time schedules. The state purchasing agent or central purchasing office, and all employees thereof, are not parties to the proceedings.

C. The state purchasing agent or central purchasing office may take any action reasonably necessary to resolve a protest. Such actions include, but are not limited to, the following:

- (1) issue a final written determination summarily dismissing the protest;
- (2) obtain information from the staff of the state purchasing agent or central purchasing office;
- (3) require parties to produce for examination information or witnesses under their control;
- (4) require parties to express their positions on any issues in the proceedings;
- (5) require parties to submit legal briefs on any issues in the proceeding;
- (6) establish procedural schedules;
- (7) regulate the course of the proceedings and the conduct of any participants;
- (8) receive, rule on, exclude or limit evidence;
- (9) take official notice of any fact that is among the traditional matters of official or administrative notice;
- (10) conduct hearings; and
- (11) take any action reasonably necessary to compel discovery or control the conduct of parties or witnesses.

[1.4.1.84 NMAC - Rp, 1.4.1.84 NMAC, 8/30/2013]

1.4.1.85 DISCOVERY: Upon written request of any party, or upon its own motion, the state purchasing agent or central purchasing office may require parties to comply with discovery requests.

[1.4.1.85 NMAC - Rp, 1.4.1.85 NMAC, 8/30/2013]

1.4.1.86 HEARINGS:

A. Hearings will be held only when the state purchasing agent or central purchasing office determines that substantial material factual issues are present that cannot be resolved satisfactorily through an examination of written documents in the record. Any party may request a hearing, but such requests shall be deemed denied unless specifically granted.

B. Hearings, when held, should be as informal as practicable under the circumstances, but the state purchasing agent or central purchasing office has absolute discretion in establishing the degree of formality for any particular hearing. In no event is the state purchasing agent or central purchasing office required to adhere to formal rules of evidence or procedure.

[1.4.1.86 NMAC - Rp, 1.4.1.86 NMAC, 8/30/2013]

1.4.1.87 RESOLUTION:

A. The state purchasing agent or central purchasing office shall promptly issue a written determination relating to the protest. The determination shall:

- (1) state the reasons for the action taken; and
- (2) inform the protestant of the right to judicial review of the determination pursuant to 13-1-183 NMSA

1978.

B. A copy of the written determination shall be sent immediately by certified mail, return receipt requested, to each of the parties.

[1.4.1.87 NMAC - Rp, 1.4.1.87 NMAC, 8/30/2013]

1.4.1.88 RELIEF:

A. Prior to award. If, prior to award, the state purchasing agent or central purchasing office makes a written determination that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be canceled.

B. After award.

(1) No fraud or bad faith. If, after an award, the state purchasing agent or central purchasing office makes a written determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has not acted fraudulently or in bad faith:

(a) the contract may be ratified, affirmed or revised to comply with law, provided that a written determination is made that doing so is in the best interest of the state; or

(b) the contract may be terminated, and the business awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract plus a reasonable profit prior to termination.

(2) Fraud or bad faith. If, after an award, the state purchasing agent or central purchasing office makes a written determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has acted fraudulently or in bad faith, the contract shall be canceled.

C. Relief not allowed. Except as provided in Subparagraph (b) of Paragraph (1) of Subsection B of this section, the state purchasing agent or central purchasing office shall not award money damages or attorneys' fees.

[1.4.1.88 NMAC - Rp, 1.4.1.88 NMAC, 8/30/2013]

1.4.1.89 MOTION FOR RECONSIDERATION:

A. Motion. A motion for reconsideration of a written determination issued pursuant to 1.4.1.87 NMAC of this rule may be filed by any party or by any using agency involved in the procurement. The motion for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification of the determination is deemed warranted, specifying any errors of law made, or information not previously considered.

B. When to file. A motion for reconsideration shall be filed not later than seven calendar days after receipt of the written determination.

C. Response to motion. The state purchasing agent or central purchasing office shall promptly issue a written response to the motion for reconsideration. A copy of the written response shall be sent immediately by certified mail, return receipt requested, to each of the parties.

