

**THE UNIVERSITY OF NEW MEXICO HOSPITALS  
PURCHASING DEPARTMENT  
933 Bradbury Dr. SE, Suite 3165  
ALBUQUERQUE, NM 87106**

**RFP Number: P371-17**

**Offer Due Date/Time: September 1, 2017 @ 2:00 pm MST**

**TITLE: Defined Contribution Recordkeeping Services (herein "RFP")**

**Offer Due Date/Time:** ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT SPECIALIST OR DESIGNEE NO LATER THAN THE DUE DATE SET FORTH ABOVE.

The University of New Mexico Hospital (UNMH or Owner) invites you ("Offeror") to submit an offer for services and/or material(s) as set forth in this RFP. Please read this RFP carefully because the failure to comply therewith may result in UNMH determining that your proposal is unresponsive and disqualified. New Mexico civil and criminal law prohibits bribes, gratuities and kickbacks. (13-1-191 NMSA 1978)

**UNMH Bid Administrator Contact Information:** The person designated below is responsible for the implementation of this procurement:

Name: Tarah Santana  
Title: Procurement Specialist  
Telephone: (505) 272-9861  
E-mail: [tasantana@salud.unm.edu](mailto:tasantana@salud.unm.edu)

**Only hard copies of Offeror's will be accepted and must be submitted via hand delivery, carrier or first class mail. Please do not include any promotional items with your submission.**

**One (1)** Original, marked on the cover as "Original,"  
**10 (10)** copies, marked on the cover of each as "Copy," and  
**One (1)** CD/DVD disc, Thumb Drive

**Proposals must be delivered via carrier, hand delivered or first class mail to the addresses first set forth below:**

The University of New Mexico Hospitals  
Purchasing Department  
933 Bradbury Dr. SE, Suite 3165  
Albuquerque, NM 87106

**Copies of the proposal should also be provided to Mercer Consultants:**

**One (1)** electronic copy of the proposal should be sent to via email to [Janet.Rubenstein@mercerc.com](mailto:Janet.Rubenstein@mercerc.com) and [Brian.Curran@mercerc.com](mailto:Brian.Curran@mercerc.com)

**Two (2)** hard copies of the proposal should be sent to the following address:

Janet M. Rubenstein, CEBS Principal  
Mercer  
1301 Fifth Avenue, Suite 1900  
Seattle, WA 98101-2682 USA

Hard copies must be printed in ink and corrections must be initialed. Any Offeror's submitted sealed Proposal envelope, box or package must be clearly marked with the RFP Number and Opening Date (see Offer Due By date above) in the lower left hand corner. Failure to mark your sealed offer may result in your offer being opened early or your offer not being included in the Request for Proposal opening.

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Freight Terms: FOB Destination

Payment Terms: NET 30

**CANCELLATION:** UNMH reserves the right to cancel without penalty, this RFP, the resultant contract/purchase order, or any portion thereof for convenience, unsatisfactory performance, or unavailability of funds.

## SECTION I. SCOPE OF WORK

### 1.1. Scope of Work

The University of New Mexico Hospitals (UNMH) is requesting proposals to identify qualified offeror(s) that can provide superior services for defined contribution recordkeeping service for the following organizations and plans:

Organization	Plan Name	Current Recordkeeper	Plan Assets and Participants
University of New Mexico Hospitals	UNM Hospitals 457(b) Deferred Compensation Plan	Fidelity	\$24 million 856 participants
University of New Mexico Hospitals	UNM Hospital Tax Sheltered Annuity Plan	Fidelity	\$318 million 7,725 participants
University of New Mexico Hospitals	UNM Hospitals 401(a) Plan	Fidelity	\$3.5 million 47 participants
University of New Mexico Hospitals	UNM Hospitals 414(m) Plan	N/A – currently being established	Less than 5 participants
UNM Sandoval Regional Medical Center	UNM Sandoval Regional Medical Center 403(b) Plan	The Principal	\$7 million 530 participants
UNM Medical Group	UNM Medical Group 457(b) Retirement Plan	VALIC	\$1.1 Million 47 participants
UNM Medical Group	UNM Medical Group 403(b) Retirement Plan	VALIC	\$21 million 562 participants

UNMH is New Mexico’s only academic medical center and the State’s only Level One Trauma Center, subspecialties offering the highest level of intensive care for children and premature infants in the State and treating nearly 102,125 emergency patients during more than 484,000 outpatient visits annually. UNMH is recognized for clinical excellence in many specialties including Trauma and Emergency Medicine, Pediatrics, Orthopedics, Cancer Research and Treatment, Transplantation and many others. The Hospital and its components provide primary, secondary, tertiary and quaternary care and receive referrals from counties throughout New Mexico and the entire Southwest.

UNM Sandoval Regional Medical Center and UNM Medical Group are also participating in the RFP for DC recordkeeping services. Sandoval Regional Medical Center provides the personal attention of a community hospital and the expertise and resources of an academic health care facility. The UNM Medical Group, Inc., is a not-for-profit 501(c)(3) corporation, organized in 2007. It is the faculty practice of the UNM School of Medicine, comprising more than 1,000 clinical practitioners representing more than 152 specialties who operate 11 UNMMG outpatient clinics and practice at UNM Health System hospitals and clinics.

The requirements with respect to this scope of work are outlined in this RFP. Please read carefully all information herein because failure to comply with the instructions in the RFP may result in your proposal being classified as non-responsive or being negatively evaluated.

