

ALAMOGORDO PUBLIC SCHOOLS  
P.O. Box 650  
1211 HAWAII AVE.  
ALAMOGORDO, NM 88311-0650  
(575)812-6046 FAX (575)812-6049



**PROPOSAL NAME:** Owner's Construction Oversight Consultant (OCOC)  
**PROPOSAL NO.:** 008-2021 **COMMODITY CODE** 91831  
**OPENING DATE and TIME:** July 23, 2020 @ 3:00 PM MST

**PROPOSAL DECLARATION**

SEALED PROPOSALS will be opened in the Alamogordo Public Schools Business and Finance Department. The Proposal Name, Number, and Opening Date and Time **must appear on the outside of the sealed envelope**. Sealed envelope **must be received** by the District Business and Finance Department, Attn: Chief Procurement Officer, PO Box 650, 1211 Hawaii Avenue, Alamogordo, New Mexico, 88310, by the time and date as indicated above.

The undersigned certifies that he/she has read and understands the Proposal TERMS AND CONDITIONS, and that the firm represented accepts these terms and conditions and submits the attached proposal in full compliance thereof.

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP CODE: \_\_\_\_\_

NEW MEXICO CRS NUMBER: \_\_\_\_\_

DO YOU QUALIFY FOR 5% IN-STATE PREFERENCE: YES \_\_\_\_\_ NO \_\_\_\_\_

NEW MEXICO 5% RESIDENT PREFERENCE CERTIFICATE NUMBER: \_\_\_\_\_

VETERAN OWNED BUSINESS: Yes \_\_\_\_\_ No \_\_\_\_\_ CERTIFICATE NUMBER: \_\_\_\_\_

**NOTE: TO BE A VALID PROPOSAL, PROPOSAL MUST BE SIGNED.**

AUTHORIZED SIGNATURE: \_\_\_\_\_ TITLE: \_\_\_\_\_

TYPE/PRINT NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

PROPOSAL WILL REMAIN FIRM UNTIL 90 (ninety) DAYS AFTER THE PROPOSAL OPENING DATE OR LONGER IF SPECIFIED BY VENDOR: \_\_\_\_\_

TERMS: \_\_\_\_\_ DELIVERY DATE: \_\_\_\_\_

**PLEASE ACKNOWLEDGE RECEIPT OF THE FOLLOWING DOCUMENTS: (Initial each)**

- \_\_\_\_\_ Proposal Declaration (this form)
- \_\_\_\_\_ APPENDIX A Alamogordo Public School's Sample Contract Stating All Requirements of the Contract
- \_\_\_\_\_ APPENDIX B Alamogordo Public School's Mandated Insurance Requirements Prior to Implementation of Contract
- \_\_\_\_\_ APPENDIX C Alamogordo Public School's Request for Proposal Terms and Conditions
- \_\_\_\_\_ APPENDIX D Prospective Contractor Conflict of Interest Certification Form
- \_\_\_\_\_ APPENDIX E Campaign Contribution Disclosure Form
- \_\_\_\_\_ APPENDIX F Debarment/Suspension Certification Form
- \_\_\_\_\_ Vendor's Bid Pricing List in a separate, sealed envelope marked "Price Proposal"



**ALAMOGORDO PUBLIC SCHOOLS**  
**Purchasing Department**  
**1211 Hawaii Ave**  
**(575) 812-6046 TELEPHONE**  
**(575) 812-6049 FAX**

**REQUEST FOR PROPOSALS**  
**FOR**  
**Owner's Construction Oversight Consultant (OCOC)**  
**COMMODITY CODE: 91831**

**RFP Number: 008-2021**

**Due Date & Time: July 23, 2020 @ 3:00 PM MST**

**I. INTRODUCTION**

- A. The Alamogordo Public Schools ("District") is requesting proposals for **Owner's Construction Oversight Consultant (OCOC)** to perform the scope of work described herein. All potential Offerors are encouraged to read this Request for Proposals carefully and in its entirety. A contract will be awarded for a one-year term on **September 01, 2020** with the District's option to renew annually, not exceed four years, including all extensions and renewals. Each renewal option is (1) contingent on the availability of future appropriations and (2) to be exercised only by affirmative action on the part of the District. There will be no automatic renewal of the contract. The option to renew is within the sole discretion of the District.

Firms submitting proposals shall meet and comply with all state and federally mandated requirements and certification for services offered, as well as applicable federal, state, and local laws and regulations pertaining to this Scope of Work.

The objective of this RFP is to obtain an **Owner's Construction Oversight Consultant (OCOC)** that will provide support for the successful completion of the new Holloman Elementary School (HES). The OCOC will coordinate directly with the District's Chief of Capital Outlay and Facilities for direction and reporting of findings and issues.

"Responsive Offer", means an offer which conforms in all material respects to the requirements set forth in this request for proposals.

Responsive Offers will be evaluated for the purpose of obtaining the required services from the firm and/or individual whose proposal is the most advantageous to the School District, taking into consideration the evaluation factors set forth in this Request for Proposals.

Proposal Submittal Packets **must** be received by the above **July 23, 2020 @ 3:00 PM MST** at the Purchasing Office, 1211 Hawaii Ave, Alamogordo, NM 88310.

Electronic submissions are not permitted.

**Late proposals will not be accepted and will be returned unopened.**

- B. Points of contact for this request for proposals are **Sheri Gardner, Chief Procurement Officer at (575) 812-6046 or sheri.gardner@alamogordoschools.org**
- C. All prospective respondents shall comply with all local, state and/or federal laws prohibiting bribes, gratuities, and kickbacks.
- D. By responding to this request for proposals the respondent warrants that it has no interest and will acquire no interest, which would directly or indirectly conflict in any manner or degree with the performance of the proposed service.
- E. **By responding to this request for proposals the Offeror signifies that it is able and willing to make the covenants, representations and warranties and to abide by the terms and conditions set forth in the Alamogordo Public Schools Professional Service Contract No. 008-2021-C which is attached as Appendix A.**
- F. Respondents are required to complete, sign, and return with their Technical Proposal Submittal Package the following documents: *Proposal Declaration page, the Campaign Contribution Disclosure Form (Appendix B), Prospective Contractor Conflict of Interest Certification Form (Appendix C), the Debarment/Suspension Certification Form (Appendix D), the Terms and Conditions Form (Appendix F), and proof of current commercial, general, liability insurance as referenced in Appendix E*, which are attached.
- G. A copy of their In-State/Veteran's Preference Certificate, if applicable
- H. Respondents are also required to submit the price proposal in an envelope separate from the technical proposal. The price proposal must be marked the same as the technical proposal and include the wording "PRICE PROPOSAL."

