

**COUNTY-WIDE ECONOMIC  
DEVELOPMENT SERVICES  
FISCAL YEAR 2023-2024**

**Request for Proposals**

**RFP # 10 – (22-23)**

**NIGP Codes: 96110, 96128, 96129, 91827, 91849**



**Release Date: February 5, 2023**

**Due Date: March 3, 2023**

**3:00 p.m. (MDT/MST)**

*All potential Offerors are requested to carefully review the information  
contained in this RFP.*

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**COUNTY-WIDE ECONOMIC DEVELOPMENT SERVICES**

**RFP #10 – (22-23)**

**DUE DATE: March 3, 2023 – 3:00 PM (MDT/MST)**

**I. INTRODUCTION**

**A. PURPOSE OF THIS REQUEST FOR PROPOSALS (RFP)**

The Lea County Board of County Commissioners requests qualifications-based proposals to provide various economic development services through a competitive contract award process.

**B. SCOPE OF PROCUREMENT AND BACKGROUND**

Lea County government strives to enhance the economic development of Lea County to ensure the health, safety, and quality of life for all residents as determined by law and community interests. Services are provided through innovative leadership and teamwork in a fair, respectful and professional manner.

Proposed services should include development and implementation of a marketing and promotion plan, development and implementation of an advertising, printing, publication, and materials distribution plan, development and implementation of plans for active solicitation of new business, manufacturing, and industry, provision of technical services related to all industrial and economic development matters, and willingness to perform additional related services as needed.

Proposal Requirements:

1. Organizations who have previously been awarded a contract from the County must demonstrate a project history of successful program and budgetary management.
2. Proposal must demonstrate organizational capacity to implement the proposed project by providing their most recent certified audit or financial review and, if applicable, proof of their U.S. Internal Revenue Service 501(c) 3 application or final determination of their non-profit status.
3. Proposals must contain budgets that are cost effective and appropriate to the program and provide an evaluation assessment of their program.

**C. TERM OF CONTRACT**

Pursuant to § 13-1-153 NMSA 1978 of the New Mexico Procurement Code, the County reserves the right to multi-award this RFP. The County intends to enter into a single contract with one or more organizations to provide the above mentioned services for which the Offeror has been qualified pursuant to its response to this RFP. The term of these contracts shall be from date of award until June 30, 2024.

## D. PROCUREMENT OFFICER

Lea County's Procurement Officer, whose name and contact information is listed below is responsible for the conduct of this procurement.

Name: Kelli Ferguson, Procurement Officer  
Address: Lea County  
Finance Department, 4th Floor  
100 North Main, Suite 11  
Lovington, NM 88260  
Email: [kferguson@leacounty.net](mailto:kferguson@leacounty.net)

## E. QUESTIONS:

1. You must submit any questions regarding this procurement in writing, ONLY to the Procurement Officer at: [kferguson@leacounty.net](mailto:kferguson@leacounty.net).
2. No one other than the Procurement Officer has the authority to respond on behalf of the County.
3. Questions will be answered by an addendum to the RFP that will be posted to Lea County's website at: [Requests for Proposals \(leacounty.net\)](#)

## II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule, description and conditions governing the procurement.

### A. SEQUENCE OF EVENTS

The PROCUREMENT OFFICER will make every effort to adhere to the following schedule:

| Action                                    | Responsible Party         | Due Dates (Local Time)         |
|---|---------------------------|--------------------------------|
| 1. Issue of RFP                           | Lea County                | February 5, 2023               |
| 2. Deadline for Written Questions         | Potential Offerors        | By February 17, 2023 -1:00 pm  |
| 3. Response to Written Questions          | Procurement Officer       | By February 21, 2023 - 4:00 pm |
| <b>4. Submission of Proposals</b>         | <b>Potential Offerors</b> | <b>March 3, 2023 - 3:00 pm</b> |
| 5. Proposal Evaluation                    | Evaluation Committee      | TBD                            |
| 6. Best & Final Offer <i>If Requested</i> | Offerors                  | TBD                            |

|                             |                                     |                        |
|-----------------------------|-------------------------------------|------------------------|
| 7. Selection of Finalist(s) | Evaluation Committee                | TBD                    |
| 8. Contracts Negotiations   | Lea County and Potential Offeror(s) | TBD                    |
| 9. Contract Award(s)        | Lea County                          | TBD                    |
| 10. Protest Deadline        |                                     | By 15 days after award |

**B. EXPLANATION OF EVENTS**

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

**1. Issuance of RFP**

This RFP is being issued on behalf of the Lea County Board of County Commission.

**2. Deadline to Submit Written Questions**

Potential Offerors must submit all questions in writing only to the Procurement Officer before **February 17, 2023** at 1:00 pm (MDT/MST) as indicated in the “Sequence of Events” (Section II-A). Questions shall be clearly labeled and shall name the Section(s) in the RFP or other document which form the basis of the question.