This RFP includes Appendices that provide data and documents regarding the Plans:

- Plan Documents
- Summary Plan Description
- Plan Statistics (participant demographic information and cash flow)

- Current fund lineup and asset values

To the best of the knowledge of UNMH, the information provided in this RFP is accurate. To the best of the knowledge of the entities, nothing in this RFP is intended to relieve Offerors from undertaking their own investigations or inquiries or performing other due diligence or forming their own opinions and conclusions with respect to the matters addressed in this RFP. UNMH does not represent or warrant that the information is comprehensive or exhaustive and assume no responsibility for the completeness or accuracy of the information. In particular, where information includes historical data or information, UNMH makes no representation or warranty that such data or information represents an accurate forecast of volumes and/or needs.

The intent of this RFP is to establish a purchasing mechanism for these defined contribution recordkeeping services. Upon award, an indefinite Master Price Agreement(s) will be established with the Awardee(s) and all subsequent purchase orders will be released on an as needed basis against the resultant price agreement. The Awardees(s) shall have the opportunity to market their resultant Master Price Agreement to other local public bodies and state agencies under the State of New Mexico Public Purchases and Property, NMSA 1978, Article 1, Procurement, Section 13-1-129, "Procurement under existing Offerors."

**1.2. Offeror must meet or exceed the requirements listed below:**

- 1.2.1.** Offerors must have at least 1 million participants on recordkeeping system platform.
- 1.2.2.** Offerors must have the ability to work within the security, regulatory and internal policy requirement needs of various UNMH facilities.
- 1.2.3.** Offeror should have an extensive knowledge of the company's product roadmap, and understanding of industry best products and practices.
- 1.2.4.** Offeror must perform all work compliant with applicable industry standards and recommended practices.

**1.3. Forms and Exhibits.** The RFP Submission Forms and Exhibits and the other documents requiring execution by the Offeror, shall be completed and signed by a duly authorized signing representative of the Offeror. Proposals should be completed without delineations, alterations, or erasures. Should there be any discrepancy between the original and any of the copies, the original shall prevail.

**1.4. Requirements.** For the purposes of the requirements stated in this RFP:

- 1.4.1.** "must" and "shall" indicate that the requirement is mandatory, subject to provisions of this RFP; and
- 1.4.2.** "should", "could" and "may" indicate that the requirement is discretionary.

**1.5. Notice.** The Offerors are put on notice that from the date of issue of the RFP through any award notification of the Agreement:

- 1.5.1.** Only the Bid Administrator is authorized by UNMH to amend or waive the requirements of the RFP pursuant to the terms of this RFP;
- 1.5.2.** Offerors should not contact any of the staff at UNMH, UNM Sandoval Regional Medical Center or UNM Medical Group (except for the Bid Administrator) in regards to this RFP, unless instructed to in writing by the Bid Administrator;
- 1.5.3.** Under no circumstances shall the Offeror rely upon any information or instructions from the Bid Administrator, UNMH, UNM Sandoval Regional Medical Center and UNM Medical Group employees or their agents unless the information or instructions is provided in writing by the Bid Administrator in the form of an addendum; and

- 1.5.4.** Neither UNMH, their employees, nor their agents shall be responsible for any information or instructions provided to the Offeror, with the exception of information or instructions provided in an addendum by the Bid Administrator.

## **1.6. Information**

- 1.6.1. Offeror to Review.** The Offeror must carefully review this RFP and ensure that the Offeror has no reason to believe that there are any uncertainties, inconsistencies, errors, omissions, or ambiguities in any part of this RFP. Each Offeror is responsible for conducting its own investigations and due diligence necessary for the preparation of its Proposal.
- 1.6.2. Offeror to Notify.** If the Offeror discovers any uncertainty, inconsistency, error, omission or ambiguity in this RFP, the Offeror must notify the Bid Administrator in writing prior to submitting the Offeror's Proposal.
- 1.6.3. Offerors shall not:**
- 1.6.3.1.** Claim after submission of a Proposal that there was any misunderstanding or that any of the conditions set out in Section 1.5.1 Offeror to Review were present with respect to this RFP; or
  - 1.6.3.2.** Hold any staff of UNMH liable for any uncertainty, inconsistency, error, omission, or ambiguity in any part of this RFP.
- 1.6.4** Price proposals and/or negotiated price must be valid proposals through the award of the RFP.

## **1.7. Clarification and Questions**

- 1.7.1. Submission.** Offerors may request clarification of this RFP by:
- 1.7.1.1.** Submitting all requests for clarification by email to the Bid Administrator at [tasantana@salud.unm.edu](mailto:tasantana@salud.unm.edu) or as otherwise directed by the Bid Administrator;
  - 1.7.1.2.** Including the Offeror's address, telephone number, facsimile number and email address;
  - 1.7.1.3.** Referencing if the question pertains to a specific section of this RFP, and the specific section number and page; and
  - 1.7.1.4.** Submitting all requests for clarification no later than **2:00 PM MDST August 18, 2017.**
- 1.7.2. Questions and Answers.** UNMH will provide Offerors with written responses in the form of addenda to questions that are submitted. All addenda shall form part of this RFP. Questions and answers will be distributed in numbered addenda. In answering the Offeror's questions, the Bid Administrator will include in all addenda the questions asked but will not attribute the questions to any Offeror. Notwithstanding the foregoing, the Bid Administrator may in its sole discretion answer similar questions from various Offerors only once, edit the questions for clarity, and elect not to respond to questions that are either inappropriate or not comprehensible.

- 1.8. Issued Addenda.** Each Offeror shall be responsible for verifying before submitting its Proposal that it has received all addenda that have been issued. All addenda will be posted on the UNMH bidding website visit <http://hospitals.unm.edu/about/proposals.shtml>. Instructions, clarifications or amendments which affect this RFP may only be made by addendum.