## **II. SCOPE OF WORK**

The Alamogordo Public School (APS) District requires contracted Owner's Construction Oversight Consultant (OCOC) support for the successful completion of the new Capital Outlay Projects. The OCOC will coordinate directly with the District's Chief of Capital Outlay and Facilities for direction and reporting of findings and issues. The following tasks define the required scope of work for this effort:

- Establishes working relationships with the necessary offices and individuals at Holloman Air Force Base (HAFB) to ensure the smooth, well-coordinated integration of all aspects of the Holloman Elementary School (HES) construction project.
- Facilitates coordination between Air Force offices and construction contractors to avoid scheduled completion delays.
- Establishes a positive working relationship with the Public School Facility Authority (PSFA) Regional Manager (RM) assigned to APS capital projects in which PSFA participates with the district as joint owner.
- Provides design process input regarding constructability, use of materials, and schedule coordination.
- Performs administration of Design Professional (DP) Contract to ensure the owner is receiving all required architectural and engineering services paid for.
- Provides thorough and timely review of all building plans, specifications, and construction documents. Provides review feedback in a report format at each stage of design.
- Provides coordination of construction services procurement with the District's Chief Procurement Officer, to include complete familiarity with the procurement process and documents, and shepherding the process through final contractor selection.
- Serves as an expert advisor to the owner regarding all project details and issues that may arise.
- Ensures the safety of school staff, students, and residents affected by the construction.
- Alerts/advises school administration of any potential safety concerns.
- Manages neighborhood concerns and complaints to resolution.
- Coordinates with necessary school administrators to establish safety plans for construction near occupied school facilities.
- Regularly coordinates with school administration and the contractor's superintendent to address issues and conflicts as they arise during construction.
- Maintains and updates plans as needs arise throughout construction and ensure lines of communication with administrators are open throughout the life of the project.
- Administers the construction budget and schedule to ensure project delivery is on time and within budget. Coordinates with the DP in reviews of contractor's schedule of values at beginning of project and monthly progress payment applications for accuracy and legitimacy prior to submission for payment.
- Provides construction contract administration to ensure compliance with each of the construction contract requirements on behalf of the owner.
- Interfaces with the RM to reach consensus regarding project construction and funding participation.

- Provides construction document administration via PSFA's eBuilder to ensure all required project documentation is produced, labeled, and uploaded properly by the Owner, DP and Contractor.
- Reviews and approves all submittal documents for specific conformity to the design intent.
- Reviews and approves all site testing reports. Provides accurate and timely feedback of testing results.
- Reviews, coordinates with the RM and approves all project Request for Information (RFI)'s, Architect's Supplemental Information (ASI)'s, Modification Change Request (MCR)'s and Change Orders.
- Coordinates the installation and relocation of all owner-provided utilities, including temporary utilities.
- Gains a thorough understanding of the selected contractor's means and methods of constructing the designed project. Coordinates all questions and discrepancies with the project architect.
- Provides on-site project oversight during the contractor's established daily/weekly work schedule.
- Produces a daily log of all construction site activities. Reviews and annotates contractor's daily logs for accuracy and completeness as they are submitted.
- Chairs weekly Owner/DP/Contractor meetings. Generates detailed meeting minutes including a record of all decisions made.
- Coordinates the Punch List inspection with the DP and contractor at the completion of construction. Follows up on progress and completion of all corrections identified on the Punch List.
- Coordinates and reviews all project closeout documentation for accuracy and completeness, and ensures the enforcement of all project warranty provisions.
- Respondent will provide/furnish at no extra cost or charge to the District all cell phones, computers, software and laptop computers for respondent use to effectively and efficiently perform the Work.

### **III. SPECIFICATIONS**

#### General Requirements

All RFP pages should be numbered except those specifically excluded. Response should include, but is not limited to the following elements:

1. Company background, history, present work, and present volume backlog.
2. Describe organizational approach and submit owner's representative or key team member certifications.
3. Describe how the following would be addressed:

- a. Contract Enforcement and Revisions
  - b. Project Documentation
  - c. Progress Meetings and Meeting Minutes
  - d. Board of Education Reports
  - e. Change Orders and Change Order Cost Estimating
  - f. Permitting
  - g. Scheduling
  - h. Requests for Information (RFI's)
  - i. Quality Oversight
  - j. Noncompliance Notices
  - k. Day to Day Site Visits
  - l. Punch Lists
4. Outline your proposed fee schedule.
  5. Identify your Project Leader, and their team and identify and describe any sub-consultants, if any, that will be used.
  6. Provide three OCOC client references.
  7. Provide three DP and three construction firms, and contacts within those firms, with whom you have completed OCOC projects within the past 5 years.
  8. Describe any experience working with the LEED rating system; projects certified, which versions of LEED used, certification levels achieved, lessons learned.
  9. Describe experience within last 5 years working with USAF officials at Holloman AFB, NM, in the role of OCOC projects on the Base. Include points of contact used for utilities disconnect/connect coordination, fire, security, safety personnel access passes, etc.
  10. List and describe the scope of any projects dealing with the PSFA, school districts, and schools.
  11. Describe your experience with eBuilder.
  12. Describe any litigation or arbitration within the last five years.
  13. Note any conflicts of interest.
  14. Establish regular and predictable presence on the job site for at least thirty (30) hours per week.

## **V. INSURANCE**

Liability insurance shall be on a comprehensive basis and shall include the following divisions of coverage:

Comprehensive General Liability -Premises and Operations including broad form property damage and contractual liability	\$2,000,000 each occurrence
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Professional Liability/Errors and Omission \$2,000,000 Combined single limit  
each occurrence

*Other required coverage's:*

Workers Compensation Statutory-New Mexico  
(all employees and subcontractors as  
applicable)

Automobile Liability Insurance \$500,000 Combined single limit  
for Contractors Providing Vehicles each occurrence  
OR

Automobile Liability Insurance \$100,000 each person  
for Sole Contractors/Subcontractors \$300,000 limit each occurrence  
Using Personal Vehicles

**OFFEROR WILL BE RESPONSIBLE FOR ALL REQUIRED INSURANCE  
COVERAGE AS PER THE MODEL CONTRACT (APPENDIX A) AND ALL  
APPLICABLE LOCAL, STATE AND FEDERAL LAWS AND REGULATIONS.**

Coverage shall be with an insurer authorized by the State of New Mexico and shall carry a Best's rating of not less than "A" in the A.M. Best's Key Rating Guide. The Alamogordo Public Schools, its board of education, and employees must be named as Additional Insureds with respect to all of the coverages. Evidence of insurance policies and forms adequate to confirm the currency and adequacy of coverage shall be provided to the District prior to the onset of service and the contract shall be conditioned upon the approval of same by the District.

NOTE: Offerors must provide certificates of current insurance coverage.

**VII. PROPOSAL MUST INCLUDE THE FOLLOWING:**

The Offeror's proposal should follow this format:

Firm/Team Information

1. Brief history of firm.
2. Type of ownership.
3. Statements as to size of professional staff.
4. Name of partner in charge, project manager, and other key team players.
5. Time/Date availability of firm to perform services

- A. The technical proposal must be sealed and marked on the outside as follows:  
**TECHNICAL PROPOSAL for RFP 008-2021 Owner’s Construction Oversight Consultant (OCOC)**
- B. Cover page with the name, address, and phone number of the offeror
- C. Table of Contents
- D. Letter of Introduction and Expression of Interest
- E. Provide your approach to address the Scope of Work
- F. Related Experience and Qualifications, Including Experience and Credentials of Team
  - a. List and describe previous experience with the Alamogordo Public Schools.
  - b. List and describe experience with other New Mexico government, private and public entities apart from educational setting if any.
- G. References: Provide reference or contact information for entities with relevant contractual relationship to the entity
- H. Current proof of licensure and credentials for the State of New Mexico – a copy must be provided.
- I. Alamogordo Public School’s Proposal Declaration, complete and signed
- J. Campaign Contribution Disclosure Form completed and signed (Appendix B)
- K. Prospective Contractor Conflict of Interest Certification Form completed and signed (Appendix C)
- L. Debarment/Suspension Certification Form completed and signed (Appendix D)
- M. An electronic copy of the proposal on a flash drive
- N. **Valid** In-State/Veteran’s Preference Certificate copy (if applicable)

**IX. EVALUATION CRITERIA (maximum points available – 100)**

The evaluation criteria to be used by the Selection Committee for this proposal and the corresponding point values for each criterion are as follows:

Capacity and Capability –	15 points
Organizational approach –	15 Points
Plan for execution of specific duties –	15 points
Qualifications of personnel –	15 points
References –	5 points
Projects completed within the past 5 years –	10 points
Experience with projects on a military installations –	5 points
Experience with NM PSFA projects, documents, and information management –	10 points

**X. EVALUATION CRITERIA - PRICE PROPOSAL: (maximum points available –10)**

The Price Proposal must be submitted in an envelope separate from the technical proposal and must contain the following:



- A. Cover page with the name, address, and phone number of the offeror
- B. The price proposal must be marked the same as the technical proposal and include the wording “PRICE PROPOSAL.”
- C. Price should be based on a minimum of 30 hours a week of direct project oversight to include all aspects of the Scope of Work and Specifications.
- D. Price should be inclusive of all travel costs.

