



Central New Mexico Community College

*Purchasing Department
525 Buena Vista SE
Albuquerque, NM 87106*

REQUEST FOR PROPOSALS NO.: P-325	TITLE: Building Automation/Management System Consulting Services
RFP DUE DATE: Friday, January 11, 2013	TIME: 3:00 PM local time (MDT)
NON-MANDATORY PRE-PROPOSAL MEETING	DATE: December 12, 2012 from 2PM – 3PM Location: CNM’s Main Campus 835 Buena Vista SE Student Resource Center, Rooms SRC111H/SRC111J
BUYER: Gil Rivera Phone: 505-224-4546 Fax: 505-224-4548 E-mail address: grivera22@CNM.edu	
NUMBER OF RESPONSES REQUIRED: One (1) Original and Five (5) Copies	FREIGHT TERMS: FOB Destination Freight Included PAYMENT TERMS: Net 30 Days

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PROPOSAL SUBMISSION REQUIREMENTS, FORMAT AND CONTENT:

Central New Mexico Community College (CNM) invites you to submit a proposal for the services specified in this Request for Proposals. Please read carefully all instructions, specifications, terms and conditions. Failure to comply with the instructions, specifications, terms and conditions of this Request for Proposals may result in your proposal being declared non-responsive. The purchase of materials and or services awarded under this Request is subject to CNM's General Terms and Conditions as well as all statements contained in this Request for Proposals. All terms and conditions of the Request for Proposals shall remain unchanged for the duration of any resultant agreement(s) and shall supersede and take precedence over any vendor agreement forms. Additional or different terms proposed by the vendor are hereby rejected unless agreed to in writing by CNM. The New Mexico criminal law prohibits bribes, gratuities and kickbacks (13-1-28 through 13-1-199, NMSA 1978).

Any and all clarifications of instructions, specifications, scope, requirements, terms and conditions, insurance, bonds, or proposal preparation, etc. shall be made only by the Buyer listed above. All requests for clarification or exception to instructions, terms and conditions, specifications, requirements, scope, insurance, bonds, or proposal preparation, etc. must be made in writing, addressed to the Buyer listed above, and submitted no later than five (5) days prior to the proposal due date. Technical questions concerning scope of work, CNM's requirements, needs or expectations and the vendor's requirements, needs or expectations must be directed to the technical clarification contact listed above. If a technical clarification contact is not listed above, then all such questions must be directed to the Buyer listed above. If appropriate in CNM's sole judgment, CNM Purchasing may issue a written Amendment or addendum which shall thereafter become part of this Request for Proposals. No oral interpretations shall be binding upon CNM unless reduced to a written amendment issued by CNM Purchasing prior to the proposal due date and time. Your reliance on any such oral interpretations shall be deemed to be unreasonable.

Each respondent, by submitting a response, represents that the respondent has read and completely understands the request for qualifications documents and agrees to abide by the terms of this RFP and any resulting agreement. Failure of the selected contractor to fulfill the provisions of this request for qualifications shall in no way relieve the obligation of the Contractor to furnish all services necessary to carry out the provisions of the agreement.

The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the awarded Price Agreement.

Should an Offeror object to any of the terms and conditions of this RFP, the Offeror must expressly identify any and all exceptions to this proposal's scope of work, terms and conditions in their proposal response to receive consideration, and propose specific alternative language. CNM may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to CNM and will result in disqualification of the Offeror's proposal. The final terms and conditions of any resultant contract may differ from those provided herein.

CNM is not responsible for representations made by any of its officers or employees prior to the execution of the Agreement(s) unless such understanding or representation is included in the RFP or in subsequent written addenda or responses provided to all proposers by CNM's Purchasing Department. CNM is responsible only for that which is expressly stated in the solicitation document and any authorized addenda thereto. Any cost incurred by the Respondent in preparation, transmittal or presentation of any proposal or material submitted in response to the RFP shall be borne solely by the Respondent.

Contractor shall not be an employee of CNM and is responsible for federal and state payroll and service taxes such as social security, unemployment and gross receipts taxes. Service required by this RFP for which the Successful Offeror does not identify cost will be borne at the Offeror's expense and will not be charged to CNM.

PROPOSAL SUBMISSION REQUIREMENTS, FORMAT AND CONTENT:

SUBMITTAL INSTRUCTIONS:

To submit a proposal, provide a type written document responding to the scope of work/services, specifications, and evaluation criteria contained herein. Complete the forms labeled “SECTION E: Signature of Firm’s Authorized Representative,” “SECTION F: Debarment/Suspension Status & Non-Collusion Affidavit Form,” “EXHIBIT B: Campaign Contribution Disclosure Form,” signed by the firm’s authorized representative, and submit these forms with your proposal’s response to Section D, Evaluation Criteria. Responses shall be signed by a legally authorized representative of the Respondent. Unsigned responses to SECTION E: Signature of Firm’s Authorized Representative and Section F: Debarment/Suspension Status & Non-Collusion Affidavit Form will be rejected as a material failure.

CNM does not desire responses with fancy binders, binding, or sales literature. Instead, vendors' proposals should be organized in a format that promotes the easy and clear evaluation of your proposal. To this end, the organization of your proposal should generally follow the Request for Proposals' organization so that the Request and your proposal can be cross-referenced during the evaluation process. Likewise, information in your proposal should be presented in same order as the pertinent provisions of the Request for Proposals, referencing sections of the Request on any and all attachments that you include with your proposal. Each original proposal must be signed in ink by an authorized representative of your firm; all corrections shall be initialed in ink by person signing the proposal. The contents of the selected proposal may become part of any resultant award. If you wish to offer more than one proposal, clearly label the top as an alternate proposal and submit all responses in the same envelope as the original proposal. Submit the number of copies of your proposal as specified above. Each copy shall include all supporting documentation. Failure to submit the required number of copies may result in your proposal being considered non-responsive.

1. REQUIRED SUBMITTAL DOCUMENTS NEEDED WITH YOUR SEALED RESPONSE:

- a. OFFEROR’S point-by-point response to SECTION D, EVALUATION CRITERIA, paragraphs 3.3.1 THROUGH 3.3.4.
- b. SECTION E: Signature of Firm’s Authorized Representative
- c. SECTION F: Debarment/Suspension Status & Non-Collusion Affidavit Form
- d. EXHIBIT B: Campaign Contribution Disclosure Form
- e. Table of Contents to include section names, section numbers and page numbers
- f. Letter of Transmittal. The letter of transmittal will fairly and briefly depict the respondent’s proficiency, experience and capability to serve CNM and why the respondent believes they should be selected.
- g. Response length and font size: Proposal responses should be limited to 10 double spaced pages no smaller than 10 point font.
- h. Submit one (1) original and five (5) copies of your response to this RFP with your SEALED response.

NOTE: Failure to submit items 1.a – 1.d. noted above will render the offer as being non-responsive. Non-responsive offers CANNOT be considered for award. Items 1.b., 1.c., and 1.d. MUST be signed by a legally authorized representative of the Respondent.

2. SUBMITTAL DEADLINE AND LOCATION

All responses must be received in a SEALED envelope by CNM no later than 3:00 PM MDT, TBD, 2012.

Responses are to be submitted via MAIL, COURIER, or HAND DELIVERED to:

Central New Mexico Community College

Purchasing Department

525 Buena Vista Drive SE

Albuquerque, NM 87106

Attn: RFP # P-325, Due on or before 3:00 PM MDT, Friday, January 11, 2013

PROPOSAL SUBMISSION REQUIREMENTS, FORMAT AND CONTENT:

PLEASE ENSURE THAT YOUR SEALED ENVELOPE IS LABELED WITH YOUR FIRM'S NAME, ADDRESS, RFP NUMBER, AND OPENING DATE AND TIME. Failure to properly identify this RFP #, Due Date and Time on the lower left outside corner of your sealed proposal envelope may result in either premature opening of your proposal or failure to open it upon the correct closing date and time.

- a. Faxed or electronically mailed responses will NOT be accepted and CANNOT be considered for award.
- b. Late submissions of proposals will not be considered unless it is determined by CNM that the late receipt was due solely to mishandling by CNM or if the proposal is the only one received. All other late submissions will be returned unopened.
- c. Responses will not be publicly opened.
- d. Responses may be withdrawn at any time prior to the time and date set for RFP closing.
- e. CNM reserves the right to accept or reject any or all responses and to waive technical irregularities.

3. **TENTATIVE** SEQUENCE OF EVENTS

- a. Pre-Proposal Meeting
 - Date: Wednesday, December 12, 2012
 - Time: 2:00 – 3:00 PM
 - CNM Main Campus 835 Buena Vista SE
 - SRC Building, Room SCR111H/111J
- b. Questions/Clarifications Accepted through January 2, 2013
- c. RFP Amendments Issued by Friday, January 4, 2013 unless extended
- d. Submission of Proposal **PROPOSALS MUST BE SEALED AND DATE STAMPED RECEIVED BY CNM PURCHASING DEPARTMENT SUBMISSION DEADLINE, ON OR BEFORE:**
 - Due Date: January 11, 2013
 - Due Time: 3:00 PM, Mountain Standard Time

 - Location:
CNM Purchasing Office
Building A, Room 109
525 Buena Vista SE
Albuquerque, NM 87106
- e. Shortlist Finalists Friday, February 1, 2013 (If deemed necessary)
- f. Finalist Interviews Friday, February 8, 2013 (If deemed necessary)
- g. Begin Contract Negotiations Friday, February 15, 2013
- h. Notice of Award Friday, April 19, 2013

SECTION A: STANDARD PROPOSAL TERMS AND CONDITIONS FOR RFP # P-325

1. **ACKNOWLEDGMENT OF AMENDMENT / ADDENDUM.** Vendors shall acknowledge receipt of any amendments/addenda to this Request for Proposals by identifying the amendment/addendum number and date in the space provided on the form labeled "Signature of Firm's Authorized Representative".
2. **ADDRESSES FOR NOTICES.** Any notice required to be given or which may be given under this Request for Proposals or the resultant price agreement shall be in writing and delivered in person or via first class mail to Central New Mexico Community College, Purchasing Department, 525 Buena Vista, SE, Albuquerque, NM 87106.
3. **AWARD OF PROPOSALS.** CNM reserves the right to award this proposal based on price and any other evaluation criteria contained herein; to reject any and all proposals or any part thereof, and to accept the proposal that is most advantageous to CNM, taking into consideration the evaluation factors set forth in this Request for Proposals.
4. **CANCELLATION.** CNM reserves the right to cancel without penalty this Request for Proposals, the resultant price agreement or any portion thereof for unsatisfactory performance, unavailability of funds, or when it is in the best interest of CNM.
5. **CHANGES/ALTERATIONS AFTER AWARD.** Changes or alterations after the award can only be made if agreed to in writing by CNM.
6. **CONFIDENTIALITY.** Any information provided to or developed by the successful vendor in the performance of the resultant agreement shall be kept confidential and shall not be made available to any other individual or organization by the successful vendor without prior written approval of CNM.
7. **DAMAGE AND SECURITY OF CNM PROPERTY.** The successful offeror shall be responsible for all damage to persons or property that occurs as a result of his/her fault or negligence, or that of any of his/her employees, agents and or subcontractors. He/she shall save and keep harmless CNM against all loss, cost, damage, claims, expense or liability in connection with the performance of the resultant price agreement. Any equipment or facilities damaged by the successful vendor's operations shall be repaired and or restored to their original condition at the vendor's expense, including but not limited to cleaning and painting. The successful vendor shall be responsible for security of all his/her equipment and for the protection of work done under the resultant price agreement until final acceptance of the work.
8. **DELIVERY.** Delivery is an important consideration and may be a factor in determining the award. Please state your earliest delivery date in the space provided on the response form. Delivery to be made to Receiving/Warehousing, Central New Mexico Community College, 901 Buena Vista SE, Albuquerque, NM 87106, unless otherwise specified.
9. **DELIVERY DELAYS.** If after award, the contractor becomes aware of possible problems that could result in delay in the agreed-to delivery schedule, the contractor must immediately notify the Buyer or the designated representative. The initial notification of the delay may be verbal with a written confirmation, giving the probable cause and effect, with recommendations for alternate action. Nothing in this paragraph will be interpreted as relieving the vendor of his/her contractual obligations. However, failure to notify CNM promptly will be a basis for determining vendor responsibility in an otherwise excusable delay.
10. **DISCREPANCIES.** Should any interested vendor find discrepancies in any part of the listed specifications or the terms and conditions, or find any part of the listed specification or the terms and conditions to be incomplete or otherwise questionable in any respect, such vendor shall immediately call such matters to the attention of the Buyer, **in writing**, prior to the established opening date.
11. **DISRUPTION OF NORMAL ACTIVITY.** All work shall be performed so as not to interfere with normal CNM activities. When it is necessary to disrupt normal activities, the schedule of work and the areas to be affected must be approved by CNM's authorized representative prior to commencement of the work.
12. **EMPLOYEE CERTIFICATION.** The vendor and all vendor's employees utilized on the work to be performed under this Request for Proposals must have the proper certification(s) and license(s) to comply with State and local requirements connected to this Request for Proposals. The contractor shall use only fully qualified and approved service technicians to perform inspections, service and or repairs under this Request for Proposals.
13. **EQUIPMENT REQUIRED.** The vendor shall be responsible for supplying and maintaining all equipment and materials necessary to complete the work under this Request for Proposals except as otherwise noted in the Specifications.
14. **ERRORS.** CNM is not liable for any errors or misinterpretations made by the vendor responding to this Request for Proposals. No advantage shall be taken by Vendors in the omission of any details. Any misstatements of fact, misrepresentations or errors in the Vendor's proposal may, at the sole discretion of CNM, be cause for disqualification. Each vendor is responsible for ensuring that all information provided in its proposal is accurate and complete in its entirety.
15. **FORCE MAJEURE.** Neither party to the resultant agreement will be liable to the other for any failure or delay in performance under the resultant agreement due to circumstances beyond its reasonable control including, but not limited to, acts of God, accidents, labor disputes, acts or omissions and defaults of third parties, and official, government or judicial action not the result of negligence of the party failing or late in performing.
16. **GENERAL TERMS AND CONDITIONS.** CNM's General Terms and Conditions are an equal and integral part of this Request for Proposals.
17. **GOVERNING LAW.** This Request for Proposals and all resultant price agreements shall be interpreted and governed by the Laws of the State of New Mexico.