**1.9. Amendments to the RFP.** UNMH shall have the right to amend or supplement this RFP in writing prior to the Closing Time. No other statement, whether written, oral or inferred, will amend this RFP. The Offerors are responsible to ensure they received all addenda, if any. The addenda shall be binding on each Offeror.

**1.10. Clarification of Offeror's Proposal**

**1.10.1.** UNMH shall have the right at any time after Proposal submission, to seek clarification from any Offeror in respect of such Offeror's Proposal, without contacting other Offerors. The UNMH is not obliged to seek clarification of any aspect of a Proposal.

**1.10.2.** Any clarifications sought shall not be an opportunity to either correct errors or to change the Offeror's Proposal in any substantive manner. In the clarification process, no change in the substance of the Proposal shall be offered or permitted. Subject to the qualification in this Section, any written information received by UNMH from an Offeror in response to a request for clarification from UNMH shall be considered part of the Offeror's Proposal.

**1.11. Verification of Information.** UNMH shall have the right to:

**1.11.1.** Verify any Offeror statement or claim by whatever means UNMH deems appropriate, including contacting persons in addition to those offered as references, and to reject any Offeror statement or claim, if the statement or claim or its Proposal is patently unwarranted or is questionable; or

**1.11.2.** Access the Offeror's premises where any part of the work is to be carried out to confirm Proposal information, quality of processes, and to obtain assurances of viability.

**1.11.3.** The Offeror shall cooperate in the verification of information and is deemed to consent to UNMH verifying such information.

**1.11.4.** Make UNMH premises available for vendor walk through prior to due date in order to propose a solution.

**1.11.5.** Proposals received after this deadline may not be accepted. The date and time of receipt will be recorded on each proposal

**1.12. Agents/Subcontractors.** The Offeror shall indicate whether the Offeror intends to use agents or subcontractors to perform the services outlined in the Agreement and shall provide details on who they are and the service(s) the agent/subcontractor shall perform. The successful Offeror shall remain primarily responsible for the performance of the Agreement notwithstanding its use of agents or subcontractors as approved by UNMH, SRMC or UNMMG. If the Offeror is not using agents or subcontractors on this RFP, the Offeror should respond by stating not applicable.

**1.13. Demonstrated Capability.** In its proposal, the Offeror should demonstrate:

**1.13.1.** An understanding of the requirements for equipment, services, or products required by this RFP and the approaches that the Offeror will take to meet those requirements.

## SECTION II. ORGANIZATION OF PROPOSAL

Proposals should be organized in a format that promotes the easy and clear evaluation of your offer.

- 2.1.** Contractors are to organize Proposals in the order as stated in this section. Please read carefully all information herein because failure to comply with the instructions in this RFP may result in your proposal being classified as non-responsive or being negatively evaluated. The organization of your proposal is to follow the RFP's organization so that the RFP and your proposal can be cross-referenced during the evaluation process. Your information in your proposal should be presented in the same order as the pertinent provisions of the RFP, referencing section of the Request on any and all attachment that you included with your proposal.

Offerors must complete Mercer's baseline Vendor Questionnaire with information on services offered. Offerors should also respond to the Supplemental RFP Questions. Finally, Offerors should complete the Administrative Fee Worksheet.

Offerors may provide different service offerings for the plans sponsored by UNMH, UNM Sandoval Regional Medical Center or UNM Medical Group based on their approach to providing defined contribution recordkeeping services to the various market segments. Your proposal must clearly state the service model offered for each plan and plan sponsor.

Please note the following regarding the Vendor Questionnaire and Administrative Fee Worksheet:

- The Vendor Questionnaire has multiple worksheets and all worksheets must be completed to constitute a valid RFP response.
- Do not override or modify the Excel® workbook; doing so may nullify your response.
- Not all questions will be relevant to the services requested by UNMH, and will be denoted by N/A and no response is necessary.
- Your responses should be as concise as possible due to the constraints of the questionnaire format.
- All fees associated with your proposed services must be provided in the Administrative Fees Worksheet on the separate tab provided for each plan and plan sponsor.
- The fees provided in the Administrative Fees Worksheet are considered binding.

### Sample Materials

The following lists the requested sample materials that must be provided as part of your organization's response to the RFP. The sample materials should be customized, if necessary to reflect the deliverable that UNMH, UNM Sandoval Regional Medical Center and UNM Medical Group will actually receive. Printed copies of all sample materials should be provided in a 3-ring notebook with separate tabs that clearly label each separate item. **You must provide separate sample materials for each plan sponsor and/or plan, if service offering differs for market segment.**

1. Standard communication/education package, including but not limited to:
  - a. Welcome letter
  - b. Automatic enrollment letter
  - c. Plan highlights
  - d. Investment fund fact sheets
  - e. Rollover forms
  - f. Managed Account Information
2. Sample Participant Account Statement
3. Sample Retirement Adequacy or Projection Employee account statements

4. Organization chart for client service team and detailed biographies for the proposed Service Team
5. Detailed project plan customized for conversion of plan
6. Annual plan communication calendars for year 1 and year 2 customized for plan
7. Log-in information to demo participant website, plan sponsor website, micro conversion site, etc.
8. Overview of mobile apps and screen shots
9. Overview of financial wellness tools and apps

Please provide website screen shots and a demo website log-in to highlight the following:

- Log-on screen/menu options
- Any customization that can be done for UNMH

### SECTION III. EVALUATION CRITERIA

This section describes the criteria to be used for analyzing and evaluating the various proposals. Cost will be a large factor in the proposal evaluation with negotiable expectations; however, it is specifically a consideration of secondary importance to the need for competent and high-quality skilled Offeror(s). UNMH reserves the right to make an award based directly on the proposals or to negotiate with one or more Offerors or reject all proposals. The Offeror selected for the award will be chosen on the basis of the greatest benefit to UNMH, not on the basis of lowest price. All responses to this Request for Proposals become the property of UNMH and will become public information upon completion of UNMH contract negotiation process

#### Key Objectives

UNMH will evaluate offerors for their ability to meet the following key objectives:

- Accurate and timely recordkeeping services.
- Knowledgeable service team with the ability to partner with UNMH, UNM Sandoval Regional Medical Center and UNM Medical Group staff to meet their needs.
- Systems and technology that allows vendor to offer robust mobile apps and participant website.
- Ability to customize processing requirements and provide flexibility to meet UNMH, UNM Sandoval Regional Medical Center and UNM Medical Group's separate needs.
- Open architecture investment platform that allows UNMH to maintain their current fund options and participant fee structure.
- Open architecture investment platform that allows UNM Sandoval Regional Medical Center to offer a competitive investment fund line-up on the vendor's recordkeeping platform.
- Open architecture investment platform that allows UNM Medical Group to offer a competitive investment fund line-up on the vendor's recordkeeping platform.
- Proven track record of developing and implementing innovative, broad-based holistic solutions to improve wealth accumulation opportunities for participants across all demographic groups.
- Conversion and on-going client teams that are integrated across all service areas (one point of contact for plan sponsor).
- Robust plan sponsor website with reporting capabilities.
- Participant services using state-of-the-art technology.
- Availability of on-site retirement consultants.
- Competitive pricing.

An evaluation committee shall evaluate proposals based on the weighted criteria listed below. Submittals should completely address each of the following evaluation criteria in the order presented, elaborating on all responses where possible. UNMH reserves the right to judge the presentation of the firms submitting proposals in the evaluation and selection of the successful proposal. **Finalist may be invited for oral presentations and demonstrations at UNMH's sole discretion at a date and time to be determined.**

**Evaluation Criteria Summary:** The following is a summary of the evaluation factors and the weighted value assigned to each.

	Criteria	Points Possible
1.	Administrative Fees	5
2.	Client Services	10
3.	Conversion/Implementation	10
4.	Investment Flexibility	5
5.	Organizational Overview	10
6.	Participant Communications	15
7.	Participant Services	15
8.	Recordkeeping and Administration	15
9.	Systems and Technology	15
	Total Points Possible	100

**Note: Compliance and Non-discrimination testing capabilities will not be evaluated as part of this RFP. All plans in this RFP are Non-ERISA.**

## SECTION IV. ADDITIONAL INSTRUCTIONS TO OFFERORS

- 4.1. VETERANS PREFERENCE. In accordance with sections 13-1-21 and 13-1-22 NMSA 1978 resident veterans businesses are to receive the following preferences:
  - 4.1.1. Resident veterans businesses with annual revenues of \$1M or less are to receive a 10% preference discount on their bids and proposals.
  - 4.1.2. Resident veterans businesses with annual revenues of more than \$1M but less than \$5M are to receive an 8% preference discount on their bids and proposals.
  - 4.1.3. Resident veterans businesses with annual revenues of more than \$5M are to receive a 7% preference discount on their bids and proposals.
  - 4.1.4. This preference is separate from the current in-state preference and is not cumulative with that preference. However, veteran businesses will still receive the in-state preference once the veteran's preference cap is exceeded.
  - 4.1.5. Points will be awarded based on Offerors ability to provide a copy of a current Resident Veterans Certificate (Exhibit A).
  - 4.1.6. In addition, the Resident Veterans Preference Certification Form must accompany any RFP and any business wishing to receive a resident veteran's preference must complete and sign the form.
  - 4.1.7. RFP's are to be evaluated on preference as follows:
    - 4.1.7.1. In addition to the total points on an RFP, 10% must be added for preference award. For example, an RFP has a total value of 1000 points. Five proposals are received; one from a resident business, one from a resident veterans business with an 8% preference and three non-resident businesses. The two preference businesses would receive 50 points and 80 points to their already evaluated score, making it possible for the highest score total of 1080.
  - 4.1.8. The attached "Resident Veteran Preference Certification" form (Exhibit A) must filled out, signed and included the offeror's RFP from any business wishing to receive a resident veteran's preference.
- 4.2. AUTHORIZED SIGNATURE PAGE: Review, fill out, sign and submit the Authorized Signature Page attached hereto as Exhibit B.
- 4.3. SMALL AND DISADVANTAGED BUSINESS CERTIFICATION FORM: Review, fill out, sign and submit the Small and Small Disadvantaged Business Certification Form attached hereto as Exhibit C.
- 4.4. CONFLICT OF INTEREST CERTIFICATION FORM: Review, fill out, sign and submit Conflict of Interest Certification Form attached hereto as Exhibit D.
- 4.5. INSURANCE REQUIRMENTS: The Offeror is required to carry insurance, meeting the requirements in the Section labeled "Insurance Requirements" or as noted in the specifications. **Offeror must submit proof of insurance in the form of a "Certificate of Insurance" with their response and prior to commencing work under the resulting contract.** Offeror's insurance shall remain in effect for the entire term of the contract and must be extended to coincide with any future contract extensions. This Request for Proposal Number must appear on the Certificate of Insurance.
- 4.6. INFORMATION SECURITY PLAN. Offeror(s) shall not install any systems software and hardware, applications, databases, information or etc. on UNMH's computing devices-assets

including export/import files, custom files or etc. without prior approval from UNMH's IT division. If it is determined by UNMH that an Information Security Plan is needed, the successful Awardee will be required to complete the UNMH's Information Security Plan Information hereto attached as Exhibit F and submit to UNMH's IT department for approval. Failure to complete form upon UNMH's request or failing to receive IT approval may result in Offeror(s) being considered as non-responsive. UNMH may not fully execute an agreement without the IT's approval of the security plan, if applicable. **You are not required to complete at this time.**