**3. Response to Written Questions**

Written responses to written questions will be answered by Addendum and be posted to Lea County’s website at: [Requests for Proposals \(leacounty.net\)](http://leacounty.net)

**4. Submission of Proposals**

All RFP documents as well as any future addenda may be found on the Lea County website: [Requests for Proposals \(leacounty.net\)](http://leacounty.net)

Lea County will accept responses only at the address below up to 3:00 pm (MDT/MST) on March 3, 2023. Faxed or emailed responses will not be accepted. Responses received after that date and time will not be accepted. The Lea County Board of Commissioners reserves the right to reject any and all responses that are not in its best interest and to cancel and reissue the RFP.

Name: Lea County Finance Dept.  
Attn: Kelli Ferguson  
Address: Lea County Finance Dept. (4<sup>th</sup> floor)  
100 North Main, Suite 11  
Lovington, NM 88260

Proposals must be sealed and labeled on the outside of the package to indicate they are in response to RFP 10 – (22-23) County-Wide Economic Development Services.

A public log will be kept of the names of all Offerors that submitted proposals.

## **5. Proposal Evaluation**

An Evaluation Committee will review and score proposals. Offerors shall not initiate discussions.

## **6. Best and Final Offers**

Finalists may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers.

## **7. Selection of Finalists**

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s). In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the County reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

## **8. Contract Negotiations**

Pursuant to § 13-1-116 NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded and executed pursuant to this Request for Proposals.

If an Agreement cannot be negotiated with the firm(s) on the ranking list, the County may choose to negotiate with other qualified Offerors scored by the Committee or to terminate negotiations.

## **9. Contract Awards**

The contract may be awarded to one or multiple Offeror(s) whose proposal(s) are most advantageous to Lea County, taking into consideration the evaluation factors set forth in this RFP.

## **10. Protest Deadline**

Any protest by an Offeror must be timely and in conformance with § 13-1-172 NMSA 1978 *et. seq.* and applicable procurement regulations.

## **C. GENERAL REQUIREMENTS**

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

By responding to this RFP, potential Offeror(s) indicate their acceptance of the Conditions Governing the Procurement and of the Evaluation Factors.

### **2. Incurring Cost**

Any cost incurred by the potential Offeror in response to this RFP shall be borne solely by the Offeror.

### **3. Company Responsibility**

The awarded company is solely responsible for fulfillment of all requirements of the contractual agreement which may derive from this RFP.

### **4. Amended Proposals**

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

### **5. Offeror's Right to Withdraw Proposal**

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

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

### **6. Proposal Offer Firm**

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date.

### **7. Disclosure of Proposal Contents**

- A. Proposals will be kept confidential until negotiations and the award are completed by the County. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The PROCUREMENT OFFICER will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
- B. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
- C. Confidential data is restricted to:

1. confidential financial information concerning the Offeror's organization;
2. any data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, § 57-3A-1 to 57-3A-7 NMSA 1978.
3. PLEASE NOTE: The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

## **8. Termination**

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

## **9. Sufficient Appropriation**

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

## **10. Governing Law**

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

## **11. Basis for Proposal**

Only information supplied, in writing, by Lea County through the PROCUREMENT OFFICER or in this RFP should be used as the basis for the preparation of Offeror proposals.

## **12. Right to Waive Minor Irregularities**

The Evaluation Committee reserves the right to waive minor irregularities.

## **13. Notice of Penalties**

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

## **14. Ownership of Proposals**

All documents submitted in response to the RFP shall become property of Lea County.

## **15. Campaign Contribution Disclosure Form – Appendix C**

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form as a part of their proposal.



## 16. Insurance Requirements

The Consultant shall procure and maintain during the term of this contract, insurance of the types and in the minimum amounts stated below:

|   | <b>Standard Insurance</b>   | <b>Limits Not Less Than</b> |
|---|---|-----------------------------|
| ✓ | Commercial and General Liability  | \$1,000,000/\$2,000,000     |
| ✓ | Automobile Liability  | \$1,000,000/\$1,000,000     |
| ✓ | Worker's Compensation as required by State Law  | As required by Law          |
| ✓ | Other legally required of the employer or for the contractor's occupation / profession. | As required by Law          |
|   | <b>Specialized Insurance</b>  |                             |
| ✓ | Professional Liability  | \$1,000,000                 |
|   | Other / Specify:  |                             |

## III. RESPONSE FORMAT AND ORGANIZATION

This section describes the format and organization of the Offeror's proposal. Failure to conform to these guidelines may result in the disqualification of the proposal.

### A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

### B. NUMBER OF COPIES

#### 1. Hard Copy Responses

The original and all copies, including packaging shall be clearly marked with the RFP number and title on the front.

Offerors must submit one original, six copies, and one copy on flashdrive.

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

Any proposal that does not adhere to the requirements of this Section and Section III.C "Proposal Format", may be deemed non-responsive and rejected on that basis.