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18. **INSURANCE REQUIREMENTS.** The successful vendors are required to carry insurance meeting the requirements in the Exhibit labeled "INSURANCE REQUIREMENTS" or as noted in the specifications. The successful vendors must submit the Certificate of Insurance to the appropriate Buyer prior to commencing work under the resultant price agreement. Insurance must remain in effect for the entire term of the resultant price agreement and must be extended to coincide with any future price agreement extension. This Request for Proposals Number must appear on the Certificate of Insurance. **Note: The successful vendor shall agree to comply with state laws and rules pertaining to workers' compensation insurance for its employees. If the successful vendor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, the resultant contract may be canceled effective immediately.**
19. **INVITATION TERMS PART OF CONTRACT.** This Request for Proposals along with its attachments will be considered to be part of the resultant price agreement and or purchase order and is to be incorporated by reference.
20. **LATE SUBMISSIONS.** Late submissions of proposals will not be considered unless it is determined by CNM that the late receipt was due solely to mishandling by CNM or if the proposal is the only one received. All other late submissions will be returned unopened.
21. **MODIFICATIONS.** Only modifications received prior to the time specified for the closing will be accepted. No modifications will be accepted following the opening. The Buyer may request technical clarifications of the proposal following the opening.
22. **NUMBER FOR PROPOSAL CLARIFICATION.** The Vendor should include a local or toll-free number for proposal clarifications. Failure to do so may result in the proposal being declared non-responsive.
23. **OFFEROR'S TERMS AND CONDITIONS.** Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the agency.
24. **OPTION TO RENEW.** CNM reserves the option to renew the resultant agreement, contingent upon fiscal funding, as provided for within Section 13-1-150 NMSA 1978, if such renewal is found to be in the best interests of CNM. Renewal options will be exercised in increments of one-year terms unless otherwise agreed to by both parties.
25. **OWNERSHIP OF MATERIAL.** During the term of the resultant agreement, ownership of all data, material, and documentation originated and prepared by the successful vendor for CNM shall belong exclusively to CNM.
26. **PAYMENT DISCOUNTS.** CNM will take advantage of payment discounts offered whenever possible; however, payment discounts will not be used as a means to determine the highest evaluated offer.
27. **PERIOD FOR PROPOSAL ACCEPTANCE.** The Vendor agrees, if its proposal is accepted within ninety (90) calendar days of the closing date, to furnish the goods and services at the prices set forth in its proposal, delivered to the designated point(s) within the specified time in the delivery schedule. Failure to comply may result in removal from the bid list. An additional time period may be requested elsewhere in this Request for Proposals.
28. **POTENTIAL COSTS UNSPECIFIED.** The Vendor shall include in its proposal all goods, material and labor costs that it knows or should know will be required to complete the work under this Request for Proposals including any goods, materials, labor or other costs that are not specifically identified in the specifications of this Request for Proposals. All such costs shall be identified in the proposal and separately stated in the price or pricing proposed in the proposal.
29. **PROPOSAL NEGOTIATION.** Vendors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after opening and prior to award for the purpose of obtaining best and final offer. Negotiations may be conducted with responsible vendors who submit offers found reasonably likely to be selected for award.
30. **PROPOSAL OPENING.** Proposals will be opened on the due date and time specified on the proposal cover sheet in the Purchasing Department Office. **This is not a public opening and contractors are not invited to attend.**
31. **PUBLIC INFORMATION.** All information, except that marked as confidential, will become public information at the time that the Proposal is awarded. Confidential information must be marked "CONFIDENTIAL" in red letters in the upper right hand corner of the sheets containing the confidential information. Price and information concerning the specifications cannot be considered confidential.
32. **REFERENCES REQUIRED.** Vendor must furnish the minimum number of reference requested herein. Failure to submit the information may result in your proposal being considered non-responsive. Vendor, by furnishing these references, agrees to allow CNM to contact any person or organization listed, and to utilize information obtained in the evaluation of the offer.
33. **RELEASES.** Upon final payment of the amount due under the terms of the resultant agreement, the successful vendor shall release CNM, its Governing Board, officers and employees from all liabilities, claims and obligations arising from or under the terms of the resultant agreement. The successful vendor agrees not to purport to bind CNM to any obligation not assumed herein by CNM unless CNM has expressly authorized the successful vendor to do so and then only within the strict limits of that authority.
34. **REPORTS AND INFORMATION.** At such times and in such forms as CNM may require, there shall be furnished to CNM such statements, records, reports, data and information, as CNM may request pertaining to matters covered by all resultant agreements to this Request For Proposals.

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35. **RESPONSIBLE VENDOR.** CNM reserves the right to conduct any investigations deemed necessary to determine the responsibility of a vendor (i.e., prove that its 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 Request for Proposals). Vendor shall provide audited financial statements if requested by CNM.
36. **RESPONSIVENESS OF PROPOSALS.** Vendors are hereby expressly instructed that all proposals in response to this solicitation shall meet all specifications and requirements of this solicitation.
37. **SEVERABILITY.** If any provision of the resultant agreement is found invalid or unenforceable, the remainder of the resultant price agreement will be enforced to the maximum extent permissible and the legality and enforceability of the other provisions of the resultant agreement will not be affected.
38. **SIGNATURE.** The response must be signed by an authorized representative in order for proposal to be considered responsive. Complete and return the form labeled "Signature of Firm's Authorized Representative" with proposal response.
39. **STATE AND LOCAL ORDINANCES.** The successful vendor shall perform work under the resultant price agreement in strict accordance with the latest version of all State and local codes, ordinances, and regulations governing the work involved. All materials and labor necessary to comply with the rules, regulations and ordinances shall be provided by the vendor. Where the drawings and or specifications indicate materials or construction in excess of the code requirements, the drawings and or specifications shall govern. The vendor shall be responsible for the final execution of the work to meet these requirements. In the event of a conflict between various codes and standards, the more stringent shall apply.
40. **STATUS OF VENDOR.** The successful vendor is an independent contractor performing services for CNM and neither he/she nor his/her agents or employees shall, as a result of the resultant agreement, accrue leave, retirement, insurance, bonding authority, use of CNM vehicles, or any other benefits, prerequisites or allowances normally afforded only to employees of CNM. The successful vendor acknowledges that all sums received under the resultant agreement are personally reportable by him/her/herself for income, self-employment and other applicable taxes.
41. **SUBCONTRACTORS.** Any work subcontracted by the successful vendor shall require the prior written approval of the subcontractor by CNM.
42. **SUBMITTALS.** To submit an offer on the goods or services specified, provide a type written proposal responding to the scope of work/services, specifications, and evaluation criteria contained herein. Vendors are to submit responses as required for easy and clear evaluation with information presented in the order it appears herein referencing sections on all attachments. Each original proposal must be signed in ink by an authorized representative; all corrections shall be initialed in ink by person signing the proposal.
- Note, if you wish to offer more than one proposal, clearly label each additional offer as an alternate proposal and submit all responses in the same envelope/package as the original proposal.
43. **TAXES.** CNM is exempt from Federal excise taxes and from New Mexico gross receipts taxes on materials, except construction materials used by a contractor. Services are not exempt from gross receipts taxes. Taxes, if any, on services must be included as a separate line item and not included in your base price proposed. Applicable taxes are excluded from the evaluation of the proposal.
44. **TECHNICALITIES.** CNM reserves the right to waive any technical irregularities in the form of the proposal of the highest evaluated vendor which do not alter price, quality or quantity of the services, construction or items of tangible personal property offered.
45. **TELEGRAPHIC/FACSIMILE SUBMITTALS.** Telegraphic / Facsimile proposal submittals will not be considered. However, proposals may be modified by telegraphic/facsimile notice, provided that the notice is received by the time and date specified for the closing.
46. **TERMINATION.** Termination for cause. If the contractor, for any cause, fails or omits to carry out the work in an acceptable manner, CNM may give notice in writing of such failure or omission and of a reasonable time within which to cure the deficiency. Contractor shall be required to take corrective measures within such time. Contractor's failure to comply with such notice and to cure the deficiency as provided in the notice shall subject the Agreement to immediate termination by CNM. In the event of a for-cause termination, CNM shall terminate the Agreement by delivering to the Contractor a written notice of termination. The effective date of termination shall be the date stated in the notice or, if no date is stated, then the date of delivery of the notice. Upon delivery of such notice, Contractor shall have the right to receive payment for services performed prior to termination date, including reimbursement then due.
- Termination for convenience of CNM. On fifteen (15) business days written notice to Contractor, CNM may terminate the Agreement in whole or in part for its own convenience in the absence of any default by Contractor. In the event of a no-cause termination, CNM shall terminate the Agreement by delivering to Contractor notice of termination without cause specifying the extent to which performance of work under the Agreement is terminated and the date upon which such termination becomes effective. The effective date of termination shall be the date stated in the notice or, if no date is stated, then the fifteenth (15) business day after delivery of the notice. Within ten (10) calendar days of the effective date of termination, Contractor shall deliver to CNM all documents and any other materials developed under the Agreement. Upon delivery of such notice, the Contractor shall have the right to receive payment for services performed to termination date, including reimbursement then due.

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47. **VENDOR GUARANTEE.** The vendor shall guarantee all materials, equipment and workmanship furnished and or installed to be free of defects and shall agree to replace solely at his/her expense any and all defective equipment, parts, etc. within a one year period after the date of acceptance of the items and or installation by CNM, unless otherwise agreed to in writing at the time of award.
48. **VENDOR SCHEDULE REQUIRED.** The vendor shall include a proposed schedule for completion of work under this Request for Proposals. It should contain an itemized break down of all items and projects, including testing dates if applicable.
49. **WITHDRAWAL OF PROPOSALS.** Proposals may be withdrawn by written notice, telegram or in person by an vendor or an authorized representative any time prior to the award. Proposals requiring proposal security may result in forfeiture of the security if the proposal is withdrawn following the opening.
50. **WORKMANSHIP/COOPERATION.** All work shall be done in a neat, workman-like manner using acceptable equipment and methods. The successful vendor will cooperate with CNM and other contractors and coordinate his/her work involving other contractors through CNM's authorized representative.

SECTION C: GENERAL TERMS AND CONDITIONS

1. **Inspection and Audit.** a. CNM may inspect, at any reasonable time, any part of Seller's plant or place of business which is related to performance of this Purchase Order. Acceptance of delivery shall not be considered acceptance of the materials, supplies or services furnished. Final inspection of product and services will be made at the destination. Any testing or inspection procedures required by the specification are in addition to CNM's rights under this paragraph.

b. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. Contractor shall maintain detailed records of all materials or supplies delivered to CNM under this Purchase Order, including serial numbers and other appropriate identifiers. These records shall be subject to internal and external audit. CNM shall have the right to audit billings both before and after payment. Payment under the resultant Agreement shall not preclude CNM from recovering excessive, erroneous or illegal payments previously made to the Contractor.

2. **Warranties.** Seller warrants the materials, supplies or services furnished to be exactly as specified in this order, free from defects in Seller's design, labor, materials and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by Seller. All applicable UCC warranties, express and implied, are incorporated herein.

3. **Acceptance and Rejection.** If prior to final acceptance, any materials, supplies or service are found to be defective or not as specified, or, if CNM is entitled to revoke acceptance of them, CNM may reject or revoke acceptance, require Seller to correct without charge within a reasonable time, or require delivery at an equitable reduction in price at CNM's option. Seller shall reimburse CNM for all incidental and consequential costs related to unaccepted materials, supplies or service. Notwithstanding final acceptance and payment. Seller shall be liable for latent defects, fraud, or such gross mistakes as amount to fraud. Acceptance of performance shall not waive CNM's right to claim damages for breach.

4. **Assignment.** This order is assignable by CNM. Except as to any payment due hereunder, this order is not assignable by Seller without written approval of CNM.