**NOTE: It is the Offeror’s responsibility to provide full information in order to evaluate the criteria above.**

## **X. GENERAL**

The Offeror is required to submit **ONE (1)** original and **THREE (3)** copies of proposal and the required supporting documentation. Electronic Submission is not permitted.

The Offeror is required to submit an electronic copy of proposal on a flash drive.

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

If the Offeror considers any part of its proposal material to be proprietary technical or business information, such material shall be prominently and clearly mark as “PROPRIETARY” or “TRADE SECRET.”

Only the District is authorized to release information about projects covered by this RFP. The Offeror must refer to the District any requests to release or inspect any information that pertains to the work or activities covered by any action or award related to this RFP.

The District reserves the right to make multiple awards.

## **XI. TERMINATION**

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

### **For questions regarding the selection process:**

Sheri Gardner, Chief Procurement Officer  
1211 Hawaii Ave  
Alamogordo, NM 88310  
(575) 812-6046

Any inquiries or requests regarding this procurement should be submitted, *in writing*, to the Chief Procurement Officer. Offerors may contact ONLY the Chief Procurement Officer regarding this procurement. Other APS employees or Evaluation Committee members do not have the authority to respond on behalf of APS.



## Appendix A

### ALAMOGORDO PUBLIC SCHOOLS PROFESSIONAL SERVICES CONTRACT NO. 008-2021-C

THIS PROFESSIONAL SERVICES CONTRACT (the “Contract”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (“Effective Date”) by and between the Alamogordo Public Schools (“District”), a New Mexico public school district, whose address is 1211 Hawaii Ave, Alamogordo, New Mexico, and \_\_\_\_\_ with its principal place of business at \_\_\_\_\_, (herein referred to individually as “Party” or collectively as “Parties”).

WHEREAS, the District requires certain **Owner’s Construction Oversight Consultant (OCOC)** services as set forth in its Request for Proposals No. **008-2021**; and

WHEREAS, Contractor submitted a proposal to provide such **Owner’s Construction Oversight Consultant (OCOC)** services and Contractor represents that it has the experience, licenses, qualifications, staff and expertise to perform said services in a professional and competent manner;

NOW, THEREFORE, it is mutually agreed by the District and Contractor that for the considerations set forth herein, Contractor shall provide said services to the District as set forth below and in RFP No. **008-2021**.

#### Term

The Term of this Contract commences on **September \_\_\_\_\_, 2020** and ends on **June 30, 2021**.

#### Incorporation

The Parties agree that this Contract is in reference to and incorporates the Alamogordo Public School’s Request for Proposals No. **008-2021** and all documents included therein and attachments and appendices thereto, and Contractor’s responsive proposal and all documents included therein and attachments thereto.

#### Contract Documents

The Contract Documents shall include this Contract and all attachments and appendices thereto, the Alamogordo Public School’s Request for Proposals No. **008-2021** and all documents included therein and attachments and appendices thereto, and Contractor’s responsive proposal and all documents included therein and attachments thereto. In the event of any discrepancy among the documents, this Contract shall prevail.

The documents included in the contract are intended to be complementary and to describe a complete work. If the District determines a conflict exists between the contract documents, District shall decide which document will be applied and the Contractor shall then complete the work according to the interpretation made by the District.

#### Scope of Work

Contractor agrees to perform any and all consultation, services, activities, tasks set forth or described in the District’s Request for Proposals No. **008-2021** and as called for by this Contract

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and approved Purchase Orders (the “Work”). All Work called for by individual Purchase Orders shall be performed in strict accordance with this Contract.

Unless otherwise specifically called for by the Contract or by individual Purchase Orders, Contractor shall provide/furnish at no extra cost or charge to the District, all materials necessary to efficiently and effectively perform the Work.

For Work authorized by a Purchase Order, Contractor shall be available on an “as needed/call out” basis to begin performance of the Work no later than three calendar days after notification by the District, unless otherwise notified by the District.

The awarded contractor shall provide:

The Alamogordo Public School (APS) District requires contracted Owner’s Construction Oversight Consultant (OCOC) support for the successful completion of the new Capital Outlay Projects. The OCOC will coordinate directly with the District’s Chief of Capital Outlay and Facilities for direction and reporting of findings and issues. The following tasks define the required scope of work for this effort:

- Establishes working relationships with the necessary offices and individuals at Holloman Air Force Base (HAFB) to ensure the smooth, well-coordinated integration of all aspects of the Holloman Elementary School (HES) construction project.
- Facilitates coordination between Air Force offices and construction contractors to avoid scheduled completion delays.
- Establishes a positive working relationship with the Public School Facility Authority (PSFA) Regional Manager (RM) assigned to APS capital projects in which PSFA participates with the district as joint owner.
- Provides design process input regarding constructability, use of materials, and schedule coordination.
- Performs administration of Design Professional (DP) Contract to ensure the owner is receiving all required architectural and engineering services paid for.
- Provides thorough and timely review of all building plans, specifications, and construction documents. Provides review feedback in a report format at each stage of design.
- Provides coordination of construction services procurement with the District’s Chief Procurement Officer, to include complete familiarity with the procurement process and documents, and shepherding the process through final contractor selection.
- Serves as an expert advisor to the owner regarding all project details and issues that may arise.
- Ensures the safety of school staff, students, and residents affected by the construction.
- Alerts/advises school administration of any potential safety concerns.
- Manages neighborhood concerns and complaints to resolution.

## Appendix A

- Coordinates with necessary school administrators to establish safety plans for construction near occupied school facilities.
- Regularly coordinates with school administration and the contractor's superintendent to address issues and conflicts as they arise during construction.
- Maintains and updates plans as needs arise throughout construction and ensure lines of communication with administrators are open throughout the life of the project.
- Administers the construction budget and schedule to ensure project delivery is on time and within budget. Coordinates with the DP in reviews of contractor's schedule of values at beginning of project and monthly progress payment applications for accuracy and legitimacy prior to submission for payment.
- Provides construction contract administration to ensure compliance with each of the construction contract requirements on behalf of the owner.
- Interfaces with the RM to reach consensus regarding project construction and funding participation.
- Provides construction document administration via PSFA's eBuilder to ensure all required project documentation is produced, labeled, and uploaded properly by the Owner, DP and Contractor.
- Reviews and approves all submittal documents for specific conformity to the design intent.
- Reviews and approves all site testing reports. Provides accurate and timely feedback of testing results.
- Reviews, coordinates with the RM and approves all project Request for Information (RFI)'s, Architect's Supplemental Information (ASI)'s, Modification Change Request (MCR)'s and Change Orders.
- Coordinates the installation and relocation of all owner-provided utilities, including temporary utilities.
- Gains a thorough understanding of the selected contractor's means and methods of constructing the designed project. Coordinates all questions and discrepancies with the project architect.
- Provides on-site project oversight during the contractor's established daily/weekly work schedule.
- Produces a daily log of all construction site activities. Reviews and annotates contractor's daily logs for accuracy and completeness as they are submitted.
- Chairs weekly Owner/DP/Contractor meetings. Generates detailed meeting minutes including a record of all decisions made.
- Coordinates the Punch List inspection with the DP and contractor at the completion of construction. Follows up on progress and completion of all corrections identified on the Punch List.
- Coordinates and reviews all project closeout documentation for accuracy and completeness, and ensures the enforcement of all project warranty provisions.