### C. PROPOSAL FORMAT

All proposals must be submitted as follows: Hard copies must be typewritten on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) with a minimum size 12 font. **Proposals shall contain tabs delineating each section and be 3-hole**

**punched with no staples and no binders. The County will place all proposals into large binders upon opening.**

Offerors must address items in the order indicated below. All forms provided in this RFP including those in the APPENDIX must be completed and included in each Proposal.

**Proposal Content and Organization:**

The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the order indicated with divider tab inserts.

1. Transmittal Cover Letter – Each proposal must be accompanied by the completed and signed cover letter. (Appendix A)

2. Table of Contents

3. Detailed Response to Scope of Work /Specifications, Section IV:

A. Narrative Summary

B. Project Approach

C. Management and Staffing

D. Specialized Experience

E. Budget – To include Cost Proposal Form (Appendix B)

F. Familiarity with State and Local Rules and Regulations

4. Additional Appendix Forms and Required Documentation -

C. Completed and Signed Campaign Contribution Form

D. Completed and Signed Related Party Disclosure Form.

E. Completed and Signed Cert. RE: Debarment, Suspension, and other Responsibility Matters.

F. Completed and Signed Non-Collusion Affidavit.

For review only – Lea County Contract for Goods and Services

Additional required documentation:

- Resumes/Certifications/Licenses of Key Personnel
- Copy of current annual certificate of business registration
- Most recent Certified Audit or Financial Review
- Proof of U.S. Internal Revenue Service 501(c) 3 application or final determination of non-profit status
- Acknowledgment of Addendum, if any

## **IV. SPECIFICATIONS**

Responsive proposals will be evaluated by a committee and assigned points under each criterion specified below. Points will be awarded based on the thoroughness and clarity

of the response.

A. Narrative Summary

1. Provide a concise overview of Offeror's qualifications and ability to comply with the Scope of Work in Section I.B.

B. Project Approach

1. Describe the programs and processes used on projects of similar scope and magnitude, the processes envisioned in this project, and the ability to initiate and perform the services proposed.

C. Management and Staffing

1. Identify the staff assigned to this project (by names and positions) and their knowledge of the Lea County area and the State of New Mexico. The listing should include relevant experience and capability.

D. Specialized Experience

1. Provide a written record listing, or a brochure describing, past work with emphasis on comparable projects. Project references should be included.

E. Budget

1. Complete the Budget/Cost Proposal Form found in the Appendix Section (B), sign and include with your proposal response.

2. Submit a proposed budget of revenue and expenditures for one fiscal year relative to the scope of work. The County proposes that expenses incurred under a mutually acceptable contract will be reimbursed based on supporting evidence that the services have been completed or the goods received; however, the proposal should include the proposer's option on the proposed method of payment.

Points will be awarded based on clearly defined justification for costs for the levels of service provided that are directly related to the project.

F. Familiarity with State and Local Rules and Regulations

1. Briefly discuss familiarity with State and local regulations and related organizations actively involved with economic development in Lea County.

## V. EVALUATION

Points will be awarded based on the thoroughness and clarity of the response. The following is a summary of evaluation factors with point values assigned to each. These weighted factors

will be used in the evaluation of individual potential Offeror proposals by sub- category.

| Evaluation Factors                               | Points Available                 |
|--|----------------------------------|
| <b>Response to Evaluation Criteria:</b>          | <b>175 possible total points</b> |
| 1. Narrative Summary / Response to Scope of Work | 25                               |
| 2. Program Approach                              | 25                               |
| 3. Management and Staffing                       | 25                               |
| 4. Specialized Experience                        | 25                               |
| 5. Budget  | 50                               |
| 6. Familiarity with Applicable Regulations       | 25                               |
| Completed Appendix Forms                         | Pass/ Fail                       |
| <b>TOTAL POSSIBLE POINTS</b>                     | <b>175</b>                       |

## EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The PROCUREMENT OFFICER may contact the Offeror for clarification of the response.
3. Responsive proposals will be evaluated on the factors set forth in the RFP, which have been assigned a point value. The responsible Offerors with the highest scores may be selected as finalists, based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the County, taking into consideration the evaluation factors, will be recommended for award.
4. Percentages for New Mexico Preferences will be determined based upon the point based system outlined in § 13-1-21 NMSA 1978.

**APPENDIX A  
LEA COUNTY PROPOSAL TRANSMITTAL COVER LETTER**

RFP # 10 – (22-23). TITLE: COUNTY - WIDE ECONOMIC DEVELOPMENT SERVICES

Due Date/Time: March 3, 2023 @ 3:00 pm Location: 100 N. Main, Suite 11, Lovington, NM 88260

Procurement Officer: Kelli Ferguson Email: [kferguson@leacounty.net](mailto:kferguson@leacounty.net)

**As applicable, all items below must be completed in full. Failure to complete may be grounds for disqualification.**

Legal Name of Submitting Organization \_\_\_\_\_

*Person authorized to negotiate and contractually obligate the Organization:*

Name \_\_\_\_\_ Title \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_ Cell \_\_\_\_\_

Street Address \_\_\_\_\_

City / State / Zip \_\_\_\_\_

*Alternate Contact Information:*

Name \_\_\_\_\_ Title \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_ Cell \_\_\_\_\_

**Prior Year Funded Amount: \$ \_\_\_\_\_ Fiscal Year 2023-2024 Request: \$ \_\_\_\_\_**

**Description of Agency:** Brief Description of the organization

**Achievements:** Goals met by your organization during FY 22/23

**Scope of Work:** Brief description of services to be provided

Proposal attached that addresses all Evaluation Criteria:  Yes  No

Services offered meet Specifications:  Yes  No

\*Any options, exceptions or variations are to be set forth on a separate page.