5. **Changes.** CNM may make changes within the general scope of this order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of this order, an appropriate equitable adjustment shall be made. No change by Seller shall be recognized without written approval of CNM. Any claim of Seller for an adjustment under this paragraph must be made in writing within thirty (30) days from the date of receipt of Seller of notification of such change, unless CNM waives this condition. Nothing in this paragraph shall excuse Seller from proceeding with performance of the order as changed hereunder.

6. **Termination and Delays.** CNM, by written notice stating the extent and effective date may terminate this order for convenience in whole or in part, at any time. CNM shall pay Seller as full compensation for performance until such termination: (1) the unit or pro rata order price for the delivered and accepted portion; and (2) a reasonable amount to be approved by CNM, and not otherwise recoverable from other sources by Seller, with respect to the undelivered or unaccepted portion of this order. Provided, however, compensation hereunder shall in no event exceed the total order price. Such amount will be limited to Seller's actual cost and may not include anticipated profits.

CNM may terminate this order by written notice in whole or in part for Seller's default if Seller refuses or fails to comply with the provision of this order, or fails to make progress so as to endanger performance and does not cure such failure within a reasonable period of time. In such event, CNM may otherwise secure the materials, supplies or services ordered, and Seller shall be liable for damages suffered by CNM, including incidental and consequential damages.

If, after notice of termination, CNM determines Seller was not in default, or if Seller's default is due to failure of CNM, termination shall be deemed for the convenience of CNM.

The rights and remedies of CNM provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

As used in this paragraph, the word "Seller" includes Seller and its suppliers at any tier.

7. **Affirmative Action.** Seller shall not discriminate with regard to hiring, termination or other incidents of employment on the basis of race, sex, national origin, religion, age or handicap. Seller agrees to: a) adhere to the principles set forth in Executive Order 11246 and 11375, and to undertake specifically to maintain employment policies and practices that affirmatively promote equality of opportunity for handicapped persons, minority group persons and women; b) take affirmative steps to hire and promote women and minority group persons at all job levels and in all aspects of employment; c) communicate this policy in both English and Spanish to all persons concerned within the company, with outside recruiting services and the minority community at large; d) provide CNM on request a breakdown of labor force by ethnic group, sex, and job category; and e) discuss with CNM its policies and practices relating to its affirmative action program.

8. **Indemnification and Insurance** Seller assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any actual or alleged personal injury (including death) and/or damage or destruction to property sustained or alleged to have been sustained in connection with or arising out of the performance of the work by Seller, its agents, employees, subcontractors or consultants, except to the extent of liability arising out of the negligent performance of the work by or willful misconduct of CNM. In any event, CNM's liability shall be subject to the limitations of the New Mexico Tort Claims Act. Seller shall indemnify and hold harmless CNM, its officers, agents, and employees from any and all liability for such losses, expenses, damages, demands, and claims and shall defend any suit or action brought against any or all of them based on any actual or alleged personal injury or damage and shall pay any damage costs and expenses including attorneys fees, in connection with or resulting from such suit or action.

Seller agrees that it and its subcontractors will maintain public liability and property damage insurance in reasonable amounts covering the above obligation and will maintain workers' compensation coverage covering all employees performing this order.

9. **Patent and Copyright Indemnity.** Seller shall pay all royalty and license fees relating to deliverables and other items covered hereby. In the event any third party shall claim that the reproduction, manufacture, use, or sale of goods or items covered hereby infringes any copyright, trademark, patent, or other intellectual property rights, Seller shall indemnify and hold CNM harmless from any cost, expense, damage, or loss resulting therefrom.

10. **Discounts.** Any discount time will not begin until the materials, supplies, or services have been received and accepted and correct invoice received by CNM's Purchasing Department. In the event testing is required, the discount time shall begin upon the completion of the tests.

11. **Penalties.** The Procurement Code, Section 13-1-28 et seq., imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

12. **Title and Delivery.** Title to the materials and supplies passed hereunder shall pass to CNM at the F.O.B. point specified subject to the right of CNM to reject upon inspection. For any exception to the delivery date specified, Seller shall give prior notification and obtain approval from CNM's Purchasing Department. Time is of the essence and the order is subject to termination for failure to deliver on time.

13. **Payment Charges.** Late payment charges shall be paid in the amount and under the conditions stated in Section 13-1-158, NMSA 1978.

14. **Other Applicable Laws.** Any provision required to be included in a contract of this type by any applicable and valid Executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

15. **OSHA Regulations.** The contractor shall abide by Federal Occupational Safety and Health Administration (OSHA) regulations and the State of New Mexico Environmental Improvement Board occupational health and safety regulations that apply to the work performed under this Invitation. **ALL PRODUCTS CONTAINING HAZARDOUS SUBSTANCES MUST BE PROPERLY LABELED AND ACCOMPANIED BY MATERIAL SAFETY DATA SHEETS.** The contractor shall defend, indemnify and hold CNM free and harmless against any and all claims, loss, liability and expense resulting from any alleged violations of said regulations including but not limited to fines, penalties, judgments, court costs and attorney fees.

16. **Debarment/Suspension.** In performing the services and/or furnishing the goods specified within this purchase order, the vendor/contractor certifies that it is not suspended, debarred or declared ineligible from entering into contracts with the Executive Branch of the Federal Government, any State agency or local public body; nor is in receipt of a notice of proposed debarment or suspension from the Executive Branch of the federal Government, any State agency or local public body.

17. **Applicable Law.** Each party acknowledges that the New Mexico Procurement Code, NMSA 1978 13-1-28 through -199, as amended, applies to every CNM purchase or contract agreement of tangible personal property, services and construction, including participation made pursuant to this purchase order. Further, each party acknowledges that it will be responsible for claims or damages arising from personal injury or damage to persons or property to the extent they result from negligence of its employees or agents and that the liability of CNM shall be subject in all cases to the immunities and limitation of the New Mexico Tort Claims Act, NMSA 1978 41-4-1 through -2 7, as amended.

SECTION 2 GOVERNMENT SUBCONTRACT PROVISIONS

If this order is subcontract under a U.S. Government Prime Contract, the applicable clauses listed below are incorporated into, and form a part of, the terms and conditions of this order. In the event of any conflict between the terms and condition of Section 2 and any other provisions of this order the terms and conditions of Section 2 shall prevail. The clauses contained in the following paragraphs of the Federal Acquisition Regulations are incorporated herein by reference. For purposes of this Purchase Order, in the following clauses, the term "contract" shall mean "this order", the term "contractor" shall mean "Seller" and the term "Government" and "Contracting Officer" shall mean "Albuquerque CNM" and the "Director of Purchasing," respectively.

The following provisions of the Federal Acquisition Regulations (FAR) apply regardless of the amount of this order:

* Anti-kickback Procedures:	52.203-7
Buy American Act and Balance of Payments Program	52.225-7001
* Contract Work Hours and Safety Standards Act-Overtime Comp.	52.222-4
* Equal Employment Opportunity	52.222-26
Integrity of Unit Prices	52.215-26(a)(b)
Notice to the Government of Labor Disputes	52.222-1
Preference for U.S. Flag Air Carriers (For internal air travel)	52.247-63
Restriction on Subcontractor Sales to the Government	52.203-6
Service Contract Act of 1965 (Reserved)	52.222-41
* Termination for Convenience of Government (Education and other Nonprofit Institutions)	52.249-5(a)(f)

CNM reserves all administrative, contractual, and legal remedies against Seller in case of any breaches of the contract.

* On contracts funded by federal grants, only the Special Terms and Conditions clauses identified by the asterisk (*) are incorporated into this contract.

SECTION D: SCOPE OF SERVICES & EVALUATION CRITERIA FOR RFP # P-325

1.1 SCOPE OF REQUEST:

Central New Mexico Community College (CNM) is seeking proposals from industry leading experienced firms with expertise and resources to provide System Engineering and Consulting services in the selection and implementation of a Building Automation/Management System (BA/MS). The intent of this engagement is to focus on two core components of the BA/MS; 1. Electronic Physical Access Control (EPAC) and 2. Emergency Broadcast and Display (EBD). The types of Services anticipated needed include but are not limited to:

- Perform a needs analysis with all CNM stakeholders.
- Perform a facilities audit/assessment at all CNM buildings and campuses
- Develop an RFP to identify a BMS that meets the needs and requirements of CNM in a multi-phased approach specifically targeting implementation EPAC and EBD.
- Assist in the evaluation and selection of the BMS
- Draft a standards manual for future implementations of the BMS (EPAC and EBD) Systems for the College’s ongoing use.

1.2 CNM INSTITUTIONAL INFORMATION:

CNM is the largest community college in the State of New Mexico providing year round instruction. CNM has an enrollment of approximately 27,000 students in both the fall and spring semesters with approximately 15,000 students enrolled in the summer term. CNM serves its students at multiple campuses and locations as well as through online distance learning and hybrid instruction. The college offers associate degrees and certificates in a variety of subject areas. CNM Campus information is noted below and can be downloaded from CNM’s website at <http://cnm.edu/campus/index.php>.

Main Campus (Main) 525 Buena Vista Drive SE Albuquerque, NM 87106	Joseph M. Montoya (JMMC) 4700 Morris Avenue, NE Albuquerque, NM 87111-3704
South Valley Campus (SVC) 5816 Isleta SW Albuquerque, NM 87105	Westside Campus (Westside) 10549 Universe Blvd, NW Albuquerque, NM 87114
Workforce Training Center (WTC) 5600 Eagle Rock Avenue, NE Albuquerque, NM 87113	Rio Rancho Campus (RR) 2601 Campus Blvd, NE Rio Rancho, NM 87144
Advanced Technology Center (ATC) 4700 Alameda Blvd, NE Albuquerque, NM 87113	

1.2.1 Buildings by Campus:

Building Number	Building Name	Year Built	Total Building Gross Square Feet (GSF)	Campus
A0004	Administration Building (A Building)	1972	39,422	Main
J00T1	Basehart Temporary (BT)	1980	1,693	Main
R00R1	Basehart Temporary 1 (BT1)	1991	2,100	Main
R00R2	Basehart Temporary 2 (BT2)	1991	2,100	Main
	Basehart Temporary 3 (BT3)	2006	1,810	Main
	Basehart Temporary 4 (BT4)	2006	1,810	Main
	Culinary Arts / Bookstore Building	1973/2012	33,660	Main

SECTION D: SCOPE OF SERVICES & EVALUATION CRITERIA FOR RFP # P-325

Building Number	Building Name	Year Built	Total Building Gross Square Feet (GSF)	Campus
	CNM Greenhouse	2000	600	Main
E0002	East Building (E Building)	1967	15,653	Main
C0014	Jeanette Stromberg Hall (JS)	1985	134,808	Main
P0009	Ken Chappy (KC)	1978	38,100	Main
M0000	Louis E. Saavedra Administration Building (LSA)	1926	10,959	Main
U0018	Max Salazar Hall (MS)	1991	89,696	Main
	North Building (N Building)	1970	53,249	Main
W0002	Paint Storage	1978	353	Main
	Public Safety Building (PS)	1979	5,516	Main
	Roosevelt Temporary 1			Main
	Roosevelt Temporary 2			Main
B0013	Smith Brasher Hall (SB)	1984	67,757	Main
S0007	South Building (S Building)	1975	24,980	Main
SOT10	South Temporary 10 (ST10)	1980	1,756	Main
SOT15	South Temporary 11 (ST11)	1980	1,778	Main
SOT18	South Temporary 12 (ST12)	1980	1,709	Main
SOT21	South Temporary 13 (ST13)	1980	1,810	Main
BOV22	South Temporary 14 (ST14)	1990	1,769	Main
BOV21	South Temporary 15 (ST15)	1990	1,769	Main
SOT25	South Temporary 16 (ST16)	1981	1,769	Main
SOT27	South Temporary 17 (ST17)	1981	1,769	Main
BOV25	South Temporary 180-181 (ST180-ST181)	1990	500	Main
TO145	South Temporary 101 (ST101) - Located south of Ted Chavez Temporaries	1980	1,809	Main
	Student Resource Center (SRC)	2010	106,748	Main
V0019	Student Services Building (SSC)	1995	105,056	Main
	Support Services / Physical Plant (PPD)	1998	52,258	Main
T0010	Ted Chavez Hall East (TC-E)	1978	24,210	Main
	Ted Chavez Hall West (TC-W)	1973	86,933	Main
BOV24	Ted Chavez Temporary 140-141 (TC-T 140-141)	1990	1,656	Main
BOV23	Ted Chavez Temporary 142 (TC-T 142)	1990	1,777	Main
BOV20	Ted Chavez Temporary 145 (TC-T 145)	1990	1,797	Main
TO139	Ted Chavez Temporary 146 (TC-T 146)	1981	1,793	Main
BV026	Ted Chavez Temporary 148-149 (TC-T 148-149)	1981	1,809	Main
TO140	Ted Chavez Temporary 150-151 (TC-T 150-151)	1980	1,816	Main
TO147	Ted Chavez Temporary 152 (TC-T 152)	1981	900	Main
TO149	Ted Chavez Temporary 153 (TC-T 153)	1981	900	Main
BV155	Maintenance/Operations Temporary (TC-T ____)	1983	2,256	Main
W0001	West Building (W Building)	1966	23,258	Main
	G Building	2008	24,220	JMMC
H0011	H Building	1979	55,569	JMMC
	I Building	2003	41,630	JMMC
J0012	J Building	1980	37,337	JMMC
K0015	K Building	1987	31,674	JMMC
L0016	L Building	1988	33,010	JMMC
BV616	P Building	1981	5,089	JMMC
G0017	Tom Wiley Hall (TW)	1990	26,880	JMMC