- 4.7. TAXES. UNMH is exempt from Federal Excise Taxes and from New Mexico Gross Receipts Taxes on materials. Services are not exempt. Taxes on services should be included as a separate line item and not included in the base price offer. Applicable taxes are excluded from the RFP evaluation. A non-taxable transaction certificate is available upon request by contractor.
- 4.8. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. Review, fill out, sign and submit the Certification And Disclosure Regarding Payments to Influence Certain Federal Transactions (April 1991) form attached hereto as Exhibit G.
- 4.9. RESIDENT BUSINESS, RESIDENT CONTRACTOR AND RESIDENT VETERAN PREFERENCE CERTIFICATION. To receive a resident business preference pursuant to Section 13-1-21 NMSA 1978 or a resident contractor preference pursuant to 13-4-2 NMSA 1978, a business or contractor is required to submit with its bid or proposal a copy of a valid resident contractor certificate issued by the New Mexico Taxation and Revenue Department.
- 4.10. PERIOD OF CONTRACT. The term of the resultant Price Agreement(s) arising from this proposal may be for an initial term of three (3) years with the option to renew as provided for in NMSA 13-1-150 (Multi-Term Contract).
- 4.11. QUANTITIES. UNMH may purchase all. Some or none of the elements described in this proposal or offerors response. In addition, actual quantities may fluctuate up or down based on UNMH employment needs.
- 4.12. Business Associate Agreement. Will be required to enter into a Business Associate Agreement with UNM SRMC as the covered entity, attached as Exhibit H.

## **SECTION V. STANDARD TERMS AND CONDITIONS.**

The following General Terms and Conditions are an equal and integral part of this Request for Proposal (RFP). The terms, conditions and specifications contained in this RFP along with any attachments and the Contractors' response may be incorporated into any Purchase Order/ Agreement issued as a result of this RFP, including any addenda. UNMH reserves the right to negotiate with a successful Contractor (Contractor) provisions in addition to those stipulated in this RFP. The contents of this RFP, as revised and/or supplemented, and the successful Contractors' proposal may be incorporated into the Contract. Should a Contractor object to any of the UNMH Standard Terms and Conditions the Contractor must propose specific alternative language that would be acceptable to UNMH. General references to the Contractors' terms and conditions or attempts at complete substitutions are not acceptable to UNMH and will result in disqualification of the Contractors' proposal. Contractors' must provide a brief statement of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

Any proposed changes to the terms and conditions attached to this RFP must be stated in Contractors' proposal in a Section marked "TERMS AND CONDITIONS". Contractors are cautioned that any changes

to the terms and conditions that are NOT stated in the RFP response will not be entertained by UNMH at a later date. Any provisions in any proposal, quotation, acknowledgment or other forms or contract documents applicable to the services that are inconsistent, or in conflict, with any provisions of this RFP or the resultant contract will be ineffective and inapplicable.

UNMH reserves the right to reject a proposal on the basis the compromising language cannot be accepted by UNMH. Any additional terms and conditions which may be the subject of negotiation will be discussed only between UNMH and the successful Contractor and shall not be deemed an opportunity to amend the Contractor's proposal.

An Awardee of a Price Agreement established with UNMH has the opportunity to market the resultant Price Agreement to other local public bodies and state agencies under the State of New Mexico Public Purchases and Property Act, NMSA 1978, Article 1, Procurement, Section 13-1-129, "Procurement under existing contracts".

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

**5.2 ALTERNATE OFFERS.** Alternate offers will be accepted and considered provided they are "equal to" and meet all specifications of this RFP which may include all specifications of the brand used to identify the quality of the goods and/or services requested. UNMH reserves the right to make the final determination as to whether or not an alternate offer is equal. It is the Offeror's responsibility to provide, as part of the offer, descriptive literature, specifications and information on all alternate products and services offered. References of current users should be included. If the item(s) or service(s) offered are not clearly identified as alternate item(s) or services, it is understood that the offer is for item(s) and service exactly as specified in this RFP.

**5.3 APPROPRIATION.** The terms of the contract are contingent upon sufficient appropriations and authorization being made by the Regents of the University of New Mexico. If sufficient appropriations and authorization are not made by the Regents of the University of New Mexico, the contract shall, notwithstanding any other provisions of the contract, terminate immediately upon the Offeror's receipt of written notice of termination from the UNMH.

**5.4 ASSIGNMENT.** Any resultant Purchase Order/Agreement may be assignable by UNMH. Except as to any payment due hereunder, any resultant Purchase Order/Agreement shall not be assignable by Seller without written approval from UNMH.

**5.5 AWARDS – MULTIPLE.** UNMH reserves the right to make multiple awards to primary and secondary source or to otherwise split the award of the items, projects and/or sections of this proposal.

**5.6 BRAND NAME OR EQUAL.** The brand name(s), part and/or catalog number(s) are used to establish a level of quality and to describe the item(s) required. If offering a brand, part or catalog number other than that listed, please indicate items offered and include literature and/or technical specifications. Failure to do so may cause offer to be declared non-responsive.