NM State Resident or Veterans Preference #, if applicable (certificate copy must be attached) \_\_\_\_\_

On behalf of the submitting organization above:

- I accept all Terms and Conditions Governing this Procurement as required.
- I acknowledge receipt of any and all amendments to this bid or proposal.
- I have read and concur with the terms and conditions of the County's contract documents, and, if objections, I have provided suggested alternative language in my response.
- I concur, as applicable, that submission of this bid or proposal constitutes acceptance of Evaluation Factors.
- I concur, as applicable, to FOB Point: Destination, Lovington, New Mexico, acknowledge brand names and numbers are for reference only, that equivalents will be considered and that I must be prepared to furnish complete data to prove product(s) / services meet or exceed specifications.
- Our organization is committed to and will comply and act in accordance with the following:
  1. Federal Executive Orders relating to the enforcement of civil rights;
  2. New Mexico State Statutes and County of Lea Ordinances regarding enforcement of civil rights;
  3. Federal Code, 5 USCA 7201 et. seq., Anti-discrimination in Employment;
  4. Executive Order No. 11246, Equal Opportunity in Federal Employment;
  5. Title 6, Civil Rights Act of 1964; and
  6. Requirements of the Americans with Disabilities Act of 1990 for work performed under this contract.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name



## APPENDIX C

# Campaign Contribution Disclosure Form

Pursuant to the Procurement Code, 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 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.

**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.

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

Board of County Commissioners: Dean Jackson, Brad Weber, Gary Eidson, Jonathan Sena, Pat Sims; Assessor Ava Bengel, Clerk Keith Manes, Treasurer Susan Marinovich, Sheriff Corey Helton, Probate Judge LaDonna Hardin.

DISCLOSURE OF CONTRIBUTIONS: *(Attach extra pages if necessary)*

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 REQUIRED BELOW ....**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (position)

—OR—

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (Position)

**APPENDIX D – RELATED PARTY DISCLOSURE FORM**

1. Are you indebted to or have a receivable from any member of the Board of County Commissioners; elected county officials, administration officials, department heads, and key management supervisors with the County of Lea?

Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

2. Are you, or any officer of your company related to any member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors of the County of Lea and have you had any of the following transactions since January 1, 2008, to which Lea County was, is to be, a party?

|  | Yes | No  |
|--|-----|-----|
| Sales, Purchase or leasing of property ?                   | ___ | ___ |
| Receiving, furnishing of goods, services<br>or facilities? | ___ | ___ |
| Commissions or royalty payments                            | ___ | ___ |

\_\_\_\_\_  
\_\_\_\_\_

3. Does any member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors with the County of Lea, have any financial interest in your company whether a sole proprietorship, partnership, or corporation of any kind that currently conducts business with the County of Lea?

Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_

4. At any time from January 2008 through the present, did you, your company, or any officer of your company have an interest in or signature authority over a bank account for the benefit of a member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors with the County of Lea?

Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

5. Are you negotiating to employ or do you currently employ any employee, officer or family member of an employee or officer of County of Lea?

Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_

**The answers to the foregoing questions are correctly stated to the best of my knowledge and belief.**

**Signature of Owner or Company President:** \_\_\_\_\_ **Date** \_\_\_\_\_

**(Print Name and Title):** \_\_\_\_\_

**APPENDIX E**  
**Certification Regarding**  

---

**Debarment, Suspension, and Other Responsibility Matters**

Offeror certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of, had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State Antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any offenses; and
4. Have not within a three-year period preceding this application/proposal had one or more public transaction (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. Under 18USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

---

Signature of Authorized Representative

Date

---

Typed Name & Title of Authorized Representative

# APPENDIX F

## NON-COLLUSION AFFIDAVIT

STATE OF \_\_\_\_\_)

County OF \_\_\_\_\_)

\_\_\_\_\_ (name) being first duly sworn, deposes and says

that he/she is (title) \_\_\_\_\_

of (organization) \_\_\_\_\_

who submits herewith to the County of Lea, a proposal:

That all statements of fact in such proposal are true:

That said proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;

That said bidder has not, directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of the County of Lea, or of any bidder of anyone else interested in the proposed contract; and further,

That prior to the public opening and reading of proposal, said bidder:

1. Did not directly or indirectly, induce or solicit anyone else to submit a false or sham proposal
2. Did not directly or indirectly collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham proposal, or that anyone should refrain from bidding or withdraw his proposals;
3. Did not in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the proposal price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of their proposal price, or of that of anyone else;
4. Did not directly or indirectly, submit his proposed price or any breakdown thereof, or the contest thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association organization, bid depository or to any member or agent thereof, or to any individual of group of individuals, except that County of Lea, or to any person or persons who have a partnership or other financial interests with said bidder in his business.