SECTION D: SCOPE OF SERVICES & EVALUATION CRITERIA FOR RFP # P-325

Building Number	Building Name	Year Built	Total Building Gross Square Feet (GSF)	Campus
	JMMC Portable (Tax Help)	2011	1,800	JMMC
	Michael J. Glennon Building (MJG)	2003/2010	85,718	Westside
	Westside I (WSI)	2012	67,500	Westside
	Westside II (WSII)	2008	53,773	Westside
R00R3	Westside Temporary 1 (WT001)	1991	2,021	Westside
R00R4	Westside Temporary 2 (WT002)	1980	1,778	Westside
S00V1	South Valley Building 1 (SV1)	1995	35,379	SVC
	South Valley Building 2 (SV2)	2003	22,000	SVC
	South Valley Temporary			SVC
	Rio Rancho Phase I (RRI)	2010	53,000	RR
	Advanced Technology Center (ATC - 4700 Alameda)	2011	82,500	ATC
	Alameda Phase I (4800 Alameda)	1991	81,600	ATC
	Workforce Training Center (WTC)	2000	70,087	WTC

2.1 SCOPE OF WORK

2.1.1 CNM wishes to qualify the highest ranked respondent to this RFP for System Engineering and Consulting services for the selection and implementation of a Building Automation/Management (BA/BM)/Electronic Physical Access Control (EPAC) and Emergency Broadcast and Display (EBD). It is CNM’s intent to award the highest qualified vendor with indefinite quantity Price Agreement to perform the work. The initial term of the resultant Price Agreement arising from this Request for Proposals shall be for a one (1) year term. CNM reserves the option to renew the resultant Price Agreement in accordance with New Mexico Statutes Annotated (NMSA), Section 13-1-150, 1978, contingent upon fiscal funding, contractor performance, if such renewal is found to be in the best interests of CNM. Renewal options, if exercised, shall be exercised in one (1) year increments. The maximum term including all exercised renewals shall not to exceed a total of eight (8) years.

The awarded vendor shall perform a needs analysis with all CNM stakeholders, and perform facilities audits/assessments at all CNM buildings and campuses. It is envisioned that this is the initial step required to identify and create documentation (needs & requirements) for use in a Request for Proposals document for the procurement of a BA/MS-EPAC and EBD system, a BA/MS-EPAC & EBD Operations Manual, and a BA/MS-EPAC and EBD Standards Manual. The RFP developed by the awarded Contractor shall not be brand specific; it must list functional requirements only.

The awarded vendor shall develop an RFP for access control software, hardware, installation, maintenance, training, and support based on the needs analysis and site surveys for deployment in a phased by project approach. Project # 1 shall include the implementation of an initial pilot to include at a minimum of a fully operational access control system for Rio Rancho Campus, Main Campus SRC, and Westside Campus Data Center. EBD, while not part of Project # 1, must be specified and included with the Project # 1 proposals as a future Project expansion. The awarded vendor shall participate throughout the procurement process for the BM/MS EPAC and EBD system, Compilation, validation of all “as-built” construction documentation, and creation of an Operations procedure manual. CNM shall have the option to continue to use the awarded vendor’s services for future phases, based on vendor performance, fiscal funding and if it remains in CNM’s best interests.

SECTION D: SCOPE OF SERVICES & EVALUATION CRITERIA FOR RFP # P-325

The awarded vendor shall be responsible for the development of standards and requirements manual for an institutional Building Automation/Management System that includes integration of energy management systems, mechanical systems, access control systems, emergency management/notification, and emergency broadcast and display systems for all CNM facilities and locations. The comprehensive standards manual shall be formatted to CSI Master Format 2004 and based on relevant codes, ordinances, industry best practices and CNM requirements including construction documents and bid specifications for access control installation.

Prospective Offerors shall submit a detailed proposal identifying their approach for developing an implementation plan that will allow CNM to integrate a BA/MS-EPAC & EBD system in a phased by project approach at all CNM buildings and campuses, and discuss relevant experience working with the Owner throughout an RFP process to define requirements specifications.

The project proposal shall be offered with Not-to-Exceed (NTE) pricing for each phase of the project plan, broken down into specific hours at fixed hourly rates for each milestone event, and shall identify all consultant costs including, if required, travel and associated travel expenses (per CNM's Travel Policy – see Exhibit C) to perform the services to accomplish the work as described in the scope of work..

2.1.2 Project Proposal Requirements shall include:

- a) Scope of Work. Detailed scope of work to identify and define objectives, needs analysis, user requirements and training requirements.
- b) Stated Objectives of project identified in the scope of work.
- c) Detailed Project Plan and Timeline including:
 1. Resources committed to project by Offeror including Project Manager, technical resources and CNM resource requirements (CNM staff, equipment and materials).
 2. Documentation - technical documentation including applications specifications, user guides, technical specifications, interfaces, Visio drawings, etc.
 3. Quality Assurance and Standards.
- d) Training & Communication Plan - as part of the project, the supplier will train assigned CNM personnel on how to use and maintain programs. May also include develop training plans for end-user on new or updated functionality.
- e) Implementation Plan including project go-live date and time.

SECTION D: SCOPE OF SERVICES & EVALUATION CRITERIA FOR RFP # P-325

2.1.3 PERSONNEL

Contractor shall hire all employees necessary for the performance of the resultant contract. It is anticipated that the following engineering disciplines be provided by the awarded vendor and include licensing within the state of New Mexico:

- Electrical
- Mechanical
- Communications
- Security
- Public Safety
- Construction Management
- CAD/BIM

All persons employed by the Contractor shall be employees of Contractor and not of CNM. The Contractor shall be entitled to a reasonable number of employees who shall be permitted entry to the service areas agreed to. Contractor employees shall be admitted in accordance with regulations established by CNM. During the contract term, CNM shall retain the right to require the supplier at any time to remove from College property any employee, agent, or representative of the supplier whose conduct, appearance, or performance is reasonably deemed by CNM to be unacceptable.

Non-disclosure Agreement. Each of the successful contractor's employees must sign CNM's Non-Disclosure Agreement prior to receiving a network ID from CNM and have on file with CNM ITS Security Officer. See Exhibit D.

Contractor shall be solely responsible for its own labor relations with any trade or union representative and shall negotiate and adjust all disputes between itself and its employees or any union representing its employees. Contractor shall comply fully with all applicable federal laws and state laws, rules, and regulations concerning employment and labor relations. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of work under the resultant contract, the Contractor shall immediately give notice thereof including all relevant information with respect to the agreement to CNM's designated representative.

2.2 MINIMUM QUALIFICATIONS

2.2.1 Offerors shall provide proof of demonstrated experience with the design, integration, and implementation of similar BM/EPAC systems.

3. EVALUATION CRITERIA

3.1 STEP 1: Written proposals shall be reviewed and evaluated in accordance with the evaluation criteria established below per 3.5.3.1 Section I. through 3.5.3.4 Section IV. CNM reserves the right to reject all offers and issue a new RFP if necessary. An evaluation committee shall evaluate written proposals based on the weighted evaluation criteria. Rankings will be based upon an average tabulation of all individual committee member scores.

If interviews are not conducted, then the score based ranking shall be the basis for awarding the top scored Offeror.

SECTION D: SCOPE OF SERVICES & EVALUATION CRITERIA FOR RFP # P-325

3.2 STEP 2 (optional):

If interviews are to be conducted, then the score based rankings of the written offers shall be used as the basis to create a short list of those top ranked firms. Interviews shall be scored in accordance with the evaluation criteria taking into account the information provided in the written response and any additional questions related to the scope of the RFP. Additional questions related to the scope of this RFP may be submitted to shortlist in advance or during interviews.

Information and/or factors gathered during interviews, negotiations, and any reference checks, in addition to the evaluation criteria rankings, may be utilized in the final award decisions. References may or may not be reviewed at the discretion of CNM. CNM reserves the right to contact references other than, or in addition to, those furnished by a Respondent.

Final rankings will be based upon an average tabulation of all individual committee member scores after interviews and will not be averaged with STEP 1 scores.

3.3 CRITERIA

3.3.1 SECTION I. CAPACITY, CAPABILITY, KNOWLEDGE, BACKGROUND AND EXPERIENCE - **30 POINTS POSSIBLE**

- A) Provide a brief narrative describing the history of your firm. Identify the number of employees in your firm, the ownership and if the company has ever filed bankruptcy, been in loan default, or if there are any pending liens, claims or lawsuits against the firm.
- B) Provide demonstrated experience that supports your firms' ability to perform the services identified in the goals and intent of this RFP. Discuss relevant experience working with the Owner throughout an RFP process to define requirements specifications. State any other experience that indicates the qualifications of your firm for the performance of the services as requested in this RFP.
- C) Describe your firm's approach for performing a comprehensive needs analysis and facilities audit.
- D) Identify all engineering disciplines needed to fulfill the services.
 - a. Identify the number of resources within your firm for each engineering discipline
 - b. Identify the New Mexico license number for each engineering discipline.
- E) State the name, title or position, telephone number and e-mail address of the individual who would have primary responsibility for the potential project services resulting from this RFP.
- F) Identify names, responsibilities, qualifications and location(s) of staff who will be assigned to the projects. CNM may at CNM's sole discretion request removal and replacement of any of the Contractor's staff not meeting performance requirements. Changes to staff assigned to projects made by the Contractor must be mutually agreed to by the Parties.
- G) Identify names, responsibilities, qualifications and location(s) of subcontractors and/or consultants who will be assigned to the projects. All changes to personnel assigned to projects must be mutually agreed to by the parties.
- H) Identify your current project load, and maximum project capacity.

SECTION D: SCOPE OF SERVICES & EVALUATION CRITERIA FOR RFP # P-325

- I) Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level management.
- J) Describe the internal controls to be used during the course of the project services.
- K) Describe if your firm has had a contract terminated for default in the last five (5) years. Termination for default is defined as notice to stop performance due to the Offeror's non-performance or poor performance or if the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the proposer was in default. Submit full details of their terms for default including the other parties' name, address, and telephone number. Present the Offeror's position on the matter. CNM will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. Indicate if no such termination for default has been experienced by the Offeror in the past five (5) years.

3.3.2 SECTION II. PROPOSED IMPLEMENTATION PLAN - 40 POINTS POSSIBLE

- A) Submit a detailed proposal identifying your approach for developing an implementation plan that will allow CNM to integrate a BM/EPAC system in phases by project at all CNM buildings and campuses to meet the requirements stated in paragraphs 2.1 through 2.2.1. Describe the percentage of effort involved with each objective/milestone. The information provided must be in sufficient detail to convey to the evaluation committee the Offeror's knowledge of the subjects and skills necessary to perform the services as described in the RFP.
- B) Describe whether your firm's experience is limited to working with a specific manufacturer's brand/product or whether your firm's experience is with any/all brand/product types of hardware and software products currently available.
- C) Describe what your firm considers major challenges that will be faced in this project and your firm's approach to overcoming those challenges.
- D) Describe the types of services that would be provided during the project. Explain how your services will enhance the service of performing projects.
- E) Discuss the information and support that would be required from CNM.
- F) Identify any subcontractors which would be used during this project and describe their role(s).
- G) Provide a time frame, breaking the project into tasks, milestones, and deliverables.
- H) Describe any other related services offered by your firm that CNM may wish to consider.

SECTION D: SCOPE OF SERVICES & EVALUATION CRITERIA FOR RFP # P-325

3.3.3 SECTION III. REFERENCES - 15 POINTS POSSIBLE

List up to five (5) contracts the Offeror may have had with institutes of higher education or businesses of similar size and BM/MS EPAC and EBD complexity during the last five (5) years that relate to the Offeror's ability to perform the service(s) as requested in this RFP. List by company all elements of the integrated components implemented by that company (e.g., energy management systems, mechanical systems, access control systems, emergency management/notification, and emergency broadcast and display systems, etc.), contract reference numbers, project name/title, contract amount, contract period of performance, date of completion, contact person's name, title, address, E-mail address and web address. By responding to this RFP, the Offeror grants permission to CNM to contact the references. NOTE: All reference will be contacted by email, so please be sure to include the contact's email address. Do not include CNM as a reference.

3.3.4 SECTION IV. ECONOMY AND PRICE - 15 POINTS POSSIBLE

Proposals should include all charges associated for services requested. Provide rates of all individuals who may work on the services identified in this proposal. Additional charges, if required, for various types of help (telephone support, on-site-support) should also be included.

The proposal shall be offered with Not-to-Exceed (NTE) pricing for each phase of the project plan, broken down into specific hours at fixed hourly rates for each milestone event, and shall identify all consultant costs including, if required, travel and associated travel expenses (per CNM's Travel Policy – see Exhibit C) to perform the services to accomplish the work as described in the scope of work.