## Appendix A

- Respondent will provide/furnish at no extra cost or charge to the District all cell phones, computers, software and laptop computers for respondent use to effectively and efficiently perform the Work.

### III. SPECIFICATIONS

#### General Requirements

All RFP pages should be numbered except those specifically excluded. Response should include, but is not limited to the following elements:

1. Company background, history, present work, and present volume backlog.
2. Describe organizational approach and submit owner's representative or key team member certifications.
3. Describe how the following would be addressed:
  - a. Contract Enforcement and Revisions
  - b. Project Documentation
  - c. Progress Meetings and Meeting Minutes
  - d. Board of Education Reports
  - e. Change Orders and Change Order Cost Estimating
  - f. Permitting
  - g. Scheduling
  - h. Requests for Information (RFI's)
  - i. Quality Oversight
  - j. Noncompliance Notices
  - k. Day to Day Site Visits
  - l. Punch Lists
4. Outline your proposed fee schedule.
5. Identify your Project Leader, and their team and identify and describe any sub-consultants, if any, that will be used.
6. Provide three OCOC client references.
7. Provide three DP and three construction firms, and contacts within those firms, with whom you have completed OCOC projects within the past 5 years.
8. Describe any experience working with the LEED rating system; projects certified, which versions of LEED used, certification levels achieved, lessons learned.
9. Describe experience within last 5 years working with USAF officials at Holloman AFB, NM, in the role of OCOC projects on the Base. Include points of contact used for utilities disconnect/connect coordination, fire, security, safety personnel access passes, etc.
10. List and describe the scope of any projects dealing with the PSFA, school districts, and schools.
11. Describe your experience with eBuilder.

## Appendix A

12. Describe any litigation or arbitration within the last five years.
13. Note any conflicts of interest.
14. Establish regular and predictable presence on the job site for at least thirty (30) hours per week.

### Contractor's Covenants, Representations and Warranties

Contractor covenants, represents and warrants to the District that it: (a) is an organization of professionals experienced in the type of services the District is engaging the Contractor to perform; (b) is authorized, licensed and registered to do business in the State of New Mexico; (c) is qualified, willing and able to perform professional services for the District; and, (d) has the expertise, training and ability to provide professional services which will meet the District's objectives and requirements.

Contractor covenants, represents and warrants that each and every Contractor's employee engaged in the services provided under this Contract is fully qualified, able, licensed, registered, authorized, and has the expertise and training to provide such services to the District.

Contractor covenants, represents and warrants that it has sufficient resources and personnel to perform the obligations set forth in this Contract, including, without limitation, performing the services, and procuring alternative capability in the event that Contractor's primary resources in performing the services change in such a manner that such primary resources would reasonably be unable to fulfill Contractor's obligations pursuant to this Contract.

Contractor covenants, represents and warrants that its performance of this Contract does not violate any applicable law, rules or regulation. Contractor further covenants, represents and warrants that Contractor shall comply and shall cause each and every of its employees who perform services under this Contract to comply with all laws of all applicable governmental authorities in the conduct of Contractor's activities pursuant to, and arising from, this Contract.

Contractor covenants, represents and warrants that Contractor holds and maintains all permits, licenses, and/or other regulatory requirements necessary to provide the services.

Contractor covenants, represents and warrants that it shall perform this Contract in a timely and professional manner with necessary skill and diligence and that the services provided herein meet or exceed the prevailing practices and standards of the trade from which the services are provided. To the extent that the District is held financially responsible for any deficiencies in the services performed by the Contractor, Contractor agrees to cure such deficiencies at the sole cost to the Contractor.

Contractor covenants, represents and warrants that each individual signing this Contract on behalf of Contractor represents and warrants that he or she has the power and authority to bind the Contractor and that no further action, resolution, or approval is necessary to enter into this binding Contract. Contractor further covenants, represents and warrants that this Contract has been duly executed and delivered by the Contractor and constitutes a legal, valid and binding agreement of the Contractor enforceable against the Contractor in accordance with its terms.

## Appendix A

Contractor covenants, represents and warrants that Contractor is duly registered as an employer under the New Mexico Workers' Compensation Act and is in good standing with respect to all filings and the payment of assessments or contributions required to be made under that Act.

Contractor covenants, represents and warrants that Contractor is financially solvent and able to pay its debts as they mature.

### Site Investigation

Contractor acknowledges that it has satisfied itself as to the nature and location of the Work, the general and local conditions and physical conditions and all other matters which can in any way affect the Work or the cost thereof under this Contract. Any failure by Contractor to acquaint itself with all the available information concerning these conditions will not relieve it from the responsibility for estimating properly the difficulty or cost of successfully performing the Work. The District assumes no responsibility for any understanding or representations made by any of its employees or agents during or prior to the negotiations and execution of the Contract, unless such understanding or representations are expressly stated herein and this Contract expressly provides that responsibility therefor is assumed by the District.

### Changed Conditions

Contractor shall, as soon as practicable and before such physical conditions are disturbed, notify the District in writing of subsurface or latent physical conditions at the District facilities or premises of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. The District will promptly investigate the conditions, and if it is found that such conditions materially differ and cause an increase or decrease in the cost of, or the time required for, performance of this Contract, an equitable adjustment shall be made and this Contract shall be modified accordingly in writing. Any claim by Contractor for adjustment hereunder shall be denied unless it has given notice as required above, provided that the District, if it determines the facts justify, may consider and adjust any such claim asserted before the date of final settlement and payment of this Contract.

### Workmanship

Although Contractor has the authority to control and direct the performance of the details of the Work, the Work contemplated herein must meet the District's standards and approval and shall be subject to the District's general right of inspection to secure the satisfactory completion thereof. The District shall have the right to reject defective Work or require its correction. If Contractor fails to correct rejected Work within the time allowed by the District, the District may, by contract or otherwise, correct such workmanship and charge the cost thereof to Contractor, or the District may terminate the right of Contractor to proceed with the Work as provided in the Termination clause of this Contract. The District, at its option, may deduct an equitable amount from the contract price/compensation for uncorrected Work if it deems it inexpedient to correct the Work not performed in accordance with this Contract. Contractor agrees to comply with all federal, state, and local laws, rules and regulations that are now or hereafter applicable to the Work, Contractor or Contractor's business. The District will designate a representative who shall be authorized to act for the District in all matters related to Contractor's performance of the Services.



## Appendix A

### Compensation

For the Work deemed satisfactorily rendered, the District agrees to pay the Contractor compensation as follows: in an amount not to exceed the amount(s) set forth in duly authorized Purchase Order(s).