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

Title \_\_\_\_\_

SUBSCRIBED and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public: \_\_\_\_\_

My Commission Expires:

CONTRACT # \_\_\_\_\_  
 Effective Date: \_\_\_\_\_

**LEA COUNTY CONTRACT FOR GOODS AND SERVICES**

This Contract is entered into between Lea County, hereinafter referred to as the "County," and "Contractor" described below, collectively the "Parties", to provide services on behalf of Lea County.

**Contractor Legal Name:** \_\_\_\_\_

**Services Summary Description:** \_\_\_\_\_

**Initial Period of Performance shall be through:** \_\_\_\_\_

**Pre-GRT, Total Annual Charges to this contract may not exceed:** \_\_\_\_\_

This Contract complies with New Mexico and County procurement requirements as follows:

- RFP # \_\_\_\_\_,  BOCC approval date \_\_\_\_\_
- Bid # \_\_\_\_\_,  BOCC approval date \_\_\_\_\_
- "Qualified" Professional Service, \$60,000 or less annually. Qualifications attached.
- Three Written Quotes \$60,000 or less annually.  \$20,000 or less annually.
- Sole – Source  Emergency Procurement
- Other: Revenue; non-financial MOA; or \_\_\_\_\_

**No services shall be rendered nor shall any goods be provided until this contract has been executed by all parties, regardless of the indicated effective date.**

**NOTICES:** All correspondence regarding this contract shall be sent to:

|                                       |                   |
|---------------------------------------|-------------------|
| Lea County Government                 | Contractor:       |
| Department:                           | ATTN:             |
| ATTN:                                 | Title:            |
| Street: 100 N. Main, Ste 4            | Street:           |
| City, State, Zip: Lovington, NM 88260 | City, State, Zip: |
| Phone:                                | Phone:            |
| Fax:                                  | Fax:              |
| Cell:                                 | Cell:             |
| Email:                                | Email:            |

**ARTICLE 1 - SERVICES AND/OR GOODS TO BE PROVIDED:** For RFP or Professional Services contracts, the Contractor shall provide services to the County on matters relating to the contractor's specialized areas of expertise as defined in this Contract and its referenced or incorporated Attachments. Negotiated fees are fixed for the first year. Price adjustments thereafter are subject to review and written determination on an individual contract basis.

For Sealed Bid / Indefinite Quantity contracts, the Contractor shall have the item(s) or service(s) available, as defined in this contract, on an "as ordered" basis. No funds are obligated under

Sealed Bid / Indefinite Quantity contracts. Funds for Sealed Bid / Indefinite Quantity contracts are obligated by purchase orders on an "as needed" basis. Prices are fixed for the first year of a Sealed Bid / Indefinite Quantity contract. Thereafter, in the event of a product cost increase an escalation request will be reviewed by the County on an individual basis. Escalation requests are only to compensate for an actual cost increase and will not be considered for an increase in profit margin.

All Contractors shall secure and remain current on all insurances, licenses, permits, certificates, fees, etc., required for the performance of this contract.

**ARTICLE 2 - CONTRACT DOCUMENTS:** The Contract shall be comprised of this contract document, its Attachments and all documents referenced herein. As applicable, the Contract shall also include all Proposal or Bid documents, including the Contractor's responses, Reference Specifications, Special Conditions, Technical Specifications, Standard Details, any addenda thereto, and all negotiation records, all of which are incorporated herein and made a part of the Contract.

In instances where there exists a conflict between any of the Contract documents described above, this Contract plus attachments hereto, negotiation records, the County's solicitation documents, and the Contractor's response to the solicitation, in that order, shall control the interpretation of the parties' respective rights and obligations.

**ARTICLE 3 - PERIOD OF PERFORMANCE:** The period of performance of this Contract shall commence \_\_\_\_\_ **or date of last signature, whichever is later**, and continue through the Initial Period of Performance date detailed above. If stipulated in a formal Proposal or Bid solicitation by the County, this Contract may be renewed for up to \_\_\_\_\_ additional years, not to exceed a total of \_\_\_\_\_ years.

**ARTICLE 4 - PLACE OF PERFORMANCE:** The Contractor shall provide the required services or goods for Lea County when and where appropriate or as required by the County.