[1.4.1.89 NMAC - Rp, 1.4.1.89 NMAC, 8/30/2013]

1.4.1.90 DESIGNEE:

A. Designation. At any point during a protest proceeding, the state purchasing agent or central purchasing office may appoint a designee as defined in 13-1-51 NMSA 1978 to preside over the proceeding. The designee will have all of the powers described in 1.4.1.80 through 1.4.1.93 NMAC of this rule except the power to issue a written determination under 1.4.1.87 NMAC of this rule. The designee only has authority to recommend a resolution to the state purchasing agent or central purchasing office under 1.4.1.87 NMAC of this rule.

B. Who may be designated. Any person, other than the procurement officer, procurement manager or other person not directly involved in the procurement, may serve as a designee.

C. Recommended written determination. A designee shall present a recommended written resolution to the state purchasing agent or central purchasing office and mail a copy to each of the parties. No party may appeal from the recommended

resolution of the designee.

D. Action by state purchasing agent or central purchasing office. The state purchasing agent or central purchasing office shall approve, disapprove or modify the recommended resolution of the designee in writing. Such approval, disapproval or modification shall be the written determination required by 1.4.1.87 NMAC of this rule. Any party may file a motion for reconsideration of the written determination pursuant to 1.4.1.89 NMAC of this rule.

[1.4.1.90 NMAC - Rp, 1.4.1.90 NMAC, 8/30/2013]

1.4.1.91 FINAL DETERMINATION:

A. No motion for reconsideration. In those proceedings in which no motion for reconsideration is filed, the written determination issued pursuant to 1.4.1.87 NMAC of this rule shall be the final determination for purposes of the time limits for seeking judicial review under 13-1-183 NMSA 1978.

B. Motion for reconsideration. In those proceedings in which a motion for reconsideration is filed, the written response to the motion issued pursuant to 1.4.1.89 NMAC of this rule shall be the final determination for purposes of the time limits for seeking judicial review under 13-1-183 NMSA 1978.

[1.4.1.91 NMAC - Rp, 1.4.1.91 NMAC, 8/30/2013]

1.4.1.92 COPIES OF COMMUNICATIONS:

A. Copies to be provided to parties. Each party to a protest proceeding shall certify that it has provided every other party with copies of all documents or correspondence addressed or delivered to the state purchasing agent or central purchasing office.

B. Ex parte communications. No party shall submit to the state purchasing agent or central purchasing office, ex parte, any material, evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in a protest.

[1.4.1.92 NMAC - Rp, 1.4.1.92 NMAC, 8/30/2013]

1.4.1.93 COUNTING DAYS: In computing any period of time prescribed in 1.4.1.80 through 1.4.1.93 NMAC of this rule, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

[1.4.1.93 NMAC - Rp, 1.4.1.93 NMAC, 8/30/2013]

1.4.1.94 CHIEF PROCUREMENT OFFICER REGISTRATION AND CERTIFICATION:

A. Overview. This Section applies to chief procurement officers in all state agencies and local public bodies.

(1) **Statutory Authority.** Under Section 9-17-5 NMSA 1978 and the Procurement Code, Sections 13-1-1 et seq NMSA 1978, the general services secretary has authority to promulgate rules and regulations relating to this program.

(2) **Scope.** The chief procurement officer registration, certification and recertification training program is a state wide program administered by the state purchasing agent. Each state agency and local public body shall provide to the state purchasing agent the name of and all changes to the name of the state agency's or local public body's chief procurement officer and information identifying the state agency's or local public body's central purchasing office. The state purchasing agent shall maintain a list of the names of chief procurement officers reported to the state purchasing agent by state agencies and local public bodies. The state purchasing agent shall make the list of approved chief procurement officers available to the public through the web site of the purchasing division of the general services department and in any other appropriate form. It is a violation of statute if state agencies and local public bodies do not have a chief procurement officer listed on the state purchasing agent list before performing procurements. Section 13-1-98 NMSA 1978 shall not reduce the scope of duties, responsibilities or authority of the state purchasing agent, nor shall such exemptions exclude state agencies and local public bodies from the duties and responsibilities of providing the state purchasing agent the name of its certified chief procurement officer. All state agencies and local public bodies and their certified chief procurement officers are required to comply with all requirements under Sections 13-1-28 through 13-1-199 NMSA 1978 (amended 2013).

B. Definitions.

(1) **“Approves” or “approved”** means a chief procurement officer has successfully completed the certification or recertification training program administered by the state purchasing agent and attested to by the issuance of a certificate signed by the state purchasing agent.