- 5.7 CANCELLATION.** UNMH reserves the right to cancel without penalty, this RFP, any resultant Purchase Order/Agreement, or any portion thereof for convenience, unsatisfactory performance, or unavailability of funds.
- 5.8 CASH DISCOUNTS.** UNMH will take advantage of cash discounts offered whenever possible, however, cash discounts will not be used as a means to determine the lowest cost.
- 5.9 CHANGES.** UNMH may make changes within the general scope of any resultant Purchase Order/Agreement by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of a resultant Purchase Order/Agreement, an appropriate equitable adjustment shall be made. No change by Seller shall be recognized without written approval of UNMH. Any claim of Seller for an adjustment under this Paragraph must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change. Nothing in this Paragraph shall excuse Seller from proceeding with the performance of the Purchase Order/Agreement as changed hereunder.
- 5.10 CONFLICT OF INTEREST.** Seller shall disclose to the UNMH Purchasing Department the name(s) of any UNMH employee or member of the Board of Regents who has a direct or indirect financial interest in the Seller or in the proposed transaction. A UNMH employee (or Regent) has a direct or indirect financial interest in the Seller or in the proposed transaction if presently or in the preceding twelve (12) months the employee/Regent or a close relative has an ownership interest in the Seller (other than as owner of less than 1% of the stock of a publicly traded corporation); works for the Seller, is a partner, officer, director, trustee or consultant to the Seller, has received grant, travel, honoraria or other similar support from the Seller, or has a right to receive royalties from the Seller. Seller shall file a Conflict of interest Disclosure form with the UNMH Purchasing Department.
- 5.11 COOPERATION AND DISPUTE RESOLUTION.** The parties agree that, to the extent compatible with the separate and independent management of each, they will maintain effective liaison and close cooperation. If a dispute arises related to the obligations or performance of either party under this Agreement, representatives of the parties will meet in good faith to resolve the dispute.
- 5.12 DAMAGE AND SECURITY OF UNMH PROPERTY.** The proposer shall be responsible for all damage to persons or property that occurs as a result of proposer's fault or negligence, or that of any of his employees, agents and/or subcontractors. The proposer shall save and keep harmless UNMH against any and all loss, cost, damage, claims, expense or liability in connection with the performance of this contract. Any equipment or facilities damaged by the proposer's operations shall be repaired and/or restored to their original condition at the proposer's expense, including but not limited to cleaning and painting.
- 5.13 DISCLOSURE OF PROPOSAL CONTENTS.** The proposals will be kept confidential until UNMH awards a price agreement. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is proprietary or confidential. The Procurement Managers will not disclose or make public any pages of a proposal on which the Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
- Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-1 to 57-3A-7 NMSA 1978. The price of service offered or the cost of services proposed shall not be designated a proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, UNMH shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

- 5.14 DISRUPTION OF NORMAL ACTIVITY.** All work shall be performed so as not to interfere with normal UNMH activities. When it is necessary to disrupt normal activities, the schedule of work, and the areas to be affected must be approved by UNMH's authorized representative prior to commencement of the work.
- 5.15 DISCOUNTS.** If prompt payment discounts apply to any resultant Purchase Order/Agreement, any discount time will not begin until the materials, supplies, or services have been received and accepted and a correct invoice has been received by UNMH's Accounts Payable Department. In the event testing is required prior to acceptance, the discount time shall begin upon completion of the tests and acceptance.
- 5.16 ECCN REPORTING REQUIREMENT.** Seller acknowledges that providing goods and services under any resultant Purchase Order/Agreement is subject to compliance with all applicable United States laws, regulations, or orders, including those that may relate to the export of technical data or equipment, such as International Traffic in Arms Regulations ("ITAR") and/or Export Administration Act/Regulations ("EAR"). Seller agrees to comply with all such laws, regulations and orders as currently in effect or hereafter amended. Seller shall not disclose any export-controlled information, or provide any export-controlled equipment or materials to UNMH without prior written notice. In the event that UNMH agrees to receive such export-controlled information, equipment or materials, Seller shall: (i) include the Export Control Classification Number (ECCN) on the packing documentation, and, (ii) send an electronic copy of the ECCN number and packing documentation to: [ECCN@UNM.EDU](mailto:ECCN@UNM.EDU)
- 5.17 ELIGIBILITY FOR PARTICIPATION IN GOVERNMENT PROGRAMS.** Each party represents that neither it nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under a resultant Purchase Order/Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that each party, its employees and independent contractors are not otherwise ineligible for participation in federal healthcare programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against each party or its employees or independent contractors. Each party shall notify the other immediately upon becoming aware of any pending or final action in any of these areas.
- 5.18 EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION.** In performing or providing the services and goods required under a resultant Purchase Order/Agreement, each party shall be an equal opportunity employer and shall conform to all affirmative action and other applicable requirements; accordingly, each party shall neither discriminate nor permit discrimination in its operations or employment practices against any person or group of persons on the basis of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition, sexual preference, prior military involvement or any other manner prohibited by law.
- 5.19 EMPLOYEE CERTIFICATION.** The Offeror and all Offerors' employees utilized on the work to be performed under this RFP must have the proper certification(s) and license(s) to comply with

State and local requirements connected to this RFP. The Offeror shall use only fully qualified and approved service technicians to perform inspections, service and/or repairs under this request.

- 5.20 GENERAL TERMS AND CONDITIONS:** UNMH's General Terms and Conditions are an equal and integral part of this request. All terms and conditions of this request will remain unchanged for the duration of the contract and will supersede and take precedence over any Offeror's agreement forms. Offeror must include a detailed description regarding any exceptions to the terms and conditions of this RFP. If exceptions or deviations are not clearly stated, it is understood that the terms and conditions of this proposal shall govern.