**ARTICLE 5 - COST AND PAYMENT:** The Contractor shall be paid for services rendered satisfactorily per the negotiated fee(s) and payment schedules incorporated hereto in applicable attachments, including Attachments A and B. All payments will be in arrears. Payment shall be made per request upon receipt of a detailed invoice that shall include description of work completed or goods delivered pursuant to the deliverable(s) agreements and measures of attainment of this contract for the period covered by the invoice. The invoice submitted shall note the purchase order number and this Contract number and may be delivered to the Department contact specified in "Notices" above. The County shall pay to the Contractor the New Mexico Gross Receipts Tax on labor and services only as levied on the amounts invoiced and payable under this contract. The Contractor will pay the New Mexico Gross Receipts Tax levied on the amounts payable under this contract and remitted to them by Lea County to the appropriate state agency.

**ARTICLE 6 - AMENDMENTS:** This Contract shall not be altered, changed, or amended except by written instrument signed by both parties.

**ARTICLE 7 - ASSIGNMENT:** The Contractor shall not assign nor delegate specific duties as part of this Contract nor transfer any interest nor assign any claims for money due or to become due under this Contract without the written consent of the County.

**ARTICLE 8 - BINDING EFFECT OF CONTRACT:** Both Parties agree that the terms of this Contract and any extension or renewal thereof shall extend to and be binding upon the administrators, assigns, successors, and transferees of the contracting parties.

**ARTICLE 9 - COMPLIANCE WITH GOVERNING LAW:** This Contract shall be construed in agreement with New Mexico law. The Contractor shall keep fully informed of and shall also comply with all applicable federal, state, and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed, or the work, or which in any way affect the conduct of the work. By way of illustration, but not of limitation, the Contractor shall comply with laws relating to employment eligibility including: the Immigration Reform and Control Act of 1986 (Public Law 99-603) and the Immigration Act of 1990 (Public Law 101-649) regarding employment verification and retention of verification forms for any individual(s) hired on or after November 6, 1986, that will perform any labor or services under this Contract. The Contractor shall comply with all federal statutes relating to non-discrimination including, but not limited to: Title VII of the Civil Rights Act of 1964 (Public Law 88-352), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, as amended [20 U.S.C.A. Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112)], which prohibits discrimination on the basis of handicap; the Age Discrimination in Employment Act of 1967 (Public Law 90-202), as amended; the Americans with Disabilities Act of 1990 (Public Law 101-336); and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts, especially 45 CFR Part 80 (relating to race, color, and national origin), 45 CFR Part 84 (relating to handicap), 45 CFR Part 86 (relating to sex), and 45 CFR Part 91 (relating to age).

**ARTICLE 10 - CONFIDENTIAL INFORMATION:** Any confidential information, not subject to disclosure under the Inspection of Public Records Act, given to or developed by the Contractor, its officers, directors, employees, agents, or sub-consultants in the performance of this Contract will be kept confidential and will not be made available to any individual, organization, or other entity by the Contractor without prior written approval of the County.

**ARTICLE 11 - CONFLICT OF INTEREST:** The Contractor warrants that it presently has no interest and shall not acquire any interest during the term of this Contract which would have the potential to conflict with the performance of the services required under this Contract. In the event such a conflict arises, it shall immediately be brought to the attention of the County and appropriate action acceptable to the County shall be taken. The Contractor's failure to inform the County of the existence of a potential conflict of interest constitutes default and shall be grounds for immediate termination of Contract by the County.

**ARTICLE 12 - CONFLICTS OF LAW:** If any provision of this contract conflicts with governing federal or state law or County ordinances, then that law or ordinance shall supersede the conflicting provision of this contract.

**ARTICLE 13 - HIPAA COMPLIANCE:** As applicable, the parties agree to comply with the provision of the Health Insurance Portability and Accountability Act of 1996, and related regulations, as amended ("HIPAA") in the event the Contractor receives patient records or information (Protected Health Information as defined by HIPAA).

**ARTICLE 14 - INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:**

**Non-Governmental Entity** The Contractor shall hold harmless, indemnify and defend the County and its "public employees" as defined in the New Mexico Tort Claims Act, Sections 41-4-1 to 41-4-29, NMSA 1978, as amended, against and from any and all claims, losses, demands, judgments, damages, liabilities, lawsuits, expenses, attorneys fees, costs or actions of any kind resulting from or related to the Contractor's intentional acts, errors or omissions in the Contractor's performance under this contract. The Contractor's agreement to hold harmless, indemnify and defend shall not be affected or terminated by the cancellation, expiration of the

term or any renewal or any other modification of the Contract for any reason and shall survive the cancellation, expiration of the term or any renewal or any other modification of this contract, acts, errors or omissions to act occurring during the term of this contract.

**Governmental Entity:** Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Contract. Any liability incurred in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA, 1978 § 41-4-1 et. seq. and its amendments, where applicable.

**ARTICLE 15 - INDEPENDENT CONTRACTOR:** Nothing in this Contract is intended or should be construed in any way to create or establish a partnership relationship between the Parties or to establish the Contractor as an agent, representative, or employee of the County for any purpose or any manner whatsoever. Contractor and its employees shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of the County. Contractor is an independent contractor of the County. The Contractor, its officers, directors, employees, servants, agents, or representatives are not and shall not be deemed employees of the County and shall not bind the County in any respect.