(2) **“Conduct” or “conducting”** procurements means the act of preparing, advertising, processing, and awarding procurements of any kind, including, but not limited to, sole source, invitation to bid, request for proposals, and contracts under state price agreements.

(3) **“Certification Program”** means the initial certification process through passing an exam after

completing course material and a test approved by the general services secretary.

(4) **“Recertification Program”** means training that will include affirmation of successfully completing course material approved by the general services secretary.

C. **Mandatory identification of certified chief procurement officer.** Each state agency and local public body shall annually, on or before January 1st of each year, and within 15 calendar days every time thereafter upon a vacancy or extended absence of a certified chief procurement officer for more than two weeks, provide to the state purchasing agent the name of the state agency or local public body certified chief procurement officer and, if applicable, information identifying the state agency or local public body central purchasing office. Every state agency or local public body shall have a certified chief procurement officer on the state purchasing agent list to perform procurements. No agency shall conduct procurements until a certified chief procurement officer is approved by the state purchasing agent. Upon a vacancy or absence, the state agency or local public body shall have 90 days to replace its certified chief procurement officer. In the event the initial 90 day period is to be exceeded, and upon good cause shown, to the satisfaction of the state purchasing agent, an additional 90 days may be granted to the state agency or local public body by the state purchasing agent to replace its certified chief procurement officer. Examples of good cause would include vacancies due to emergencies, death or resignation of a certified chief procurement officer. Until a certified chief procurement officer is reported to the state purchasing agent no procurements may be conducted and no duties, responsibilities, and obligations may be performed as detailed in Subsection F of 1.4.1.94 NMAC unless granted temporary authority by the state purchasing agent.

D. **Registration of chief procurement officer with state purchasing agent.** The certified chief procurement officer, that has been reported by the state agency or local public body to the state purchasing agent as provided in Subsection C of 1.4.1.94 NMAC above, shall register with the state purchasing agent through the state purchasing division’s website. The state agency or local public body shall provide all the required identification information, including:

- (1) certified chief procurement officer name with title, phone number and email address;
- (2) agency or entity name with full address and registration date.

At the time of registering for the certification or recertification program, the applicant shall execute a statement of personal responsibility affirming:

- (a) he/she is a current employee of a state agency or local public body and not employed as an independent contractor;
- (b) he/she has not been convicted of a felony unless pardoned by the governor; and
- (c) any additional required information specified by the state purchasing agent.

E. **Chief procurement officer certification.** The state purchasing agent shall establish a certification and recertification program for all chief procurement officers including the initial certification, and recertification every two years, on or before the certification anniversary date for each certified chief procurement officer. In order to be certified or recertified, a chief procurement officer shall remain an employee of the state agency or local public body, must not be convicted of a felony or behavior unbecoming of a chief procurement officer with a record of performance that establishes good moral character and competency, and shall obtain such training as deemed appropriate by the secretary of the general services department and pass a certification or recertification program, as appropriate, approved by the secretary of the general services department. Subject to the provisions of subsection J, the state purchasing agent may revoke a certification if shown that the chief procurement officer has not maintained the standards for a chief procurement officer. The secretary of the general services department reserves the right to add separate certifications and recertifications of specialized acquisitions under the procurement code as are deemed necessary or useful by the secretary.

F. **Certified chief procurement officer duties, responsibilities and obligations.** On and after July 1, 2015, only certified chief procurement officers may do the following, except that persons using procurement cards may continue to issue purchase orders and authorize small purchases:

- (1) make determinations, including determinations regarding exemptions, pursuant to the Procurement Code;
- (2) issue purchase orders and authorize small purchases pursuant to the Procurement Code; and
- (3) approve procurement pursuant to the Procurement Code.

G. **Failure to identify and register a certified chief procurement officer.** In the event that the state agency or local public body does not have a certified chief procurement officer identified and registered in conformance with Section 13-1-95.2 NMSA 1978, pursuant to Section 13-1-97 NMSA 1978, procurement acts by that state agency or local public body may be suspended at the discretion of the state purchasing agent.

H. **Identification, registration and certification violations.** Any procurement act performed by a state agency or local public body under the New Mexico procurement code that has not identified and registered its certified chief procurement officer in conformance with Section 13-1-95.2 NMSA 1978, may be deemed a procurement violation. For state agencies, such procurement violation(s) may also result in a violation of the department of finance and administration’s Model Accounting Practices.