UNMH reserves the right to reject any proposal that does not meet the terms and conditions of the request for proposal. It further reserves the right to accept or reject any modifications to the terms and conditions if it is in the best interest of the UNMH to do so.

- 5.21 F.O.B.** Unless stated otherwise, the price for goods is F.O.B. the place of destination, and the place of destination is UNMH's designated campus address.

- 5.22 FOREIGN PAYMENTS.** Payment for services performed by a foreign individual or a foreign corporation while in the US may be subject to 30% tax withholding per IRS Publication 515.

- 5.23 GOVERNING LAW.** All resultant Purchase Order/Agreements shall be construed in accordance with the laws of the State of New Mexico as they pertain to Purchase Order/Agreements executed and fully to be performed within New Mexico, or federal law where applicable, but in either case excluding that body of law relating to choice of law.

- 5.24 GRAMM-LEACH-BLILEY ACT.** Pursuant to the Gramm-Leach-Bliley Act and the regulations set forth at 16 CFR Part 314, the University of New Mexico Hospitals ("University") requires its Service Providers to implement and maintain appropriate safeguards for the protection of Customer Information. Accordingly, the Service Provider shall implement and maintain a comprehensive information security program that contains administrative, technical and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of confidential Customer Information that it creates, receives, maintains, or transmits on behalf of UNMH. In addition, the Service Provider will require and ensure that any of its agents, sub-contractors, or sub-consultants, to which it provides confidential Customer Information of NMH, implements appropriate security measures to protect confidential Customer Information of UNMH.

Service Provider shall not use or disclose covered data and information received from or created on behalf of UNMH except as permitted or required by this Purchase Order/Agreement, as required by law, or as otherwise authorized in writing by UNMH. Upon becoming aware of a security breach in which University Customer Information is used or disclosed in a manner not authorized or covered by this Purchase Order/Agreement, including any reasonable belief that an unauthorized individual has accessed a database containing covered data and information, or in violation of any applicable state or federal laws, Service Provider will report to UNMH any security incident immediately upon being aware of such a breach and take such corrective steps/action to remedy the breach as requested by UNMH and required by law.

Upon termination, cancellation, expiration or other conclusion of this Purchase Order/Agreement, Service Provider shall return to UNMH covered Customer Information and data unless UNMH requests in writing that such Customer Information and data be destroyed. Service Provider shall complete such return or destruction not less than 30 days after the conclusion of this Purchase Order/Agreement. Within such 30 day period, Service Provider shall certify in writing to UNMH

that such return or destruction has been completed. To the extent return or destruction is not feasible; this Purchase Order/Agreement shall remain in full force and effect.

Service Provider means any person or entity that receives, maintains, processes, or otherwise is permitted access to Customer Information through its direct provision of services to a financial institution. The Gramm-Leach-Bliley Act broadly defines “financial institution” as any institution engaging in the financial activities enumerated under the Bank Holding Company Act of 1956, including “making, acquiring, brokering, or servicing loans” and “collection agency services”. Because higher education institutions participate in financial activities, such as processing student financial aid and student loans, FTC regulations consider them financial institutions for purposes of the Gramm-Leach-Bliley Act.

Customer Information means any record containing nonpublic information as defined in 16 CFR 313.3(n), about a customer of a Financial Institution, whether in paper, electronic or other form that UNMH has obtained from a customer in the process of offering a financial product or service including offering student aid and loans to students as defined in 12 CFR 225.28. Any and all Customer Information provided by UNMH to the Service Provider or which the Service Provider acquires through its own efforts in rendering or providing any goods or services under this Purchase Order/Agreement, shall be considered confidential and held in strict confidence and shall only be released to the Service Provider’s own personnel, agents, sub-contractors and sub-consultants only to the extent necessary to provide or perform the goods and/or services required by this Purchase Order/Agreement. Such information shall not be released by the Service Provider to any other person or organization without the prior written consent and approval of UNMH.

**5.25 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).** The parties agree to enter into a mutually acceptable amendment to a resultant Purchase Order/Agreement as necessary to comply with applicable federal laws and regulations governing the use and/or disclosure of individually identifiable health information. Such amendment shall be entered into on or before the date by which hospitals are required to be in compliance with the privacy regulations promulgated under the Health Insurance Portability and Accountability Act of 1996.

**5.26 INDEMNIFICATION AND INSURANCE REQUIREMENTS.** Seller assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any actual or alleged personal injury (including death) and/or damage or destruction to property sustained or alleged to have been sustained in connection with or arising out of the goods delivered by Seller or the performance of the work by Seller its agents, employees, sub-contractors or consultants, except to the extent of liability arising out of the negligent performance of the work by or willful misconduct of UNMH. Seller shall indemnify, defend and hold harmless UNMH, its officers, agents, and employees from any and all liability for such losses, expenses, damages, demands, and claims and shall defend any suit or action brought against any or all of them based on any actual or alleged personal injury or damages and shall pay any damage costs and expenses including attorneys' fees, in connection with or resulting from such suit or action. Seller will also indemnify, defend and hold harmless UNMH against any joint and several liabilities imposed against UNMH with respect to strict products liability claims attributable to the fault of the Seller.

Seller agrees that it and its sub-contractors will maintain general liability, product liability and property damage insurance in reasonable amounts (at least equal to the New Mexico Tort Claims Act limits) covering the above obligation and will maintain workers' compensation coverage covering all employees performing under a resultant Purchase Order/Agreement on premises occupied by or under the control of UNMH. The liability of UNMH will be subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 et seq. NMSA 1978, as amended.