**ARTICLE 16 - INSURANCE:** For the duration of the contract and until all work specified in the contract is completed, the Contractor shall maintain in effect current Certificates of all insurance as required below and comply with all limits, terms and conditions stipulated therein. The County shall be named as an additional insured as stipulated. Contractor's who are required to provide Certificate(s) of Insurance, must provide a new current Certificate(s) no less than annually. As applicable, work under this contract shall not commence until evidence of all required insurance is provided to the respective County Department for inclusion with this Contract. All insurance shall be written to conform to the requirements stipulated. Evidence of such insurance shall consist of a completed certificate of insurance, signed by the insurance agent for the Contractor and returned to the County attesting that all required insurance is in effect. If for any reason any material change occurs in the coverage during the course of the contract such change will not become effective until 30 days after the County has received written notice of such change.

**Required Insurance:** As specified in the RFP, BID documents or Attachment A.

**ARTICLE 17 - KEY PERSONNEL:** The Contractor shall identify all key personnel assigned to the performance of this Contract in Section II, Attachment H of this Contract. Key personnel may not be changed without prior written approval of the County Manager and inclusion of that written approval in the official Contract File in the County Purchasing Department.

**ARTICLE 18 - MEDIATION:** In the event that a dispute arises with respect to any of the provisions contained in this Contract or any other matter affecting this contractual relationship between the County and the Contractor, the Parties agree that prior to filing any court action to enforce the Contract or rights under the Contract, they will use the services of a mediator. The mediator shall either be certified as a mediator or shall have experience as a mediator. The parties shall mutually agree upon the choice of mediator. In the event the Parties have not agreed to a mediator within three days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the Court or other professional association, and the Parties shall use a striking process until a mediator is agreed upon. Each party shall be responsible for their respective mediation costs.

**ARTICLE 19 - MERGER OF PRIOR CONTRACTS:** This Contract incorporates all the conditions, contracts, agreements, and understandings of the Parties concerning the subject matter of this Contract. All such conditions, understandings, and agreements



have been merged into this written Contract. No prior condition, contract, agreement, or understanding, verbal or otherwise, shall be valid or enforceable unless embodied in this Contract, either explicitly or by reference.

**ARTICLE 20 - NON-APPROPRIATION:** The County's obligation to make payment under the terms of this Contract is contingent upon its appropriation of sufficient funds to make those payments and the NM Department of Finance's (DFA) final approval of the County's budget. If the County does not appropriate sufficient funds or DFA does not approve the County's final budget, this Contract will terminate upon written notice of that effect to the Contractor. The County Board's determination that sufficient funds have not been appropriated, through Board of County Commissioners or DFA action, is firm, binding, and not subject to review.

**ARTICLE 21 - NOTICE TO PROCEED OR COMMENCEMENT OF WORK:**

It is expressly understood that this Contract is not binding upon the County until approved and signed by the County and, further, that the Contractor shall not proceed with its obligations until the Contract has been signed by all Parties.

**ARTICLE 22 - PARAGRAPH HEADINGS:** Paragraph headings are for convenience and reference and are not intended to limit the scope of any provision of this Contract.

**ARTICLE 23 - PERSONAL LIABILITY:** No elected or appointed official, employee, servant, agent, or law enforcement officer of the County shall be held personally liable under this Contract or any extension or renewal thereof because of its enforcement or attempted enforcement, provided they are acting within the course and scope of their employment or governmental duty and responsibility.

**ARTICLE 24 - PROCUREMENT CODE:** The Procurement Code, § 13-1-25 through § 13-1-199, NMSA 1978 as amended, imposes civil and criminal penalties for its violation. In addition, New Mexico Criminal Statutes impose felony penalties for illegal bribes, gratuities and kickbacks. Pursuant to the above, it is unlawful for any Contractor to engage in bribery, offering gratuities with the intent to solicit business, or offering or accepting kickbacks of any kind. All other similar act(s) of bribes, gratuities, and/or kickbacks are likewise prohibited.

**ARTICLE 25 - PROPRIETARY INFORMATION:** All documents, writings, electronic formats, drawings, designs, specifications, notes, project manuals, or related documents and other work developed in the performance of this Contract by the Contractor shall become the sole property of the County whether the activity for which they are developed is implemented or not. The Contractor shall provide the County with a complete set of all such proprietary information as requested by the County, but no later than the effective termination date of the contract. Contractor is strictly prohibited from reproducing, duplicating or printing any such proprietary information in any format for personal or monetary recognition, use or gain without the advance written permission of the County.

**ARTICLE 26 - RECORD KEEPING AND AUDITS:** The Contractor shall compile, maintain, and make available for inspection all records relating to the services to be provided under this Contract. These records shall be subject to inspection by the County or designated auditor. The County shall have the right to audit billings both before and after payment; payment under this Contract shall not foreclose the right of the County to be reimbursed any excessive or illegal payment amounts made to the Contractor during the term of this Contract. Pursuant to State of New Mexico General Records Retention requirements, Contractor will retain all original, source and supporting documents and records related to this contract for a minimum of six (6) years after the ending date of this contract.