Contractor will invoice the District monthly and in strict accordance with the Purchase Order. Contractor will mail all monthly invoices to: Alamogordo Public Schools, Attention: **Department of Special Education, PO Box 650, Alamogordo, NM 88310.** After approval of the Contractor's monthly invoice, and provided there are no disputes regarding the invoice, the District will pay the Contractor for satisfactorily performed Work within thirty (30) working days of receipt of the monthly invoice from the Contractor.

In the event that the District terminates this Contract for Contractor's breach, the District will pay Contractor for work performed before the termination date less any setoff to which the District is entitled if and only if Contractor performed such Work in accordance with this Contract and to the District's satisfaction.

The District shall have a right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the District to recover excessive and/or illegal payments.

The Contractor's acceptance of final payment of the amount due under this Contract shall operate as a full release of the District, its board of education, employees and agents from all liabilities, claims and obligations whatsoever arising from or under this Contract.

### Contractor's Personnel

The District retains the right to prior and continuing approval of any and all personnel, including subcontractor employees, if any, providing services under this Contract.

### Protection of Work and Property

Contractor shall continuously maintain adequate protection of Work from damage and shall protect the District's property at all times from injury or loss arising in connection with the Contract. Contractor shall make good at its own expense any such damage, injury or loss that may result from its effort in connection with the Work. Contractor shall provide all facilities for protection required by public authority or local conditions.

### Licenses, Permits and Regulations

Contractor shall, without additional expense to the District, obtain all licenses and permits required of the prosecution of the Work. Contractor shall conduct its operations in compliance with all laws, rules, regulations and ordinances of the federal, state, and local governments and their authorized agencies. Contractor shall indemnify and save harmless the District from and against any claims, damage, and expense arising from the violation by Contractor of any such law, rule regulation or ordinance.

### Records

## Appendix A

Contractor shall maintain records as required in compliance with applicable federal, state, or local laws, ordinances, codes, and District policies, but in no case for a period of less than four (4) years after the date of termination of this Contract. At any time during normal business hours and as the District may deem necessary, there shall be made available to the District for examinations of all Contractor's records with respect to all matters covered by this Contract and any subsequent agreements. The District may audit, examine and/or make excerpts or transcripts from such records including but not limited to invoices, materials, payrolls, records of personnel, conditions of employment, or any other data as may be pertinent.

### Insurance

Without limiting any of the other obligations or liabilities of Contractor, Contractor shall, at its own sole cost and expense, during the term of and at all time while providing Work and services under this Contract, procure and maintain in force, or cause to be procured and maintained in force, **Commercial General Liability, Professional Liability/Errors & Omissions Insurance** in the broadest coverage commonly available, with a minimum limit of two million dollars (\$2,000,000.00) per occurrence for each such policy. The Professional Liability/Error & Omissions policy shall provide extended reporting period coverage for claims made within two (2) years after this Contract is completed or otherwise terminated.

**Automobile Liability Insurance**, for contractors providing a vehicle for staff, employees, or subcontractors Commercial General Liability must be a minimum of five hundred thousand dollars (\$500,000) combined single limit.

**Automobile Liability Insurance**, for sole contractors/subcontractors that provide their own vehicle must be a minimum of one hundred thousand dollars (\$100,000) each person with a three hundred thousand dollar (\$300,000) limit each occurrence.

The Alamogordo Public School District, its Board of Education, and employees and must be named as Additional Insureds with respect to all of the coverages. The Additional Insured Endorsement must provide coverage for losses "arising out of" the Contractor's work or operations in connection with this Contract. Contractor's policies must be Primary and Non-Contributing as to any other valid and collectible insurance. Coverages and limits are to be considered as minimum requirements and in no way limit the liability of Contractor. Contractor is responsible for any deductible or self-insured retention contained within the insurance program. The Contractor's insurance shall apply separately to each insured and additional insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

Certificates of insurance and complete policies, acceptable to the District, with the coverage as cited above and listing the Alamogordo School District, its board of education and employees as the certificate holders, must be submitted **not less than ten (10) working days prior to the execution of this Contract and before work begins or products are delivered by Contractor under this Contract.** Coverages represented on the certificates of insurance must show policy numbers, effective dates and limits. All policies shall evidence insurance written by a carrier licensed in the State of New Mexico and rated at least "A" in A.M. Best's Key Rating Guide. Renewal certificates of insurance shall be provided annually until the work is completed and for three years following the completion of work. The Certificates of Insurance shall provide for not

## Appendix A

less than thirty (30) days advance notice to the District of cancellation or material change, which shall be mailed or delivered to:

The Alamogordo School District  
Attention: Chief Procurement Officer  
1211 Hawaii Avenue  
Alamogordo, NM 88310

Contractor shall carry Workers' Compensation insurance as required by law.

### Indemnification/Hold Harmless

Contractor shall defend, indemnify, and hold harmless the District, its board of education, employees, agents from any liability for injury, death, loss, accident, or damage to any persons, or to property, and from any claims, actions, proceedings, and costs in connection therewith, including reasonable attorney fees, arising or alleged to have arisen out of any act or omission, including intentional acts or omissions and passive or active negligence, of Contractor or of anyone directly or indirectly employed by Contractor, or arising in any way from the activities of or services provided by Contractor under this Contract. Contractor shall defend all such claims and litigation, including the payment of the District's attorney's fees and costs, whether such claims and litigation are frivolous or not. District shall have the right to choose its own legal counsel. Contractor hereby waives all rights of subrogation against the District.

Contractor expressly and specifically assumes potential liability and agrees to indemnify, defend (including reasonable attorneys' fees) and hold harmless the District for claims or actions brought by the Contractor's own employees against the District, its board of education, employees or agents. Solely for the purpose of this indemnification and defense, Contractor expressly and specifically waives any immunity under the New Mexico Statutes Annotated, Chapter 52, Workers' Compensation.

These indemnifications shall survive the termination of this Contract.

The parties do not intend, and this provision should not be construed, to waive, alter or modify any immunities or protections afforded by the New Mexico Tort Claims Act.

### Professional Responsibility

In connection with the Work hereunder, Contractor agrees that it shall meet or exceed the standard of care, skill, and diligence normally provided by a contractor in the performance of similar work and that the performance of all such Work shall meet or exceed sound and accepted industry standards and practices.

If Contractor fails to meet such standards of care, skill, diligence and/or industry standards and practices, Contractor shall be liable for all damages of whatever kind caused thereby.

### Bonds

If required by the District, Contractor agrees to furnish in connection with the performance of the Work under this Contract, a payment bond for the protection of persons furnishing material and

## Appendix A

labor and a performance bond for the protection of the District and in a form acceptable to the District. The penal sum of each bond shall be one hundred percent (100%) of the Contract price. Bonds required hereunder shall be dated as of the effective date of this Contract and shall be furnished promptly by Contractor to the District, accompanied by a certified copy of the "Power of Attorney" document issued by the Surety Company.

### Release

Contractor hereby accepts the District premises and adjoining areas as is and releases and discharges the District, its board of education, agents, employees, representatives and insurers from any and all liability, claims, judgments or demands, including reasonable attorneys' fees and costs, which may arise from any and all bodily injuries, deaths and damage to property arising directly or indirectly out of this Contract, including but not limited to Contractor's use of the premises and the adjoining areas, including parking areas. Contractor shall be solely and exclusively liable for all damages caused by Contractor's performance of or the failure to perform under this Contract.