Milestone # 1: Needs analysis with all CNM stakeholders

Milestone # 2: Facilities assessment at all CNM buildings and campuses

Milestone # 3: Develop RFP to identify a BM/MS EPAC and EBD that meets the needs and requirements of CNM in a multi-phased by project approach specifically targeting implementation of EPAC and EBD.

Milestone # 4: Creation of a standards manual for future implementation of the BM/MS (EPAC and EBD) systems for CNM's ongoing use

EPAC and EBD may be identified and implemented as separate projects. The RFP or RFPs (one for EPAC and one for EBD) developed by the awarded Contractor shall not be brand specific; it must list functional requirements only.

If the price or hourly rates are to change in subsequent yearly contract renewals, indicate the maximum annual increase per year, expressed as a percentage. Cost increase/adjustments will only be reviewed once a year at time of renewal. If contractor requests a price adjustment/increase supporting documentation must accompany the request.

The quoted hourly rates offered in response to this RFP may be decreased for future projects on a project-by-project basis upon written mutual agreement between the awarded Price Agreement holder and CNM.

Costs for Services required for which the successful Offeror does not identify shall be borne by the Offeror and will shall not be charged to CNM. Indicate for what period of time these costs will be effective.

SECTION E: SIGNATURE OF FIRM'S AUTHORIZED REPRESENTATIVE

By signing below, contractor acknowledges that it is a competent firm capable of providing the items and/or services requested, is properly licensed for providing the items or services specified, has read this Invitation to Bid, understands it, and agrees to be bound by its terms and conditions. Contractor hereby agrees to furnish items and/or services, at the prices quoted, pursuant to all requirements and specifications contained in this document, upon receipt of an authorized purchase order from the purchasing department, and further agree that the language of this document shall govern in the event of a conflict with its bid. The undersigned, being duly authorized to sign bidding documents and act on behalf of the contractor in an official capacity, certifies that the items and/or services offered on this Invitation to Bid meets or exceeds all specifications, terms and conditions as described in this Invitation to Bid without exceptions. I understand that items and/or services not meeting all specifications, terms and conditions will be rejected and all costs shall be borne by the contractor.

Please fill in all spaces below:

Legal Company Name _____
Address _____
City, State, Zip _____
Phone Number _____
FAX Number _____
Email _____
Contact Person for Clarification of Bid Response _____
NM Tax ID _____
Federal Tax ID _____
Applicable NM License Numbers _____

ALL NEW MEXICO LICENSE NUMBERS LISTED HEREIN OR PURPORTED BY THE VENDOR MUST BE ISSUED IN THE OFFERING FIRM'S LEGAL COMPANY NAME. LICENSE NUMBERS LISTED UNDER A NAME OTHER THAN THE LEGAL COMPANY NAME MAY RENDER THE OFFER AS BEING NON-RESPONSIVE. NON-RESPONSIVE OFFERS WILL NOT BE CONSIDERED FOR AWARD.

OFFERORS WISHING TO RECEIVE THE RESIDENTIAL PREFERENCE AS APPLICABLE PER NMSA 13-1-21 MUST SUBMIT A VALID RESIDENTIAL PREFERENCE CERTIFICATE WITH THEIR SEALED RESPONSE.

OFFERORS WISHING TO RECEIVE THE VETERAN RESIDENT BUSINESS PREFERENCE AS APPLICABLE PER NMSA 13-1-22 MUST SUBMIT A VALID RESIDENTIAL PREFERENCE CERTIFICATE WITH THEIR SEALED RESPONSE.

Acknowledgment of Amendment/Addendum
Specify Number(s) and Date(s)

_____ date _____ date _____ date _____ date _____ date
date # date # date # date # date

Signature of Member Authorized to Sign for Firm _____

Printed/Typed Name and Title of Individual Signing _____

SECTION F: DEBARMENT/SUSPENSION STATUS & NON-COLLUSION AFFIDAVIT FORM

DEBARMENT/SUSPENSION STATUS

1. The vendor/contractor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice of proposed debarment from any State agency or local public body.
2. The vendor/contractor agrees to provide immediate notice to CNM's Purchasing Department in the event of being suspended, debarred or declared ineligible by any State or Federal department or agency, or upon receipt of a notice of proposed debarment that is received after the submission of this bid but prior to the award of the purchase order/contract.

NON-COLLUSION AFFIDAVIT

The undersigned, duly authorized to represent the persons, firm and/or corporation joining and participating in the submission of the foregoing bid (such persons, firm and/or corporation hereinafter being referred to as the vendor/contractor), being duly sworn, on his/her oath, states that to the best of his/her belief and knowledge no person, firm, or corporation, nor any person duly representing the same joining and participating in the submission or the foregoing bid/proposal, has directly or indirectly entered into any agreement or arrangement with any other vendor/contractors, or with any employee of CNM, or any person, firm or corporation under contract with CNM whereby the contractor, in order to induce the acceptance of the foregoing bid by CNM has paid or is to pay any other vendor/contractor or to the aforementioned persons anything of value whatsoever, and that the vendor/contractor has not directly or indirectly entered into any agreement or arrangement with any other vendor/contractor which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing bid.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above Non-Collusion Affidavit and Debarment/Suspension Disclosure Statement and that he/she understands and will comply with these requirements. The undersigned further certifies that he/she have the authority to certify compliance for the vendor/contractor named below.

Signature _____ Title _____

Printed/Typed Name _____ Date _____

Legal Company Name _____

Address _____

City/State/Zip _____

SECTION G: RESIDENT VETERANS PREFERENCE CERTIFICATION

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

Please check one box only

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

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

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

(Signature of Business Representative)*

(Date)

*Must be an authorized signatory for the Business.

The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or unaward of the procurement involved if the statements are proven to be incorrect.

EXHIBIT C: INSURANCE REQUIREMENTS

CERTIFICATES OF INSURANCE

The **AWARDED** Contractor shall furnish **UPON REQUEST**, one copy each of Certificates of insurance herein required for each copy of the resultant Agreement, showing the coverage, limits of liability, covered operation, effective dates of expiration of policies of Insurance carried by the Contractor. The Contractor shall furnish to the Owner copies of limits. The Certificates of Insurance shall be in the form of AIA Document G-705 or similar format acceptable to the Owner. Such certificates shall be filed with the Owner and shall also contain the following statements:

1. The Governing Board of Central New Mexico Community College, Central New Mexico Community College, its agents, servants and employees are held as additional insured.
2. "The insurance coverage certified herein shall not be canceled or materially changed except after forty five (45) days written notice has been provided to the Owner."

COMPENSATION INSURANCE:

The Contractor shall procure and shall maintain during the life of any resultant agreement Worker's Compensation insurance as required by applicable State law for all of the Contractor's employees to be engaged at the site referred to in this solicitation in case of any such work sublet, the Contractor's Worker's Compensation insurance. In case any class of employee engaged in work on the project under this contract is not protected under a Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor or sub-subcontractor to provide Employer's Insurance in an amount of not less than \$500,000.

CONTRACTOR'S PUBLIC LIABILITY INSURANCE:

The Contractor shall maintain insurance coverage "equal to the maximum liability amounts set forth in the New Mexico Tort Claims Act Section 41-4-1 et.seq. NMSA 1978". The insurance must remain in force for the life of the contract including all contract extension or renewals. The limits effective July 1, 1992 are:

\$400,000 per person/\$750,000 per occurrence plus \$300,000 for medical and \$100,000 for property damage for a total maximum liability of \$1,150,000 per occurrence.

CONTRACTOR'S VEHICLE LIABILITY INSURANCE:

The Contractor shall procure and shall maintain during the life of this contract Vehicle Liability Insurance coverage "equal to the maximum liability amounts set forth in the New Mexico Tort Claims Act Section 41-1-1 et. seq. NMSA 1978". The insurance must remain in force for the life of the contract including all contract extensions or renewals. The limits effective July 1, 1992 are:

Bodily Injury:	\$750,000. Each Occurrence
Property Damage:	\$100,000. Each Occurrence

SUBCONTRACTOR'S AND SUB-SUBCONTRACTOR'S PUBLIC AND VEHICLE LIABILITY INSURANCE:

The Contractor shall either:

- (1) Require each subcontractor or sub-subcontractor to procure and maintain during the life of the subcontract or sub- subcontract Public Liability Insurance of the types and amounts specified above or,
- (2) Insure the activities of the subcontractors or sub-subcontractors in the Contractor's policy as required under this Article.

GENERAL:

All insurance policies are to be issued by companies authorized to do business under the laws of the state in which the work is to be done and acceptable to Owner.

The Contractor shall not violate, or permit to be violated, any conditions of any said policies, and shall at all times satisfy the requirements of the insurance companies writing said policies.

EXHIBIT B: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

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

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

The following definitions apply:

"Applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

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

"Family member" means spouse, father, mother, hild, father-in-law, mother-in-law, daughter-in-law or son-in-law.

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

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

EXHIBIT C: CNM'S TRAVEL POLICY

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

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

Name(s) of Applicable Public Official(s) if any:

CNM's Governing Board including, District 1 Mr. Robert P. Matteucci, District 2 Ms. Janet W. Saiers, District 3 Ms. Deborah Moore, District 4 Mr. Mark Armijo, District 5 Mr. Blair L. Kaufman, District 6 Ms. Penelope S. Holbrook, and District 7 Mr. Michael DeWitte.

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

Signature

Date

Title (position)

--OR--

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

Signature

Date

Title (Position)

(Attach extra pages if necessary)

EXHIBIT C: CNM'S TRAVEL POLICY

All travel provided by the awarded vendor shall require prior written approval by CNM and shall adhere to CNM's Travel, Lodging and Meal Policies as described below. Reimbursement shall be for actual expenses.

Actual expenses for lodging and meals may not exceed the following:

- a. **Lodging:** may not exceed \$250 per day for a single room
- b. **Meals:** may not exceed \$30 in-state; \$45 out-of-state per day. NOTE: These are maximum daily amounts based on actual expenses, not per-diem amounts. Per-diem is not provided.
- c. **Mileage.** Travel by personal vehicle shall be reimbursed at the rate of \$.32 per mile. The number of miles to be reimbursed shall be determined in accordance with an official road map mileage chart, by established distances between CNM campuses and/or sites, or by odometer reading if map mileage chart is not available for localities involved. The amount reimbursed shall not exceed the total lowest reasonable commercial air fare to the same destination. Mileage reimbursement is not allowed for vendors in the Albuquerque Metro area.
- d. **Air Fare.** Air transportation shall be reimbursed at the lowest reasonable air fare available at the time tickets are purchased.
- e. **Vehicle Rental.** Vehicles may be rented for official College business subject to the following conditions:
 1. The need for vehicle rental shall be justified and documented on the travel request.
 2. Rental of a vehicle for use within 150 miles of the CNM Main Campus shall normally be prohibited. Exceptions must be justified in writing and approved by the vice president for administrative services.
 3. A rented passenger vehicle should be of the type, size and cost range which represents a reasonable expenditure for CNM without sacrificing safety and reasonable comfort.
 - a. Normally a vehicle in the mid-sized price range should be used.
 - b. Written justification must be provided when the size or cost of a rental vehicle exceeds the normal usage provisions.
- f. **Prohibited Expenses:**
 1. Reimbursement for alcoholic beverages shall not be allowed.
 2. Entertainment and telephone calls unrelated to business shall not be reimbursed
- g. **Detailed Receipts Required for the following expense types:**
 1. Meals
 2. Lodging
 3. Airfare
 4. Car RentalDetailed receipts shall be submitted with the Vendor's invoice. Summary receipts are not acceptable.
- h. **CNM Approval Required:**
 1. Travel must be approved by CNM prior to service being provided.
 2. All invoices require approval from CNM prior to payment. Payment for APPROVED travel expenses shall be NET 30 days.

EXHIBIT D: SAMPLE NON-DISCLOSURE AGREEMENT



Non-Disclosure Agreement – for Contractors

This is an Agreement between Central New Mexico Community College (“CNM”) and **[Contractor/Vendor name]** (“Contractor”) concerning the confidentiality and nondisclosure of information relating to CNM, its students and employees. References in this Agreement to “CNM” mean CNM together with its students and employees.

WITNESSETH:

WHEREAS, Contractor has contracted with CNM to provide _____ services, as described in Request for Proposal(s) No. _____ and related documents (the “Contract”), the terms and conditions of which Contract are incorporated herein by reference; and

WHEREAS, Contractor acknowledges and recognizes that in performing the Contract it may have access to data and information contained within or about CNM’s resources and systems; and

WHEREAS, Contractor acknowledges and recognizes that in performing the Contract it may have access to sensitive and/or proprietary and/or nonpublic data and information which is or may be subject to state and/or federal laws and regulations, including but not limited to privacy laws and regulations, which must be kept confidential pursuant to those laws and/or regulations; and

WHEREAS, Contractor recognizes that CNM has a compelling need to maintain confidentiality and prohibit disclosure of data and information contained within CNM’s resources and systems, and further recognizes that its Contract with CNM places Contractor in a position of

EXHIBIT D: SAMPLE NON-DISCLOSURE AGREEMENT

special trust and confidence with respect to data and information concerning CNM and its operations; and

WHEREAS, Contractor recognizes and acknowledges that a breach of this Agreement would cause substantial, grave and irreparable harm to CNM and its interests; and

WHEREAS, Contractor agrees to the terms and conditions set forth below.