I. **Delegation or sharing of certified chief procurement officer duties.** The sharing of a certified chief procurement

officer through mutual execution of a memorandum of agreement by the state agency (agencies) or local public body(bodies) is allowed. A state agency or local public body wanting to delegate or share a certified chief procurement officer with another state agency or local public body shall: provide to the state purchasing agent for such sharing arrangement, information identifying the state agency or local public body central purchasing office, the name of the state agency or local public body shared certified chief procurement officer and the intergovernmental agreement supporting the arrangement.

J. Revocation or suspension of certification.

(1) The state purchasing agent may suspend or revoke certified chief procurement officer certification in whole or in part, based on any action or conduct deemed improper of a certified chief procurement officer, including but not limited to severity or frequency of procurement violations, non-compliance with the Governmental Conduct Act (Sections 10-16-1 through 10-16-18 NMSA 1978), lack of verification that the chief procurement officer has successfully completed the certification or recertification program established by the state purchasing agent; lack of verification of current employment by the reporting state agency or local public body and not employed as an independent contractor; lack of verification that the person has not been convicted of a felony and behavior unbecoming of a chief procurement officer with a record of performance that establishes competency.

(2) Due process procedures shall be initiated by the state purchasing agent after reasonable notice to the certified chief procurement officer involved as follows in this section. The state purchasing agent or his designee shall cause written notice of the proposed revocation or suspension of certification (the Action) to be sent by certified mail, return receipt requested, to the certified chief procurement officer involved. The notice shall contain the following statements:

- (a) the Action contemplated is for revocation or suspension of certified chief procurement officer certification;
- (b) the reasons for the Action, which shall include a summary of the certified chief procurement officer's conduct or performance/nonperformance of his duties to which the Action relates;
- (c) the Action is brought pursuant to the provisions contained in Section 13-1-95.2 NMSA 1978 and the regulations promulgated thereunder;
- (d) sufficient facts exist, unless rebutted, to support the proposed revocation or suspension of certification and that the state purchasing agent shall proceed to suspend or revoke certified chief procurement officer certification in whole or in part unless the certified chief procurement officer requests, in writing, a hearing within 15 consecutive calendar days from the day the certified chief procurement officer receives the notice of the proposed Action;
- (e) the address where the certified chief procurement officer's request for hearing shall be sent, and the name of the person to whom the request shall be sent; and
- (f) that if the certified chief procurement officer fails to deliver a written request for a hearing to the person designated within the 15 days required in Subparagraph (d) of this Section, a final determination shall be made by the state purchasing agent;
- (g) upon receipt of a timely request for hearing, the state purchasing agent will appoint a neutral hearing officer and any such hearing officer so appointed will conduct the hearing and recommend a final decision to the state purchasing agent. If no hearing officer can be appointed in timely fashion, the state purchasing agent shall then act as the hearing officer.

(3) If a hearing is requested, the hearing officer shall send written notice to the certified chief procurement officer of the time and the place of the hearing.

(4) Hearings, and any subsequent appeals, shall conform to the standards, requirements, and process set forth for protests under the procurement code, Sections 13-1-28 thru 13-1-199 NMSA 1978, and be as informal as may be reasonable and appropriate under the circumstances. However, in no event shall the hearing officer be required to adhere to formal rules of evidence or procedure. The weight to be attached to evidence presented in any particular form will be within the discretion of the hearing officer. Stipulations of fact agreed upon by the participants may be regarded and used as evidence at the hearing. The participants may stipulate the testimony that would be given by a witness as if the witness were present. The hearing officer may require evidence in addition to that offered by the participants. The state purchasing agent shall issue a written determination regarding revocation or suspension of certification following the hearing.

K. Reinstatement of certification.

(1) The state purchasing agent may reinstate the certified chief procurement officer certification:

- (a) in whole or in part;
- (b) temporarily or permanently; or
- (c) may limit the scope of duties as the state purchasing agent

deems appropriate.

(2) The state purchasing agent may require successful completion of re-certification or proof of eligibility as a pre-condition for reinstatement. This may include successful completion of the certification program or recertification program.

(3) The state purchasing agent reserves the right to adopt additional remedies into the program as deemed appropriate.