The District assumes no responsibility whatsoever for any property placed on any District premises by Contractor or its officers, agents, employees, or servants and Contractor hereby releases and discharges the District, its board of education, agents, employees, representatives and insurers from any and all liability, claims, judgments or demands, including reasonable attorneys' fees and costs, which may arise from all liability, claims, judgments or demands, including reasonable attorneys' fees and costs, which may arise from Contractor's placement of property upon District premises.

### Contractor Status

The District and Contractor intend that the relationship between them shall be that of client and independent contractor. It is the intention of the parties hereto that Contractor be and remain an independent contractor and nothing contained herein shall be construed as inconsistent with that status. The District is interested only in the results obtained under this Contract. The manner, method and means of conducting the work are under the sole control of the Contractor. Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees and subcontractors during the performance of this Contract. The work performed under this Contract will be performed entirely at the Contractor's risk. The Contractor agrees to indemnify and hold harmless the District for any and all liability or loss arising in any way out of the performance of this Contract. Contractor shall employ and direct all persons performing any Work hereunder and such person shall be and remain the sole employees of and subject to the control and direction of Contractor. No agent or employee of Contractor shall be or shall be deemed to be an employee or agent of the District. None of the benefits provided by the District to its employees, including, but not limited to, worker's compensation insurance and unemployment insurance, is available from the District to the Contractor, or the employees, or agents of Contractor.

Whenever this Contract uses the words "as ordered," "as directed," "as required," "as permitted," "as allowed," or words and phrases of like meaning, it shall be understood that the use is intended only to the extent of judging compliance with the terms of this Contract and none of these words and phrases shall imply that the District has any authority or responsibility for supervision of

## Appendix A

Contractor's forces or operations, such supervision and the sole responsibility being strictly reserved for Contractor.

### Subcontracts

Contractor shall not subcontract any of Contractor's duties, obligations, or interests under this Contract unless, and no such subcontract shall be effective until, Contractor obtains the prior written consent of the District. Any attempt by Contractor to subcontract without the prior consent of the District may be deemed a material breach of this Contract. Subcontracts made without the District's prior written consent may be declared null and void.

If the Contractor contemplates a subcontract, the Contractor shall provide the following information promptly at the District's request: (1) a description of the work to be performed by the subcontractor; (2) a draft copy of the proposed subcontract; and (3) other information and/or certifications requested by the District.

The issuance of subcontracts shall not relieve Contractor of any of its obligations under this Contract, including, without limitation, the obligation to properly supervise and coordinate the work of subcontractors. Such subcontracts shall be in such form and contain such provisions as are required by this Contract or as the District may otherwise prescribe; provided, however, that nothing contained herein shall create any contractual relationship between any subcontractor and the District.

Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the District's approval of the Contractor's proposed subcontract.

The District's consent to subcontract shall not waive the District's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Contract. Contractor is responsible to notify its subcontractors of this District right.

Contractor shall indemnify and hold the District harmless with respect to the activities of each and every subcontractor in the same manner and to the same degree as if such subcontractor(s) were Contractor employees.

Contractor shall be solely and exclusively liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the District's consent to subcontract.

Contractor intentionally, voluntarily, and knowingly assumes the sole and entire liability to the Contractor's employees and agents, and to any individual or entity not a party to this Contract, for all loss, damage, or injury caused by the Contractor or the Contractor's employees and agents in the course of their employment.

Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by the District from each approved subcontractor. Before

## Appendix A

any subcontractor employee may perform any work hereunder, Contractor shall ensure delivery of all such documents to:

Alamogordo Public Schools  
Attention: Chief Procurement Officer  
1211 Hawaii Avenue  
Alamogordo, New Mexico 88310

### Use of Premises

Contractor shall confine the storage of materials and equipment in locations acceptable to the District and in accordance with all applicable laws, rules, regulations and ordinances. Contractor shall provide adequate safety barriers, signs, lanterns, and other warning devices and services to properly restrict access and properly protect any person having access to or near the Work site.

### Confidentiality

All material given to or made available to Contractor, or prepared or assembled by Contractor by virtue of this Contract that the District identifies as proprietary or confidential information, or otherwise requests to be kept confidential, will be safeguarded by Contractor and shall not be disclosed to any individual or organization without the prior written approval of the District. All information, data, or other material provided by the District to Contractor shall be subject to the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).

### Cleaning Up

Contractor shall, at all times, keep the Work areas, including storage areas used by it, in a clean and orderly condition and free from combustible debris and waste materials. Upon completion of the Work, Contractor shall remove all rubbish from and about the Work areas.

### Trespass

Contractor shall be solely responsible and liable for any act of trespass or any injury to adjacent property, resulting from or in connection with the operations under this Contract. Contractor shall be liable for any claims that arise from the deposit of any debris of any kind upon adjacent property.

### Liens

Contractor shall at all times promptly pay for all materials, equipment, and labor used in the performance of this Contract and shall maintain all materials, equipment, structures, premises and other subject matter free and clear from all laborer, materialmen, and mechanic liens; provided that all payments due to Contractor have been paid by the District. Contractor shall indemnify and save the District harmless from all such liens arising out of the Work. Contractor shall provide to the District, upon its request, reasonable evidence showing that all materials, equipment, labor and subcontractors have been paid in full, except for any outstanding claims relating thereto; which claims may, at the District's option, be assigned to the District.

### Appropriations

The terms of this Contract, and any subsequent renewal thereof, are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico and the New Mexico Department of Education for the performance of this Contract. If sufficient appropriations

## Appendix A

and authorization are not made by the Legislature, this Contract shall terminate, without any penalty or damages whatsoever against the District, upon written notice being given by the District to Contractor. The District's decision as to whether sufficient appropriations and authorizations are available shall be accepted by Contractor and shall be final.

### Conflict of Interest

Contractor represents 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 Contract. The Contractor agrees to comply with the requirements of the New Mexico Financial Disclosure Act (Section 1016A1, et seq., NMSA 1978) and the Governmental Conduct Act (Section 10161 et seq. NMSA 1978) as applicable. Contractor represents and warrants that the services to be performed under this Contract shall not result in a conflict of interest prohibited by state or federal laws, rules or regulations.

### Nondiscrimination

The Contractor warrants that during its performance of this Contract, Contractor, or any of its employees, agents, or subcontractors, will not violate any of the discrimination laws of the United States, including, but not limited to, on the basis of age, sex, sexual orientation, race, color, religious belief, national origin, marital status, status as a qualified individual with a disability or handicap or as a disabled veteran.

### Foreign Corrupt Practices Act

Contractor represents and warrants to the District that it is aware of the requirements of the United States Foreign Corrupt Practices Act (the "FCPA") and will not take any action that could violate the FCPA or expose the District to liability under the FCPA. Specifically, Contractor represents and warrants that, in connection with this Contract, Contractor and its owners, officers, directors, employees, representatives or agents have not provided and will not provide, offer or promise to provide, or authorize the provision directly or indirectly of, any money, gift, loan, service or anything of value to any government official (or any agent, employee or family member thereof), any political party or candidate for political office, or any third party, for the purpose of influencing or inducing any act, omission or decision of such government official or candidate, or of the government to obtain or retain business, or direct business to any person, or to secure any improper advantage.

### Notice of Penalties

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

### Force Majeure

The District and the Contractor shall be mutually relieved from any liability as a result of the onset of a force majeure condition. For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a party and which makes a party's performance of its obligations under the Contract impossible or so impractical as reasonably to be considered impossible under the circumstances, and includes, but is not limited to, war, riots, civil disorder,

## Appendix A

earthquake, fire, explosion, storm, flood, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

### Termination

This Contract will remain in effect unless terminated by either party in accordance with this provision. The parties may mutually agree to terminate this Contract any time by written agreement signed by both parties.