NOW, THEREFORE, for the reasons stated above, Contractor, as a precondition to its Contract with CNM and in partial consideration thereof, agrees and covenants with CNM as follows:

1. Contractor agrees to perform services under the Contract pursuant to any and all privacy and confidentiality requirements contained in state and federal laws and regulations applicable to CNM, as well as those state and federal laws and regulations applicable to Contractor.

2. Contractor agrees that it will keep in strictest confidence all CNM data and information to which it may have access in performing its duties under the Contract, in computerized form or otherwise, and that neither it nor anyone operating on its behalf will disclose or use, in any manner, CNM data and information, except to the extent necessary to carry out the Scope of Work in the Contract. No other use of the data and information by Contractor is permissible.

3. Contractor agrees to indemnify and hold harmless CNM from any and all liability, injury and damages resulting or arising from any intentional or unintentional disclosure of data and/or information stored on or contained within CNM resources and systems by Contractor, its agents and representatives.

EXHIBIT D: SAMPLE NON-DISCLOSURE AGREEMENT

4. Contractor agrees and acknowledges that at all times during the Contract it is operating and shall operate as an independent contractor and not as an agent or employee of CNM.

5. Contractor agrees that information contained within CNM resources and systems shall be accessed, if at all, only as may be necessary to carry out the Contract. Contractor agrees to reasonably limit access to information contained within CNM resources and systems to those among its employees, officers or directors for whom disclosure is necessary to further the purpose of the Contract.

6. Contractor agrees that, upon the termination or conclusion of the Contract, it will deliver promptly to CNM all data, information, documentary and other materials relating to CNM, and any and all copies of electronic records thereof, within its custody or control or within the custody or control of its agents or representatives, that it or anyone operating on its behalf created, produced or obtained in the course of Contractor's Contract with CNM.

7. Contractor agrees that if any person or entity requests, subpoenas, or otherwise attempts to obtain any data, information or material relating to CNM within Contractor's custody or control, or within the custody or control of anyone operating on its behalf, it will notify CNM immediately and will cooperate fully in any legal action by CNM seeking protection against disclosure of such data, information or material.

8. If Contractor knows or has reason to believe that there has been an improper use or any disclosure of CNM's data or information, Contractor

EXHIBIT D: SAMPLE NON-DISCLOSURE AGREEMENT

shall orally notify CNM as soon as practicable and shall send written notice within five (5) business days of discovery. Such notification shall set forth in detail the known or suspected use or disclosure.

9. Contractor acknowledges and agrees that if it breaches this Agreement, CNM, in addition to terminating the Contract and taking other action available to it, may obtain preliminary and permanent court injunctions to stop the breach, and may also sue to recover from Contractor an amount equal to the damages caused by the breach and the revenues Contractor or anyone operating on its behalf derived from the breach, together with all costs and expenses, including attorneys' fees, incurred by CNM in taking such actions.

10. Contractor agrees that the terms of this Confidentiality Agreement will survive the expiration or termination of the Contract.

11. This Agreement and obligations hereunder shall be binding on the representatives, assigns, and successors of the Contractor and shall inure to the benefit of the assigns and successors of CNM.

12. If any of the provisions of this Agreement are not enforceable, in whole or in part, the remaining provisions set forth in this Agreement shall nonetheless remain in full force and effect.

13. This Agreement constitutes the entire understanding of the parties about the subject matter hereof and may not be amended or modified except in writing signed by each of the parties to the Agreement.

IN WITNESS WHEREOF, each of the undersigned has caused this Confidentiality Agreement to be executed by their duly authorized representatives.

EXHIBIT D: SAMPLE NON-DISCLOSURE AGREEMENT

Central New Mexico Community College

[Contractor/Vendor Name]

Print Name: _____

Print Name: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____

Contractor Employees who will have access:

Print Name: _____

Signature: _____

Title: _____

Date: _____

Print Name: _____

Signature: _____

Title: _____

Date: _____

Print Name: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT E: SAMPLE SERVICES AGREEMENT

ENTER DESCRIPTION OF SERVICES

THIS AGREEMENT, including all exhibits thereto ("Agreement"), made this **ENTER DAY** of **ENTER MONTH, ENTER YEAR**, by and between Central New Mexico Community College ("CNM" or "Owner") and **ENTER NAME** ("Vendor").

Recitals:

WHEREAS with CNM's Request for certain related services in connection with **ENTER TYPE OF SERVICES**, "**ENTER TYPE OF SERVICES**" Services (the "Project" or "Services");

WHEREAS CNM selected Vendor's proposal as being the most advantageous and awarded the work to Vendor;

WHEREAS CNM and Vendor desire to enter into a written agreement for **ENTER TYPE OF SERVICES** related services;

NOW, THEREFORE, the parties agree as follows:

ARTICLE ONE **STATEMENT OF WORK**

1.0 **ENTER DESCRIPTION** SERVICES SCOPE OF WORK

1.1 **ENTER DESCRIPTION** SERVICES

Provide expertise and resources and consulting services to **ENTER DESCRIPTION**. Lead and assist the college in the redesign and implementation of a new website for cnm.edu.

1.2 SCOPE OF WORK

ENTER SCOPE OF SERVICES

ARTICLE TWO **CNM'S RESPONSIBILITIES**

2.0 CNM agrees to contract with and does hereby contract with the Vendor, under the terms and conditions of this Agreement, to perform for CNM **ENTER DESCRIPTION** and related services as described in this Agreement.

2.1 CNM shall designate a representative ("ITS Representative") to act on its behalf in accordance with the limited authority described in this Section 2.1. The ITS Representative shall have limited authority to give general direction to the Vendor, to answer questions with respect to the Project, to approve pay applications subject to other required approvals, and to initiate the change order process. CNM shall administer this Agreement and shall have the authority to 1) modify or interpret this Agreement, 2) to approve change orders; all of which are decisions which are reserved to be made by CNM's ITS Department, Business Office, and Purchasing Department. No action, representation, or conduct by the ITS Representative shall relieve the Vendor of its responsibilities to carry out its duties and obligations under this Agreement. Any notice given or modification may only be issued as a signed change order or amendment to this agreement issued by the Purchasing Department.

2.2 CNM shall provide reasonable assistance to Vendor as Vendor may reasonably request for the purpose of rendering the Services, including but not limited to the following: (a) access, on an as-needed basis, to CNM personnel, and to data processing, hardware and software

EXHIBIT E: SAMPLE SERVICES AGREEMENT

systems utilized by CNM, all provided and maintained at CNM's expense in good working order and in actual operation at all times at which Vendor reasonably requests operation for the purpose of rendering the Services; (b) reasonable use of office equipment and services such as desks, chairs, word processors, telephone, copying and other equipment and services reasonably appropriate to accommodate Vendor's personnel; and (c) a reasonable amount of space on CNM's premises, including parking spaces, for Vendor's personnel.

ARTICLE THREE **VENDOR'S SERVICES**

3.0 Vendor shall, 1) have on staff **ENGINEER(S)**, consultant(s) capable of performing the Scope of Work; 2) A project Manager who will be assigned responsible charge for each project; 2) have experience in all phases of **ENTER DESCRIPTION** and consulting;

3.1 Vendor shall render all Services to fulfill the Statement of Work as defined in Article One in a professional and workmanlike manner and will use reasonable commercial efforts to render such Services in a manner that will not unreasonably interfere with CNM's normal business operations. Any Services to be provided by Vendor hereunder shall be subject to the then-current availability of appropriate Vendor's resources.

3.2 When providing Services under this Agreement, Vendor shall comply with all applicable federal, state and local laws. Vendor shall be qualified to conduct the business necessary to the performance of this Agreement in the State of New Mexico throughout the term of this Agreement. Vendor shall obtain (or has obtained), at its own cost and expense, all necessary licenses, professional certifications and permits and shall assume the responsibility for and pay all applicable fees and all applicable taxes, which are now or may be imposed upon Vendor in the future by any governmental authority arising out of such qualification to do business in the State of New Mexico.

3.3 Upon prior written agreement by CNM, Vendor may subcontract Services to be performed under this Agreement, provided that, in all such cases, Vendor shall be fully responsible for the acts and omissions of its subcontractors, and shall be responsible for their performance in accordance with the terms this Agreement. No contractual relationship shall exist between any subcontractor and CNM, unless it is evidenced in a separate contract independent of this Agreement.

3.4 Vendor shall retain and maintain records reasonably related to the Services provided to CNM hereunder, sufficient to support and verify Vendor's performance of such Services and the fees charged to CNM therefor. Such records shall be available for examination by CNM or its authorized representative(s) during Vendor's regular business hours, within a reasonable period of time following a written request by CNM to examine such records.

ARTICLE FOUR **SPECIAL SERVICES**

4.0 CNM has the right to require, and Vendor agrees to perform, services related to the Project other than the web redesign consulting Services described in Article Three of this Agreement ("Special Services"). For services required by CNM, other than those described and required by Article Three, Vendor will be compensated per the terms set forth in Exhibit B, Section II of this Agreement.

4.1 Vendor shall submit a detailed written proposal for performing the Special Services and a "not to exceed" fee proposal for such Special Services to CNM for its review and written

EXHIBIT E: SAMPLE SERVICES AGREEMENT

approval incorporating a declaration as to the suitability of performing work. The "not to exceed" fee proposal shall be broken down into specific hours and shall identify all subcontractor costs to perform the services and accomplish the work. CNM's approval of such proposal shall be in writing and communicated through the issuance of an approved purchase order revision. No payment for Special Services in connection with such Special Services shall be made except for such Special Services performed in accordance with CNM's advance written approval.

ARTICLE FIVE **TERM**

5.0 The term of this Agreement begins immediately upon delivery to Vendor of a CNM purchase order incorporating this Agreement, extends through approval of the final Services performed by Vendor, and continues until both parties have fulfilled their respective obligations under this Agreement.

ARTICLE SIX **EMPLOYMENT OF CONSULTANTS**

6.0 Vendor agrees to employ competent web redesign consultants (New Mexico licensed and registered, if applicable) not otherwise employed by CNM for the Project, as might be necessary for the proper design and construction of the Project. Vendor shall furnish to CNM a list of these consultants for prior approval before engaging them for the Project. Vendor represents that services performed by the design professionals under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under the same or similar conditions. Vendor represents that the performance of any consultant assigned by Vendor to work on the Project shall be in accordance with sound professional standards, and the requirements of this Agreement.

ARTICLE SEVEN **PROFESSIONAL LIABILITY INSURANCE**

7.0 At its own expense, Vendor shall procure and maintain during the life of this Agreement professional liability insurance in an amount not less than One Million Dollars (\$1,000,000) for each claim and in the aggregate. Insurance coverage shall not be canceled or materially changed except after thirty (30) days written notice has been provided to CNM. Vendor shall furnish CNM copies of certificates of insurance showing the coverage, limits of liability, covered operations, effective dates and dates of expiration of policies of insurance carried by Vendor.

ARTICLE EIGHT **INDEMNIFICATION AND INSURANCE**

8.0 Vendor shall indemnify, defend and hold harmless CNM, its officers and employees against all liability, claims, damages, losses or expenses (including attorney's fees) arising out of bodily injury to persons or damage to property caused by, or resulting from, Vendor's and/or its employees' acts or omissions. This hold-harmless and indemnification clause is subject to the immunities, provisions and limitations of the New Mexico Tort Claims Act (Sections 41-4-1 et seq. N.M.S.A. 1972) and Section 56-7-1, N.M.S.A. 1978 and any amendments thereto.

8.1 Vendor shall comply with all requirements of Exhibit C hereto. Copies of Insurance certificates are required prior to release of CNM's Purchase Order and signed Services Agreement.

ARTICLE NINE **ASSIGNMENT AND SUCCESSORS**

EXHIBIT E: SAMPLE SERVICES AGREEMENT

9.0 Vendor agrees not to sublet, sell or assign this Agreement or any portion of the Work included herein, and not to enter into a partnership for the performance of the services and work contemplated by this Agreement with any person or persons without the prior written permission of CNM. Any approved successors or assignees shall be bound to and by the same terms and conditions as Vendor, and shall accept in writing the delegation of Vendor's duties and responsibilities under this Agreement. Vendor remains responsible for completion of the Project and warranties. Vendor remains responsible for design integrity. The following shall not be considered "Assignment" for purposes of this Agreement: Vendor Firm's Assignment of this Agreement or of any Vendor rights under this Agreement to Vendor's successor by merger or consolidation or to any person or entity that acquires all or substantially all of its share capital or assets.

ARTICLE TEN **TIMELINESS OF PERFORMANCE**

10.0 Vendor shall perform its duties and services under this Agreement with all reasonable diligence and continuous effort, and shall not delay this Work in order to perform work under other contracts entered into after this Agreement.