L. Coordination by the state purchasing agent. The state purchasing agent may coordinate with the department of finance and administration regarding the reporting of decisions and actions under this section for state agencies, and with the local government division of the department of finance and administration for local public bodies.

M. Policies from the state purchasing agent. The state purchasing agent reserves the right to implement further policies to give full effect to the certified chief procurement officer statutes and this rule as required and necessary.

N. Limitations. Nothing in these rules shall be deemed to be a limit on the authority of the state purchasing agent to enact the purpose of these rules, nor a limit on other legal liability of certified chief procurement officer for their action or conduct.

[1.4.1.94 NMAC - N, 08/30/2013; A, 01/16/2018]

1.4.1.95 STATE USE ACT:

A. Procurement of services. In regard to the procurement of services, before utilizing any other procurement method allowed under the Procurement Code, a state agency or local public body shall first offer the procurement to the central non-profit agency under contract with the state. The central non-profit agency has the right of first refusal for any procurement of services provided that the service is stated on a list provided and published by the central non-profit agency and provided that the provider can meet the time requirements of the state agency.

B. Central non-profit agency. The central non-profit agency shall:

(1) publish the list of services available through the central non-profit agency on a website available to all state agencies and local public bodies;

(2) ensure that all service providers on this list meet the eligibility requirements to offer services under 13-1C-1 et. seq. NMSA 1978; and

(3) ensure that the prices offered to state agencies and local public bodies reflect the fair market value of such services in accordance with 13-1C-5 NMSA 1978;

(4) provided that, under 13-1C-6 NMSA 1978, services provided pursuant to and facilities covered by 22-14-27 NMSA 1978 are excluded from procurement through the central non-profit agency.

C. Procurement of services pursuant to 13-1C-1 et. seq. NMSA 1978 are exempt from the Procurement Code.

[1.4.1.95 NMAC - N, 8/30/2013]

History of 1.4.1 NMAC:

Pre-NMAC History:

Laws of 1984, Chapter 65, Section 1 enacted the Procurement Code to apply to every expenditure by state agencies and local public bodies for the procurement of items of tangible personal property, services and construction. To implement the Code, and in accordance with the statutory requirements applicable at the date and time, the subject and material found in this rule was first filed with the state records center and archives in 1984 as general services department (GSD) Procurement Code Regulations, GSD Rule No. 84-611, filed 11/21/1984; superseded by Procurement Code Regulations, GSD Rule No. 87-601, filed 12/16/1987; superseded by Procurement Code Regulations, GSD Rule No. 89-601, filed 12/01/1989; superseded by Procurement Code Regulations, GSD Rule No. 93-601, filed 09/21/1993; superseded by 1 NMAC 5.2, filed 01/15/1998.

History of Repealed Material:

1.4.1 NMAC, Procurement Code Regulations (filed 11/01/2001) repealed 09/30/2005.

1.4.1 NMAC, Procurement Code Regulations (filed 09/16/2005) repealed 8/30/2013.

Other History:

GSD Rule No. 93-601 (filed 09/21/1993) was renumbered, reformatted and amended to 1 NMAC 5.2, Procurement Code Regulations, effective 01/15/1998.

1 NMAC 5.2, Procurement Code Regulations (filed 01/02/1998) was renumbered, reformatted, amended and replaced to 1.4.1 NMAC, Procurement Code Regulations, effective 11/15/2001.

1.4.1 NMAC, Procurement Code Regulations (filed 11/01/2001) was replaced by 1.4.1 NMAC, Procurement Code Regulations, effective 09/30/2005.

1.4.1 NMAC, Procurement Code Regulations (filed 09/16/2005) was replaced by 1.4.1 NMAC, Procurement Code Regulations,

effective 8/30/2013.



MEMORANDUM

To: Board of Regents
Northern New Mexico College

From: Ivan Lopez, Provost and VPAA

Date: May 29, 2018

Re: Failing Grades

Issue

The Department of Education recommended NNMC to consider C- as a passing grade.

Overview

For the last 10 years, a C- and below are considered failing grades. This makes NNMC an outlier nationwide and none of the current faculty and staff members actually knows how or why this decision was made. In their most recent visit, the Department of Education recommended NNMC to review this issue and adopt a more common standard in higher education. By not doing it, NNMC students are much more vulnerable to lose eligibility for Federal Pell Grants.