**ARTICLE 27 - RELEASE:** The Contractor, upon final payment of amounts due under this

Contract for work completed and accepted by the County, releases the County, its officers and employees from all liabilities, claims, and obligations whatsoever arising from or under this Contract. The Contractor agrees not to bind the County to any obligation not assumed in this Contract by the County, unless the Contractor has express written authority from the County Manager to do so, and then only within the limits of the expressed written authority.

**ARTICLE 28 - SEVERABILITY:** If any clause or provision of the Contract is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, then it is the intention of the parties hereto that the remainder of the Contract shall remain in full force and effect. However, in the event that either Party can no longer reasonably perform pursuant to the remaining Contract terms, or if the purpose of the Contract can no longer be carried out by either Party, the Contract may be voided and no damages shall accrue to either party.

**ARTICLE 29 - SOVEREIGN IMMUNITY:**

**Non-Governmental Entity:** By entering into this Contract, the County and its "public employees" as defined in the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1 through 41-4-29, as amended, do not waive sovereign immunity, do not waive any defense, and do not waive any limitations of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act, *supra*.

**Governmental Entity:** By entering into this Contract, the County and the Governmental Entity Contractor do not waive sovereign immunity, do not waive any defense and do not waive any limitations of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act, *supra*.

**ARTICLE 30 - SUBCONTRACTING:** This Contract is based on the personal skills and reliability of the Contractor as known by the County at the time of execution of this Contract. The Contractor shall not subcontract out any portion of the services to be performed under this Contract without the prior written approval of the County Manager and inclusion of that written approval in the official Contract File in the County Purchasing Department. The written approval shall minimally include disclosure of the name of the individual(s) to be contracted, a statement of the individual(s) qualifications and a justification of the request to subcontract.

**ARTICLE 31 - TERMINATION:** The County may terminate this contract for convenience, in whole or in part, by providing written notice to the Contractor thirty (30) days prior to termination. In the event of contract termination, the Contractor shall be paid for work completed to the date of termination. In no event shall the dollar amount to be paid upon termination exceed a total of the maximum contracted amount and any additional amount provided for by amendment(s).

1. Where a Party to this Contract has committed a major breach that is capable of remedy, the Party who is not in breach may serve a written notice, with a fixed period in which to remedy the breach. The period given shall be determined at the sole discretion of the Party serving the notice but subject to a minimum period of two weeks.
2. The County and Contractor shall have the right, such right being exercised at their absolute discretion, to terminate this Contract, in writing, if a major breach has been committed that can not be remedied. Further, the Parties may terminate this contract, in writing, if a breach has not been remedied to the reasonable satisfaction of the Party serving the notice of breach within the period specified in any such notice.

**ARTICLE 32 - THIRD PARTY BENEFICIARY:** It is agreed between the Parties executing this Contract that it is not intended by any of the provisions of this Contract to create on behalf of the public or any member thereof the status of third party beneficiary nor to authorize anyone not a party to the agreement to maintain a suit based upon this Contract.

**ARTICLE 33 - WAIVER:** Any waiver by the County of any breach of any covenant, term, condition, or agreement in this Contract to be kept and performed by Contractor shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent County from declaring a default for any succeeding breach either of the same covenant, term, condition, or agreement or another. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

**ARTICLE 34 - DUPLICATE ORIGINALS:** This document shall be executed in no less than two (2) counterparts, each of which shall be deemed an original.

**SIGNATURES:**

**IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized representatives.**

**LEA COUNTY:** \_\_\_\_\_

\_\_\_\_\_  
County Manager

\_\_\_\_\_  
Print Name and Title

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

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

\* \* \* \* \*

Contractor's NM Taxation and Revenue Department ID Number: \_\_\_\_\_

The following Attachments and Addenda have been reviewed and approved by the County Contract Officer or approved designee:

| Document Name  | Approved | Comments | Notes  |
|--|----------|----------|--|
| Attachment A - Scope of Work   |          |          | Required all Contracts   |
| Attachment B – Cost per Unit Service   |          |          | Required all Contracts   |
| Attachment C – Contribution Disclosure   |          |          | Required all Contracts   |
| Attachment D – Related Party Disclosure  |          |          | Required all Contracts   |
| Attachment E – Debarment Certification   |          |          | Required all Contracts   |
| Attachment F - Non Collusion Affidavit   |          |          | Required all Contracts   |
| Attachment G – Insurance Certificates  |          |          | By Attachment A Specifications   |
| Attachment H –<br>1. Business License(s)<br>2. Professional Licenses<br>3. Staff Resumes |          |          | 1. Required All Contracts<br>2. Required Licensed Professionals<br>3. Required all contracts |
| Attachment I – Procurement Method  |          |          | Purchasing Dept. Determines  |
| Attachment J - Other   |          |          | Purchasing Dept. Determines  |