10.1 Vendor shall continue to perform the Work under this Agreement through all disputes, with the Owner and/or the Contractor, including but not limited to payment disputes and disputes regarding the scope of the Vendor's obligations under the Agreement.

ARTICLE ELEVEN **OWNERSHIP OF INSTRUMENTS OF SERVICE**

11.0 CNM shall continue to own intellectual property ("IP") owned by CNM that is provided to Vendor for use in connection with the Services. This includes, for instance, trademarks, service marks, graphics, copyrighted material, patented material. In addition, CNM retains exclusive rights to certain IP delivered in connection with this agreement which shall include the following: rebranded logo. In addition, CNM shall retain nonexclusive rights to graphic elements used in designing CNM's website.

11.1 Vendor grants CNM non-exclusive rights to use Vendor Intellectual Property "Vendor IP" in perpetuity. This includes all services and all intellectual property derived from Vendor or used in the awarded project (except CNM's Intellectual Property and Public Domain Intellectual Property), and all development work performed by Vendor for CNM. CNM does not have any interest in or ownership of Vendor IP, even though Vendor may have used it or developed it in connection with the Services provided in performance of the Scope of Work. Vendor IP includes, for instance, design of, and interfaces for, human interaction on the website, programming code, system configuration, illustrations, charts, and graphs used to explain concepts or elucidate web strategy, results of usability analysis, seminar and training materials, and design templates.

11.2 Many Internet protocols and programs used by Vendor in performing the Services are meant to be used by anyone, without charge, such as free software, open source software, public domain software, copyleft software, and general public license software, and any changes and improvements to these may also be used by anyone without charge (together, the "Public Domain IP"). That means, and CNM agrees, that CNM cannot own the Public Domain IP and Vendor cannot own the Public Domain IP, even though Vendor works with and uses Public Domain IP in connection with the Services provided for and paid by CNM.

ARTICLE TWELVE **RECORDS AND AUDIT**

EXHIBIT E: SAMPLE SERVICES AGREEMENT

13.0 Vendor shall maintain detailed time records that show the date, time and nature of services rendered. These records shall be subject to inspection by the CNM, its representatives, and the State Auditor. CNM, its representatives, and the State Auditor shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of CNM to recover excessive and/or illegal payments. CNM, its representatives and the State Auditor shall have access to and the right to examine and/or audit any directly pertinent records, books, documents and papers of Vendor involving transactions related to this Agreement for a period of three (3) years after final payment.

ARTICLE THIRTEEN **APPLICABLE LAWS**

13.0 Vendor shall endeavor to comply with all federal, state, and local laws and ordinances applicable to the Work called for herein. Vendor further agrees to operate under and be controlled by the Civil Rights Act of 1964, Title VI, and Executive Order No. 11246.

13.1 Vendor shall adhere to all State, Federal, local and CNM rules, laws, regulations, guidelines, the New Mexico Procurement Code, CNM's Procurement Regulations, New Mexico's Public Works Act (N.M. Stat. Ann. § 13-4-1, et. seq.), the New Mexico Prompt Payment Act, and all other applicable laws, statutes, codes, regulations, and the like, the policies and procedures associated with the Work to be performed.

ARTICLE FOURTEEN **TERMINATION**

14.0 Termination for Cause. If Vendor, for any cause, fails or omits to carry out the Work in an acceptable manner CNM may give notice in writing of such failure or omission and of a reasonable time within which to cure the deficiency. Vendor shall take corrective measures within such time. Vendor's failure to comply with such notice and to cure the deficiency as provided in the notice shall subject this Agreement to immediate termination by CNM.

14.1 In the event of a for-cause termination, CNM shall terminate this Agreement by delivering to Vendor a written notice of termination. The effective date of termination shall be the date stated in the notice or, if no date is stated, then the date of delivery of the notice. Upon such termination, the Vendor shall deliver to CNM all design plans, drawings, documents, and all other materials developed under this Agreement.

CNM shall then have the right to retain the services of other design professionals to complete the Vendor's Work under this Agreement, and shall have no obligation to seek bids for that replacement design professional(s). The cost of completing the Vendor's Work under this Agreement shall be paid for by applying the balance of the contract amount remaining on this Agreement at the time of termination. If the cost to complete the Work under this Agreement is less than the remaining contract amount, the remaining contract amount shall be paid to the Vendor. If the cost of completing the Work under this Agreement exceeds the original or amended contract amount, then the Vendor shall pay CNM for the difference between the contract amount and the cost to complete the Vendor's Work.

14.2 Termination for convenience of CNM. On fifteen (15) business days written notice to Vendor, CNM may terminate this Agreement in whole or in part for its own convenience in the absence of any default of Vendor.

14.3 In the event of a termination for convenience, CNM shall terminate this Agreement by delivering to Vendor notice of termination without cause specifying the extent to which performance

EXHIBIT E: SAMPLE SERVICES AGREEMENT

of Work under this Agreement is terminated and the date upon which such termination becomes effective. The effective date of termination shall be the date stated in the notice or, if no date is stated, then the sixteenth (16th) business day after delivery of the notice. Within ten (10) calendar days of the effective date of termination, Vendor shall deliver to CNM all design plans, construction estimates, drawings, documents, survey books and any or all other materials developed under this Agreement. Upon delivery of such notice, the Vendor shall have the right to receive payment for services satisfactorily performed to termination date, including reimbursement then due.

ARTICLE FIFTEEN **APPROPRIATIONS**

15.0 The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of the State of New Mexico and/or CNM for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the Legislature and/or CNM, this Agreement shall terminate upon written notice being given by CNM to Vendor. CNM's decision as to whether sufficient appropriations are available shall be accepted by Vendor and shall be final.

ARTICLE SIXTEEN **RELEASE**

16.0 Vendor, upon final payment to it of the amounts due for the Project, releases CNM, its governors, officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement as pertains to the Project.

16.1 Vendor agrees not to purport to bind CNM or the state of New Mexico to any obligation not assumed herein by CNM or the State of New Mexico, unless Vendor has express written authority to do so, and then only within the strict limits of that authority.

ARTICLE SEVENTEEN **CONFIDENTIALITY**

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

ARTICLE EIGHTEEN **CONFLICT OF INTEREST**

18.0 Vendor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Vendor shall comply with the provisions of Section 10-16-12 N.M.S.A. 1978 which requires disclosure in writing to the office of the Secretary of State of the State of New Mexico amounts received under state contracts when and if such provisions become applicable. With regard to performance under this Agreement, Vendor is an independent contractor, and not an officer, agent, partner, joint venturer or employee of CNM. Neither party shall, at any time or in any manner, represent that it or any of its agents or employees is in any manner agents or employees of the other party.

ARTICLE NINETEEN **GOVERNING LAW/INTERPRETATION**

19.0 The laws of the State of New Mexico shall govern this Agreement. In no event shall any portion of this Agreement be interpreted against a party on the grounds that such party drafted

EXHIBIT E: SAMPLE SERVICES AGREEMENT

the provision in question. Both parties acknowledge having had ample opportunity for review and comment by their attorneys and both parties having participated in drafting this Agreement as a whole.

ARTICLE TWENTY AMENDMENT

20.0 This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties. Only CNM's Purchasing Director is authorized to modify this Agreement.

ARTICLE TWENTY-ONE MERGER

21.0 This Agreement with its exhibits and schedules incorporates all of the agreements, covenants and understandings between the parties thereto concerning the subject matter thereof. No prior agreements or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

ARTICLE TWENTY-TWO CERTAIN PENALTIES

22.0 The State of New Mexico Procurement Code, Sections 13-128 through 13-1-199 N.M.S.A. 1978, imposes civil and criminal penalties for its violation. In addition the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

ARTICLE TWENTY-THREE FORCE MAJEURE

23.0 Neither party will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control, including Acts of God, acts of war, accident, labor disruption, acts, omissions and defaults of third parties and official, governmental and judicial action not the fault of the party failing or delaying in performance.:

ARTICLE TWENTY-FOUR NOTICES

23.0 Any notice required to be given under this Agreement shall be deemed sufficient, if given in writing and hand delivered to the following address or sent by first class mail, properly franked and addressed as follows:

If to CNM:

Central New Mexico Community College
525 Buena Vista, SE
Albuquerque, NM 87106-4096
Attn: Gil Rivera, Buyer, Purchasing

If to Vendor:

ENTER VENDOR NAME
ENTER VENDOR ADDRESS
ENTER VENDOR CONTACT

ARTICLE TWENTY-FIVE MISCELLANEOUS

EXHIBIT E: SAMPLE SERVICES AGREEMENT

25.0 Attorney's Fees. In the event of litigation with respect to or related to this Agreement or the Project, such action shall be brought in the County of Bernalillo, State of New Mexico. The prevailing party shall be entitled to recover reasonable attorney's fees. The law of the State of New Mexico shall govern these matters.

25.2 Insurance Requirements. The Vendor shall be required to carry insurance meeting the requirements in the Exhibit C hereto labeled "INSURANCE REQUIREMENTS" and as noted in the specifications. The Vendor will be required to submit the Certificates of Insurance to CNM's Purchasing Director prior to commencing Work under the Agreement. Insurance must remain in effect for the entire term of the Agreement.

25.3 The General Conditions attached hereto as Exhibit A are hereby incorporated to the extent they are not inconsistent with other provisions of this Agreement. In Exhibit A, "Seller" and "Contractor" mean "Vendor."

EXHIBIT E: SAMPLE SERVICES AGREEMENT

IN WITNESS THEREOF, the parties hereto have executed this Agreement the day and year last set forth below.

**CENTRAL NEW MEXICO COMMUNITY
COLLEGE**

ENTER FIRM'S LEGAL NAME

OWNER (*Signature*)

GILBERT M. RIVERA, BUYER
(*Printed name and title*)

Date: _____

FIRM (*Signature*)

ENTER AUTHORIZED PERSON'S NAME
(*Printed name and title*)

Date: _____

EXHIBIT E: SAMPLE SERVICES AGREEMENT

EXHIBIT A, GENERAL TERMS AND CONDITIONS

1. **Inspection and Audit.** a. CNM may inspect, at any reasonable time, any part of Seller's plant or place of business which is related to performance of this Purchase Order. Acceptance of delivery shall not be considered acceptance of the materials, supplies or services furnished. Final inspection of product and services will be made at the destination. Any testing or inspection procedures required by the specification are in addition to CNM's rights under this paragraph.

b. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. Contractor shall maintain detailed records of all materials or supplies delivered to CNM under this Purchase Order, including serial numbers and other appropriate identifiers. These records shall be subject to internal and external audit. CNM shall have the right to audit billings both before and after payment. Payment under the resultant Agreement shall not preclude CNM from recovering excessive, erroneous or illegal payments previously made to the Contractor.

2. **Warranties.** Seller warrants the materials, supplies or services furnished to be exactly as specified in this order, free from defects in Seller's design, labor, materials and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by Seller. All applicable UCC warranties, express and implied, are incorporated herein.

3. **Acceptance and Rejection.** If prior to final acceptance, any materials, supplies or service are found to be defective or not as specified, or, if CNM is entitled to revoke acceptance of them, CNM may reject or revoke acceptance, require Seller to correct without charge within a reasonable time, or require delivery at an equitable reduction in price at CNM's option. Seller shall reimburse CNM for all incidental and consequential costs related to unaccepted materials, supplies or service. Notwithstanding final acceptance and payment. Seller shall be liable for latent defects, fraud, or such gross mistakes as amount to fraud. Acceptance of performance shall not waive CNM's right to claim damages for breach.

4. **Assignment.** This order is assignable by CNM. Except as to any payment due hereunder, this order is not assignable by Seller without written approval of CNM.

5. **Changes.** CNM may make changes within the general scope of this order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of this order, an appropriate equitable adjustment shall be made. No change by Seller shall be recognized without written approval of CNM. Any claim of Seller for an adjustment under this paragraph must be made in writing within thirty (30) days from the date of receipt of Seller of notification of such change, unless CNM waives this condition. Nothing in this paragraph shall excuse Seller from proceeding with performance of the order as changed hereunder.

6. **Termination and Delays.** CNM, by written notice stating the extent and effective date may terminate this order for convenience in whole or in part, at any time. CNM shall pay Seller as full compensation for performance until such termination: (1) the unit or pro rata order price for the delivered and accepted portion; and (2) a reasonable amount to be approved by CNM, and not otherwise recoverable from other sources by Seller, with respect to the undelivered or unaccepted portion of this order. Provided, however, compensation hereunder shall in no event exceed the total order price. Such amount will be limited to Seller's actual cost and may not include anticipated profits.

CNM may terminate this order by written notice in whole or in part for Seller's default if Seller refuses or fails to comply with the provision of this order, or fails to make progress so as to endanger performance and does not cure such failure within a reasonable period of time. In such event, CNM may otherwise secure the materials, supplies or services ordered, and Seller shall be liable for damages suffered by CNM, including incidental and consequential damages.

If, after notice of termination, CNM determines Seller was not in default, or if Seller's default is due to failure of CNM, termination shall be deemed for the convenience of CNM.