Notwithstanding anything in the paragraph immediately above or anything in this Contract to the contrary, the District in its sole discretion shall have the right, at any time and for any reason whatsoever, including its own convenience, upon thirty (30) calendar days written notice, to suspend or terminate Contractor's services, or any portion thereof, and to terminate this Contract, in whole or in part, without regard to whether Contractor has defaulted or failed to comply with the provisions of this Contract.

Either party may terminate this Contract in the event of a breach by the other party. To be effective, the non-breaching party must give written notice to the other party of its intent to terminate. If the breaching party does not entirely cure the breach within fifteen (15) calendar days of the date of the notice, then the non-breaching party may terminate this Contract at any time thereafter by giving a written notice of termination as provided in the preceding paragraph of this Contract.

Notwithstanding any of the above provisions of this Termination section of this Contract, the District may terminate this Contract immediately by written notice to the Contractor upon cancellation, denial, suspension, revocation or non-renewal of any license, permit or certificate, including, without limitation, insurance policy or Certificate of Insurance, that Contractor must hold to provide services under this Contract.

### Dispute Resolution

Disputes on any matter relating to this Contract shall be discussed and resolved by authorized representatives of each Party who have the authority to bind the Party that they represent. The Parties shall use their best efforts to amicably and promptly resolve the dispute. If the Parties are unable to resolve the dispute within a reasonable time period as determined by the representatives, the Parties may pursue any other legal, mediation, or arbitration means for resolving disputes which may arise from or under this Contract.

### Notices

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

#### **To District:**

Alamogordo Public Schools  
Attention: Chief Procurement Officer  
1211 Hawaii Avenue



## Appendix A

Alamogordo, New Mexico 88310

### **To Contractor:**

**[INSERT]**

#### Invalid Term or Condition and Severability

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected and shall be valid and enforceable. Should any part of this Contract be rendered or declared invalid by a court of competent jurisdiction, such invalidation of such part or portion of this Contract should not invalidate the remaining portions thereof, and they shall remain in full force and effect.

#### No waiver

The failure of the District to insist upon Contractor's compliance with its obligations under this Contract in any one or more instances shall not operate to relieve Contractor from its duty to comply with such obligations in all other instances.

#### Applicable Law

The laws of the State of New Mexico shall govern this Contract, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Contract, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Contract.

#### Immunities and Defenses

The District does not waive or relinquish any immunity, defense or protection on behalf of itself, its officers, board of education members, employees and agents as a result of the execution of this Contract and the performance of the provisions contained herein.

#### No Assignment

Contractor shall not assign any interest, transfer any interest, or assign any claims for money due or to become due in this Contract or any appendices, addenda, or amendments thereto.

#### No Third Party Beneficiaries

District and Contractor are the only parties to this Contract. Nothing in this Contract provides any benefit or right, directly or indirectly, to third parties. The Parties shall cooperate fully in opposing any attempt by any third person or entity to claim any benefit, protection, release, or other consideration under this Contract.

#### Other Contractors

The District reserves the right to enter into other agreements for work additional or related to the subject matter of this Contract, and Contractor agrees to cooperate fully with these other contractors and with the District. When requested by the District, Contractor shall coordinate its performance under this Contract with such additional or related work. Contractor must not interfere with the work performance of any other contractor or District employees.

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Entire Agreement

This Contract and all provisions hereof shall inure to and be binding upon the respective Parties hereto, their successors, and assigns. When signed by both Parties, this Contract (and any attachments or appendices thereto) is the final and entire Contract and supersedes any prior understanding or written or oral Contract relative to the subject matter hereof. This Contract may not be altered, changed or amended, except by written instrument signed by both Parties.

Attachments

**INSERT LIST OF ATTACHMENTS, IF ANY**

**ATTACH EACH AND EVERY ATTACHMENT LISTED**

The District and the Contractor have entered into this Contract as of the Effective Date. Services will not be provided and products will not be received or delivered until all required documents and insurance requirements in this contract have been provided.

The contract shall not become effective until it has been signed by the Board of Education and an approved purchase order has been issued to the Contractor.

Approved by the Alamogordo Public School's Board of Education on \_\_\_\_\_.

**DISTRICT:**

Alamogordo Public Schools

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

**CONTRACTOR:**

\_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Appendix A

\_\_\_\_\_  
Print name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT

## **APPENDIX B**

### **CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person 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 shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor give 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.

**THIS FORM 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, child, 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.

“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.

**DISCLOSURE OF CONTRIBUTIONS:**

Contributions Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Name of Applicable public official: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_

\_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_

\_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_

\_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_

\_\_\_\_\_

(Attach extra pages if necessary)

---

Signature

---

Date

---

Title (position)

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE TO AN APPLICABLE PUBLIC OFFICAL BY ME, A FAMILY MEMBER OR REPRESENTATIVE.

---

Signature

---

Date

---

Title (position)

---

**APPENDIX C**

**PROSPECTIVE CONTRACTOR CONFLICT OF INTEREST CERTIFICATION**

No employee or Board of Education member of the Alamogordo Public School District has a direct or indirect interest in the prospective Contractor or in the proposed transaction (unless prospective Contractor is publicly traded company and the employee or Board of Education member's interest is less than one percent of the prospective Contractor).

Prospective Contractor neither employs nor is negotiating to employ any employee or Board of Education member of the Alamogordo Public School District.

Prospective Contractor did not participate directly or indirectly in the preparation of specifications upon which the quote or offer is made.

If the prospective Contractor is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in prospective Contractor, please identify legislator:

\_\_\_\_\_

List below the name and social security number of any employee of the prospective Contractor or person assisting in the proposed transaction in any way who was an Alamogordo Public School District employee within the preceding 12- month period.

_____	_____
_____	_____
_____	_____

**Certification**

The undersigned hereby certifies that he/she has read the Conflict of Interest requirements as set forth in § 10-16-1 NMSA 1978 et seq. and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the prospective Contractor named below.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Name Printed: \_\_\_\_\_ Date: \_\_\_\_\_

Company: \_\_\_\_\_ City: \_\_\_\_\_

**APPENDIX D**

**DEBARMENT/SUSPENSION CERTIFICATION FORM**

The prospective Contractor certifies that it is not suspended, debarred or ineligible from entering into contracts with any Federal department or agency or with any department or agency of the State of New Mexico, or in receipt of a notice or proposed debarment from any Federal or Public State Agency. The prospective Contractor agrees to provide immediate notice to the Alamogordo Public Schools Purchasing Department in the event of being suspended, debarred or declared ineligible by any department or federal agency, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or offer but prior to the award of the purchase order or contract. If prospective Contractor is awarded a contract, prospective Contractor agrees to provide immediate notice to the Alamogordo Public Schools Purchasing Department in the event of being suspended, debarred or declared ineligible by any Federal or State Department Agency, or upon receipt of a notice of proposed debarment/suspension that is received at any time during the term or any renewal term of the contract.

The undersigned hereby certifies that prospective Contractor understands and will comply with these requirements, including the requirements of 22 CRF Part 513 and § 13-1-177 NMSA 1978 et seq. and any amendments thereto. The undersigned further certifies that he/she has the authority to certify compliance for the prospective Contractor named and that the information contained in this document is true and accurate to the best of their knowledge.