The Academic Standards Committee of the Faculty Senate has recommended the following new criterion: "For courses taken in fall 2018 and in later semesters, grades of D+ and below do not count toward graduation and do not meet the criteria for satisfying pre-requisites. To address accreditation requirements, specific programs or specific courses may have other grading requirements that will be clearly defined in the NNMC Catalog."

To replace the current criterion: "Grades of C- and below do not count toward graduation and do not meet the criteria for satisfying prerequisites."

Recommendation

I recommend the Board of Regents approve the new criterion regarding failing grades.



MEMORANDUM

To: Board of Regents
Northern New Mexico College

From: Ivan Lopez, Provost and VPAA

Date: May 29, 2018

Re: Retroactive Withdrawal Policy Approval

Issue

Department of Education's recommendation for NNMC to develop a Retroactive Withdrawal Policy for students who did not withdraw from courses for reasons beyond their control.

Overview

The attached document describes the proposed policy. This policy is designed to allow for the change of failing grades to a "W" (withdraw) when serious and unforeseen circumstances occur, which make it impossible for students to complete the official withdrawal process prior to the withdrawal deadline set in the academic calendar. The time limit for filing a petition for a retroactive withdrawal is one year from the last day of the semester for which the retroactive withdrawal is sought. Petitions require approval from either the Dean or Chairperson of the College that the student is declared under. This policy addresses extenuating circumstances that contributed to the inability to withdraw by the deadline were: 1) beyond their control; 2) unforeseeable; 3) severe and 4) verifiable.

Recommendation

I recommend the Board of Regents approve this policy suggested by the Department of Education.



Retroactive Withdrawal Policy

I. Purpose

This Retroactive Withdrawal policy is designed to allow for the change of failing grades to grades of “W” (withdraw) when a serious and unforeseen circumstance occurs which makes it impossible for the student to complete the official withdrawal process prior to the withdrawal deadline set in the academic calendar.

II. Policy Statement

A student may petition for Retroactive Withdrawal from a course(s) or from all courses taken during a prior semester if circumstances of a serious and compelling nature prevented the completion of course work and extenuating circumstances prevented submission of a regular withdrawal petition by the deadline. In filing a petition for Retroactive Withdrawal, withdrawal from all courses taken during the term is normally expected since ‘extenuating circumstances’ are not course-specific. When a retroactive withdrawal is approved, failing grades for the semester will be changed to a “W”. Students who gain a retroactive withdrawal are not candidates for the remission of tuition and fees. The time limit for filing a petition for a retroactive withdrawal is one year from the last day of the semester for which the retroactive withdrawal is sought. Petitions require approval from either the Dean or Chairperson of the College that the student is declared under.

Students are not a candidate for retroactive withdrawal if any of the following conditions are true:

- They are applying because they are not satisfied with the grade they earned.
- They are applying because they neglected to formally withdraw from the courses due to poor judgment or ignorance of College policies.
- They assumed activities which restricted their time for academic pursuit and contributed to failing grades (ex. employment)
- They cannot demonstrate that extenuating circumstances prevented them from withdrawing themselves prior to the official deadline to withdraw.
- They have already received a Northern degree for which the course(s) were applied toward degree completion.

Students may be candidates for retroactive withdrawal when:

- The extenuating circumstances that contributed to the inability to withdraw by the deadline were: 1) beyond their control 2) unforeseeable 3) severe 4) verifiable

III. Administration of Policy

A retroactive withdrawal form with instructions is to be created to aid in the administration of this policy.



MEMORANDUM

To: Board of Regents
Northern New Mexico College

From: Ivan Lopez, Provost and VPAA

Date: May 29, 2018

Re: General Education Requirements

Issue

New HED Rule 5.55.6 requires higher education institutions to adopt a new General Education model. This rule needs to be adopted by all degrees by fall 2019.

Overview

Attached is a proposal from Faculty Senate in response to HED's requirement. The 22 credits in the six proposed areas (Communications, Mathematics, Science, Social and Behavioral Sciences, Humanities, Fine Arts) and the 9 institution-based credits that the rule establishes had been adopted and it allows full transferability among NNMC degrees with the exception of Engineering and Nursing Programs.

Recommendation

I recommend the Board of Regents approve the General Education Requirements Model as required HED to become effective fall 2019.