The rights and remedies of CNM provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

As used in this paragraph, the word "Seller" includes Seller and its subsuppliers at any tier.

7. **Affirmative Action.** Seller shall not discriminate with regard to hiring, termination or other incidents of employment on the basis of race, sex, national origin, religion, age or handicap. Seller agrees to: a) adhere to the principles set forth in Executive Order 11246 and 11375, and to undertake specifically to maintain employment policies and practices that affirmatively promote equality of opportunity for handicapped persons, minority group persons and women; b) take affirmative steps to hire and promote women and minority group persons at all job levels and in all aspects of employment; c) communicate this policy in both English and Spanish to all persons concerned within the company, with outside recruiting services and the minority community at large; d) provide CNM on request a breakdown of labor force by ethnic group, sex, and job category; and e) discuss with CNM its policies and practices relating to its affirmative action program.

8. **Indemnification and Insurance** Seller assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any actual or alleged personal injury (including death) and/or damage or destruction to property sustained or alleged to have been sustained in connection with or arising out of the performance of the work by Seller, its agents, employees, subcontractors or consultants, except to the extent of liability arising out of the negligent performance of the work by or willful misconduct of CNM. In any event, CNM's liability shall be subject to the limitations of the New Mexico Tort Claims Act. Seller shall indemnify and hold harmless CNM, its officers, agents, and employees from any and all liability for such losses, expenses, damages, demands, and claims and shall defend any suit or action brought against any or all of them based on any actual or alleged personal injury or damage and shall pay any damage costs and expenses including attorneys fees, in connection with or resulting from such suit or action.

Seller agrees that it and its subcontractors will maintain public liability and property damage insurance in reasonable amounts covering the above obligation and will maintain workers' compensation coverage covering all employees performing this order.

9. **Patent and Copyright Indemnity.** Seller shall pay all royalty and license fees relating to deliverables and other items covered hereby. In the event any third party shall claim that the reproduction, manufacture, use, or sale of goods or items covered hereby infringes any copyright, trademark, patent, or other intellectual property rights, Seller shall indemnify and hold CNM harmless from any cost, expense, damage, or loss resulting therefrom.

10. **Discounts.** Any discount time will not begin until the materials, supplies, or services have been received and accepted and correct invoice received by CNM's Purchasing Department. In the event testing is required, the discount time shall begin upon the completion of the tests.

11. **Penalties.** The Procurement Code, Section 13-1-28 et seq., imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

12. **Title and Delivery.** Title to the materials and supplies passed hereunder shall pass to CNM at the F.O.B. point specified subject to the right of CNM to reject upon inspection. For any exception to the delivery date specified, Seller shall give prior notification and obtain approval from CNM's Purchasing Department. Time is of the essence and the order is subject to termination for failure to deliver on time.

13. **Payment Charges.** Late payment charges shall be paid in the amount and under the conditions stated in Section 13-1-158, NMSA 1978.

14. **Other Applicable Laws.** Any provision required to be included in a contract of this type by any applicable and valid Executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

15. **OSHA Regulations.** The contractor shall abide by Federal Occupational Safety and Health Administration (OSHA) regulations and the State of New Mexico Environmental Improvement Board occupational health and safety regulations that apply to the work performed under this Invitation. **ALL PRODUCTS CONTAINING HAZARDOUS SUBSTANCES MUST BE PROPERLY LABELED AND ACCOMPANIED BY MATERIAL SAFETY DATA SHEETS.** The contractor shall defend, indemnify and hold CNM free and harmless against any and all claims, loss, liability and expense resulting from any alleged violations of said regulations including but not limited to fines, penalties, judgments, court costs and attorney fees.

16. **Debarment/Suspension.** In performing the services and/or furnishing the goods specified within this purchase order, the vendor/contractor certifies that it is not suspended, debarred or declared ineligible from entering into contracts with the Executive Branch of the Federal Government, any State agency or local public body; nor is in receipt of a notice of proposed debarment or suspension from the Executive Branch of the federal Government, any State agency or local public body.

17. **Applicable Law.** Each party acknowledges that the New Mexico Procurement Code, NMSA 1978 13-1-28 through -199, as amended, applies to every CNM purchase or contract agreement of tangible personal property, services and construction, including participation made pursuant to this purchase order. Further, each party acknowledges that it will be responsible for claims or damages arising from personal injury or damage to persons or property to the extent they result from negligence of its employees or agents and that the liability of CNM shall be subject in all cases to the immunities and limitation of the New Mexico Tort Claims Act, NMSA 1978 41-4-1 through -2,7, as amended.

SECTION 2 GOVERNMENT SUBCONTRACT PROVISIONS

If this order is subcontract under a U.S. Government Prime Contract, the applicable clauses listed below are incorporated into, and form a part of, the terms and conditions of this order. In the event of any conflict between the terms and condition of Section 2 and any other provisions of this order the terms and conditions of Section 2 shall prevail. The clauses contained in the following paragraphs of the Federal Acquisition Regulations are incorporated herein by reference. For purposes of this Purchase Order, in the following clauses, the term "contract" shall mean "this order", the term "contractor" shall mean "Seller" and the term "Government" and "Contracting Officer" shall mean "Albuquerque CNM" and the "Director of Purchasing," respectively.

The following provisions of the Federal Acquisition Regulations (FAR) apply regardless of the amount of this order:

* Anti-kickback Procedures:	52.203-7
Buy American Act and Balance of Payments Program	52.225-7001
* Contract Work Hours and Safety Standards Act-Overtime Comp.	52.222-4
* Equal Employment Opportunity	52.222-26
Integrity of Unit Prices	52.215-26(a)(b)
Notice to the Government of Labor Disputes	52.222-1
Preference for U.S. Flag Air Carriers (For internal air travel)	52.247-63
Restriction on Subcontractor Sales to the Government	52.203-6
Service Contract Act of 1965 (Reserved)	52.222-41
* Termination for Convenience of Government (Education and other Nonprofit Institutions)	52.249-5(a)(f)

CNM reserves all administrative, contractual, and legal remedies against Seller in case of any breaches of the contract.

* On contracts funded by federal grants, only the Special Terms and Conditions clauses identified by the asterisk (*) are incorporated into this contract.

EXHIBIT E: SAMPLE SERVICES AGREEMENT

EXHIBIT B

VENDOR'S COMPENSATION

SECTION I

For software engineering and consulting Services for the Scope of Work identified in Article Three of this Agreement, compensation shall be based on a fixed, Not-to-Exceed fee. This fee as used in this Agreement, shall mean the actual total amount paid by CNM to the Vendor for work prepared pursuant to this Agreement, minus gross receipts taxes and other taxes, Costs are fixed fee amounts.

	Labor rate	Hours	Not-to-Exceed Amount
		Labor Subtotal:	
		NMGRT at 7%:	
		Grand Total including NMGRT:	

A. Firm may add any applicable gross receipts tax to the fees and other payments payable hereunder. **Firm shall use and require the use of nontaxable transaction certificates by all other parties with whom it does business in connection with performing its services under this Agreement whenever allowed by law.** In all events, Firm shall not include gross receipts taxes paid to others as a part of the base dollar amount upon which Firm calculates gross receipts taxes when billing its fees and expenses to CNM.

B. Firm shall present detailed invoices and statement of the services rendered. Firm's invoices shall reference the CNM purchase order number and be submitted in a format that has been reviewed and approved in writing by CNM. Payments shall be made subject to CNM's approval of the statement of the services rendered. For compensation, Firm shall issue monthly invoices for services rendered and CNM shall make payments NET 30 days upon approved invoice per NMSA 13-1-158, based on the percent completion for milestones completed. CNM may or may not request 100% fulfillment of a final milestone prior to payment.

Firm shall issue a monthly status report detailing the estimated percent completion for work performed on a milestone basis. The report shall include details of all work performed during the invoice period, the estimated percentage of work performed during the invoice period and a total percent of all work performed to date. Refer the below sample table shown below.

EXHIBIT E: SAMPLE SERVICES AGREEMENT

SAMPLE MONTHLY REPORT

Milestone	Description	Milestone Amount	NMGRT at 7.00%	Milestone Total including NMGRT	Invoice Period	Percent completion this invoice period	Invoice Amount this billing period	Total Percent complete to date	Total billed to date
1	XXXX	\$3,600.00	\$252.00	\$3,852.00	1/1/2011-1/31/2011	10%	\$385.20	50%	\$1,926.00
2	YYYYY	\$7,200.00	\$504.00	\$7,704.00	1/1/2011-1/31/2011	20%	\$1,540.80	40%	\$3,081.60
3	ZZZZZZZ	\$5,400.00	\$378.00	\$5,778.00	1/1/2011-1/31/2011	0%	\$0.00	0%	\$0.00
4	WWWWWWWWWWW	\$3,600.00	\$252.00	\$3,852.00	1/1/2011-1/31/2011	0%	\$0.00	0%	\$0.00
	Travel	\$4,000.00	N/A	\$4,000.00	1/1/2011-1/31/2011	50%	\$2,000.00	50%	\$2,000.00
				\$25,186.00					

EXHIBIT E: SAMPLE SERVICES AGREEMENT

SECTION II

Hourly Rates by Personnel Type for Special Services
(NMGRT is not included.)

OFFICE/FIELD PERSONNEL
TITLE

HOURLY RATE

The following provisions are applicable to both Sections I and II Compensation set forth above:

A. Vendor may add any applicable gross receipts tax to the fees and other payments payable hereunder. **Vendor shall use and require the use of nontaxable transaction certificates by all other parties with whom it does business in connection with performing its services under this Agreement whenever allowed by law.** In all events, Vendor shall not include gross receipts taxes paid to others as a part of the base dollar amount upon which Vendor calculates gross receipts taxes when billing its fees and expenses to CNM.

B. Vendor shall present a monthly detailed invoice and statement of the services rendered. Vendor's invoices shall reference the CNM purchase order number and be submitted in a format that has been reviewed and approved in writing by CNM. Payments shall be made subject to CNM's approval of the statement of the services rendered. For compensation under Section I or Section II hereof, CNM shall make payments NET 30 days following the completion of each phase.

EXHIBIT E: SAMPLE SERVICES AGREEMENT

EXHIBIT C, INSURANCE REQUIREMENTS

CERTIFICATES OF INSURANCE:

The Vendor shall furnish the Owner one copy each Certificates of Insurance herein required for each copy of the resultant Agreement, showing the coverage, limits of liability, covered operation, effective dates of expiration of policies of insurance carried by the Vendor. The Vendor shall furnish to the Owner copies of limits. The Certificates of Insurance shall be in the form of AIA Document G-705 or similar format acceptable to the Owner. Such certificates shall be filed with the Owner and shall also contain the following statements:

1. The Governing Board of Central New Mexico Community College, Central New Mexico Community College, its agents, servants and employees are held as additional insured.
2. "The insurance coverage certified herein shall not be canceled or materially changed except after forty five (45) days written notice has been provided to the Owner."

COMPENSATION INSURANCE:

The Vendor shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all of the Vendor's employees , and in case of any such work being sublet, shall require the subcontractors to maintain such Worker's Compensation insurance. In case any class of employee engaged in work on the Project under this Agreement is not protected under a Worker's Compensation Statute, the Vendor shall provide and shall cause each subcontractor or sub-subcontractor to provide Employer's Insurance in an amount of not less than \$500,000.

VENDOR'S PROFESSIONAL LIABILITY INSURANCE:

The Vendor shall maintain professional liability insurance in the amount of at least \$1,000,000.

VENDOR'S PUBLIC LIABILITY INSURANCE:

The Vendor shall maintain insurance coverage "equal to the maximum liability amounts set forth in the New Mexico Tort Claims Act Section 41-4-1 et.seq. NMSA 1978". The insurance must remain in force for the life of the Agreement including all extension or renewals. The limits effective July 1, 1992 are: \$400,000 per person/\$750,000 per occurrence plus \$300,000 for medical and \$100,000 for property damage for a total maximum liability of \$1,150,000 per occurrence.

VENDOR'S VEHICLE LIABILITY INSURANCE:

The Vendor shall procure and shall maintain during the life of this contract Vehicle Liability Insurance coverage "equal to the maximum liability amounts set forth in the New Mexico Tort Claims Act Section 41-1-1 et. seq. NMSA 1978". The insurance must remain in force for the life of the Agreement including all extensions or renewals. The limits effective July 1, 1992 are:

Bodily Injury	\$750,000	Each Occurrence
Property Damage	\$100,000	Each Occurrence

SUBCONTRACTORS' AND SUB-SUBCONTRACTORS' PUBLIC AND VEHICLE LIABILITY INSURANCE:

The Vendor shall either:

- (1) Require each subcontractor or sub-subcontractor to procure and maintain during the life of the subcontract or sub-subcontract Public Liability Insurance of the types and amounts specified above or,
- (2) Insure the activities of the subcontractors or sub-subcontractors in the Vendor's policy as required under this Article.

GENERAL:

All insurance policies are to be issued by companies authorized to do business under the laws of the state in which the Work is to be done and acceptable to Owner.

The Vendor shall not violate, or permit to be violated, any conditions of any said policies, and shall at all times satisfy the requirements of the insurance companies writing said policies.