The prospective Contractor certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State or Federal department or agency.

Where the prospective Contractor is unable to certify to any of the statements in this certification, the prospective Contractor shall attach an explanation to this proposal.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Name Typed/Printed: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_



**APPENDIX E  
Alamogordo Public Schools**

**Mandated Insurance Requirement - Professional Services/Services \$2 Million**

				<b>Minimum Requirements</b>	<b>Required</b>
1. Certificate of Liability Insurance					
1. The following must be named as Certificate Holders with respect to all coverages					yes
Alamogordo Public Schools (APS)					yes
APS Board of Education					yes
APS Employees					yes
2. Commercial General Liability					
	\$2 million	Per Occurrence	Per Policy		yes
3. General Aggregate Limit					
	\$2 Million	Per Project			yes
4. Professional Liability/Errors & Omissions					
	\$2 Million	Per Occurrence	Per Policy		yes
Extended reporting period coverage for claims made within 2 years after contract is complete or otherwise terminated					
	2 Years				
4a. Additional Insured with respect to ALL Coverages					
	Certificate of Additional Insured Endorsement				yes
1. The additional insured endorsement must provide coverage for losses "arising out of" the contractors work or operations in connection with each contract					yes
2. The following must be named as Additional Insured with respect to all coverages					
Alamogordo Public Schools (APS)					yes
APS Board of Education					yes
APS Employees					yes
5. Automobile Liability					
	\$500,000	Combined Single Limit	Each Occurrence		yes
Or					
	\$100,000 \$300,000	Each Person Limit Each Occurrence			yes
6. Worker's Compensation Insurance as required by law covering employees that work in New Mexico					
	Per Statute		Per Policy		yes

NOTE: Services cannot begin or products cannot be delivered until all of the insurance requirements listed above had been met and submitted to the Alamogordo Public School's Purchasing Agent at 1211 Hawaii Avenue, Alamogordo, NM 88310

**ALAMOGORDO PUBLIC SCHOOLS**  
1211 Hawaii Ave.  
Alamogordo, NM 88310  
Telephone (575) 812-6046 Fax (575) 812-6049

**APPENDIX F**  
**Request for Proposal Terms and Conditions**  
**Unless Otherwise Specified**

**Instructions to Offerors:** The Alamogordo Public Schools (District), Board of Education and its authorized representatives are hereafter referred to as "District." Vendors will be required to sign a formal contract with Alamogordo Public Schools and provide all required insurance and documents after the Proposal is awarded and before a purchase order will be issued or products and services can be delivered. Proposals are to comply with all instructions and provide the information requested. Failure to do so may disqualify your proposal.

1. Proposal must be submitted in a sealed envelope and shall not be considered if received by the District after the date and time specified in the Advertisement for the Proposal. All sealed proposals must be submitted on the official documents or forms provided by the District. All proposals must be properly completed and supported by required documentation and be signed by a responsible and authorized person from the proposing firm. The outside of the sealed envelope must be marked with the Proposal Name, Proposal Number, and Opening Date and Time as instructed in the Proposal. Price Proposals should be submitted separately from Technical Proposals and be marked in the same manner.
2. Proposals will be opened publicly in the presence of the Procurement Officer/designee, one or more District Employees. Proposals and modifications will be date & time stamped upon receipt and held in a secure place until the established due date. The District reserves the right to accept or reject any or all proposals and the right, but not the obligation, to waive minor technicalities when it is in the best interest of the District. This PROPOSAL implies no obligation on the part of the buyer, nor does the buyer's silence imply acceptance or rejection of any proposal offer.
3. All proposal items are to be NEW and of most current production, unless otherwise specified.
4. Manufacturer's and/or Brand names and numbers used in these specifications are as a matter of convenience to indicate quality, type, and features desired. Full consideration will be given to alternate items proposed if specifications are equal to or greater than manufacturer and/or brand name specified. Where equipment/material varies from these specifications, the proposer shall clearly note the variances.
5. Inspection: Final inspection and acceptance of the product will be made at the destination. Supplies rejected at the destination for non-conformance with specifications shall be removed, at the Vendor's risk and expense, promptly after notice of rejection.
6. Samples of items, when required, must be furnished free of expense prior to the opening of proposals. Unused samples may be claimed by the proposer at the proposer's expense within 90 days of the proposal opening.
7. All proposals to include delivery cost: F.O.B. APS Central Receiving, 2624 N. Florida, Alamogordo, NM, 88310 unless otherwise specified.
8. Delivery Time may be a consideration in the award of the Proposal.
9. The District is exempt from paying Federal Excise, State, and Local Sales Taxes for most products/materials. The District will furnish necessary exemption certificates as required.
10. Discounts: Prompt payment discounts will not be considered in computing the proposal. Discounts for payment within 20 days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise or invoice, whichever is later.

11. Commercial Warranty: The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such supplies or services, and that the rights and remedies provided herein shall extend to the District and are in addition to and do not limit any rights afforded to the District by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.

12. The successful offeror shall comply with all Federal, State and Local Laws, Ordinances and Regulations pertaining to work under his charge and shall bear all expenses associated with such compliance. The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this agreement may be terminated by the contracting agency.

13. The Contractor will be responsible for obtaining all required insurance as listed in the Proposal and the Contract in the exact amounts as designated. A purchase order will not be approved and products cannot be delivered until all insurance requirements have been met.

14. In the event the successful offeror fails to deliver as and when promised, the District reserves the right to cancel its contract and offeror agrees that the District may charge seller with any loss or expense sustained as a result of such failure to deliver as promised.

15. If Contractor should for any reason go out of business, Contractor shall give the district at least thirty (30) days prior notice. In such event the second-ranked offeror under the RFP may be offered the Contract for the remainder of the term.

16. If service delivered hereunder is covered by any patent, copyright, trademark or application thereof, the successful offeror will indemnify and hold harmless the District from any and all losses, costs, expenses, and legal fees on account of any claims or legal actions.

17. A five-percent preference will be given to offerors who properly claim and qualify for a New Mexico Resident Preference and/or Veteran Owned Business. Failure to claim the preference and to include a valid resident certificate number with the proposal shall disqualify the offeror from receiving the preference.

18. The District will not be responsible for any items purchased and/or service performed without a formal, approved, and printed purchase order and a contract, signed by the authorized representative.

19. Award of the proposal will be on an item-by-item basis and/or all or none according to the actual Request for Proposal. Offerors shall provide the unit and total price for each individual item. In case of error in the extension of prices in the Proposal, the unit price will govern. The AWARD shall be made to the responsible offeror or offerors whose PROPOSAL is most advantageous and in the Best Interest of the District. Award will be contingent upon available funds. Multiple awards may be issued if in the Best Interest of the District.

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

21. PROTEST: Protests of a PROPOSAL award shall be submitted in writing within fifteen calendar days of award. Any such protest must include the specific grounds for the protest. By submission of PROPOSAL, each offeror agrees that if such offeror should protest the District's failure to award the PROPOSAL to him/her, or protest an award to another offeror, and if such protest is unsuccessful, such offeror shall be liable to the District for and shall promptly pay the amount of any and all loss, liability, and expense suffered by the District in whole or in part as a result of the unsuccessful protest, including any attorney's fees incurred by the District in defending against the protest. The successful offeror will indemnify and hold the District harmless from and against any and all loss, liability, and expense, including attorney fees which result from any protest or other claims by third parties which allege irregularity in the awarding of the PROPOSAL, if any such irregularity is, in whole or in part, the offeror's fault.