General Education for all degrees at NNMC except Associate of Applied Science

Area I Communications (6 hours)

ENG 111 (English Composition I)
 ENG 112 (English Composition II) or ENG 117 (Children's Literature)

Area V Humanities (3 hours)

Choose one of the following
 ENG 270 (Children's Literature)
 ENG 262 (Literature of the Southwest)
 ENG/PIS 265 (Native American Literature I)
 ENG/PIS 266 (Native American Literature II)
 ENG 280 (Readings in Literature)
 ENG 290 (Study of Literature)
 ENG 294 (Mythology)
 HIST 101 (Western Civilization I)
 HIST 102 (Western Civilization II)
 HIST 161 (History of U.S. to 1877)

Additional 9 Credit Hours

1) SPCH 130 (Public Speaking)
 2) Civics course (Note that a course cannot count in two areas. For example PSCI 110 cannot count for Area IV and for the additional 9 credit hours)

Area II Mathematics (3 hours)

Choose one of the following
 MATH 145 (Introduction to Probability and Statistics)
 MATH 150 (College Algebra)
 MATH 151 (Conceptual Mathematics)
 ENGR 121L and 122L (Introduction to Materials)
 HIST 161 (History of U.S. to 1877)

Choose one of the following
 PSCI 110 (Political World)
 PSCI 200 (American Politics)
 CJ 111 (Introduction to Criminal Justice)
 HIST 161 (History of U.S. to 1877)
 HIST 162 (History of U.S. from 1877)

Area III Science (4 hours)

Choose one of the following
 ASTR 110/L (Introduction to Astronomy with Lab)
 BIOL 110/L (Current Topics in Biology with Lab)
 BIOL 210/L (Microbiology and Lab)
 HIST 162 (History of U.S. from 1877)
 HIST 220 (Southwestern Women's History)
 HIST 230 (Chicano Experience in the US)
 HIST 250 (American Indian History)
 HIST 260 (History of New Mexico)
 HUM 100 (History and Culture of Northern New Mexico)

Non-STEMH recommendation

Literature course

Choose one of the following (Note that a course cannot count in two areas. For example, ENG 270 cannot count for Area V and for the additional 9 credit hours)

CHEM 110/L (Introduction to Chemistry with Lab)
 CHEM 121/L (General Chemistry I with Lab)
 ENGR 101/L (Computer Science for All)
 ES 112/L (Introduction to Environmental Science)
 GEOL 101/L (Physical Geology with Lab)
 GEOL 102/L (Historical Geology with Lab)
 PHYS 121/L (Applied Physics I with Lab) or higher level 100 or 200 science courses
 PHIL 110 (Intro to Philosophical Problems)
 PHIL 111 (History of Philosophy)
 PHIL 220 (Ethics)
 PHIL 250 (Critical Thinking)

ENG 120 (Introduction to Literature)
 ENG 221 (Creative Writing)
 ENG 230 (World Literature I)
 ENG 231 (World Literature II)
 ENG 270 (Children's Literature)
 ENG 247 (Topics)

STEMH recommendation

Area IV Social and Behavioral Sciences (3 hours)

Area VI Fine Arts (3 hours)

Choose one of the following
 ANTH 102 (Intro to Social/Cultural Anthropology)

ES 205 Critical Thinking in Science

PSY 290 (Developmental Psychology) - For nursing majors - Note that this course cannot count both here and in Area IV

ANTH 110 (Indian Cultures of the Southwes
 ANTH 111 (Language and Culture)
 ANTH 207 (Cultures of New Mexico)
 CJ 111 (Introduction to Criminal Justice)
 CJ 132 (Introduction to Criminology)
 ECON 200 (Macroeconomics)
 ECON 201 (Microeconomics)
 GEOG 111 (World Geography)
 PIS 200 (Introduction to Pueblo Indian Stu
 PSCI 110 (The Political World)
 PSCI 120 (Contemporary Political Issues)
 PSCI 200 (American Politics)
 PSY 105 (General Psychology)
 PSY 229 (Adolescent Psychology)
 PSY 290 (Developmental Psychology)
 SOC 101 (Introduction to Sociology)
 SOC 213 (Deviant Behavior)
 SOC 220 (Social Problems)

General Education for Associate of Applied Science

- 1) Students will choose 12 credits from Areas I-VI
- 2) Students will choose 3 elective credits from Areas I-VI
- 3) Individual programs could insert specific recommendations in accordance with 1 and 2 above