- 5.27 INDEPENDENT BUSINESS.** Neither Seller nor any of its agents shall be treated as an employee of UNMH for any purpose whatsoever. Seller declares that Seller is engaged in an independent business and has complied with all federal, state and local laws regarding business permits and licenses of any kind that may be required to carry out the said business and the tasks to be performed under any resultant Purchase Order/Agreement. Seller further declares that it is engaged in the same or similar activities for other clients and that UNMH is not Seller's sole or only client or customer.
- 5.28 INSPECTION.** UNMH may inspect, at any reasonable time, any part of Seller's plant or place of business, which is related to performance of any resultant Purchase Order/Agreement. Final Inspection will be made at the destination upon completion of delivery of goods and services. Acceptance of delivery shall not be considered acceptance of the goods and/or services furnished. Final inspection shall include any testing or Inspection procedures required by the Specifications.
- 5.29 INSPECTIONS, SELLER.** The Seller shall be responsible for securing at Seller's expense, all required inspections to comply with Federal, State and/or Local regulations governing the work performed under this RFP.
- 5.30 INSTRUMENTALITIES:** Seller shall supply all equipment, tools, materials and supplies required for the performance of the designated tasks or requirements set forth in any resultant Purchase Order/Agreement or its attachments.
- 5.31 LATE SUBMISSIONS.** Late submissions of offers will not be accepted or considered unless it is determined by UNMH that the late receipt was due solely to mishandling by UNMH or the offer is the only offer received. Late submissions will be returned unopened.
- 5.32 MERGER.** The contract shall incorporate all the agreements, covenants, and understandings between the parties thereto concerning the subject matter thereof. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the contract.
- 5.33 NOTICES:** Any notice required to be given or which may be given under this RFP or a resultant contract shall be in writing and delivered in person or via first class mail.

**UNMH Address**

University of New Mexico Hospitals  
Purchasing Department Ste. 3165  
Attn: Purchasing Director  
933 Bradbury Dr. SE  
Albuquerque, NM 87106

- 5.34 OPTION TO RENEW.** UNMH reserves the option to renew the RFP's resultant contract if such renewal is mutually agreed to and found to be in the best interests of UNMH. These renewal options will be exercised in increments as indicated in the RFP's specifications, or if not stated, in one-year terms. The contract shall not exceed **(4)** four years, including all renewals.
- 5.35 OTHER APPLICABLE LAWS.** Any provision required to be included in a resultant Purchase Order/Agreement by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

**5.36 OSHA REGULATIONS.** The Seller shall abide by Federal Occupational Safety and Health Administration (OSHA) regulations, the State of New Mexico Environmental Improvement Board's Occupational Health and Safety Regulations that apply to the work performed under this RFP. The Seller shall defend, indemnify, and hold UNMH free and harmless against any and all claims, loss, liability and expense resulting from any alleged violation(s) of said regulation(s) including but not limited to, fines or penalties, judgments, court costs and attorney's fees.

**5.37 OWNERSHIP OF DOCUMENTS.** All documents which are prepared by the Seller or any member of the consulting team that form a part of its services under a resultant Purchase Order//Agreement are the sole property of the University of New Mexico Hospitals and such works may not be reproduced nor distributed without the express written consent of the University of New Mexico Hospitals and shall be delivered to UNMH upon termination and or completion of this Purchase Order/Agreement if UNMH so requests. The Seller shall be responsible for the protection and/or replacement of any original documents in its possession. UNMH shall receive all original drawings and the Seller shall retain a reproducible copy.

*Work Made for Hire* - For the consideration payable under a resultant Purchase Order/Agreement, the work product required by the Purchase Order/Agreement shall be considered a work made for hire within the meaning of that term under the copyright laws of the United States, applicable common law and corresponding laws of other countries. UNMH shall have the sole right and authority to seek statutory copyright protection and to enjoy the benefits of ownership of the work. The party performing the work hereby assigns all rights, title and interest in and to the work to UNMH and shall require all members of the consulting team to agree in writing that they assign all right, title and interest in work product required by the Purchase Order/Agreement to UNMH.

*Inventions.* For the consideration payable under a resultant Purchase Order/Agreement, the Seller agrees to report any invention arising out of the Work required by the Purchase Order/Agreement to UNMH. UNMH shall have sole right and authority to seek statutory patent protection under United States and foreign patent laws and to enjoy the benefits of ownership of the invention, whether or not the invention was required of the Seller or member of the consulting team as part of the performance of Work. The Seller hereby assigns all right, title and interest in and to inventions made in the course of the Work to UNMH and agrees to execute and deliver all documents and do any and all things necessary and proper to effect such assignment. Seller shall require all members of the Consulting Team to agree in writing that they will execute and deliver all documents and do any and all things necessary and proper to effect assignment of inventions arising out of the Work required by the Purchase Order/Agreement to UNMH.

*Survival of Provision.* This provision shall survive expiration and termination of the Purchase Order/Agreement.

**5.38 PACKAGING.** Packaging of materials under this contract shall meet the minimum specifications indicated under Packaging Specifications. If there are no packaging specifications listed, the packaging shall be suitable to insure that the materials are received in an undamaged condition. All material returns will be at the Offeror's expense.

**5.39 PATENT AND COPYRIGHT INDEMNITY.** Seller shall indemnify, defend and hold harmless UNMH against all losses, liabilities, lawsuits, claims, expenses (including attorneys' fees), costs, and judgments incurred through third party claims of infringement of any copyright, patent, trademark or other intellectual property rights.

**5.40 PAYMENTS.** No warrant, check or other negotiable instrument shall be issued in payment for any purchase of services, construction, or items of tangible personal property unless the Central

Purchasing Office or the UNMH using agency certifies that the services, construction or items of tangible personal property have been received and meet specifications.

- 5.41 PAYMENT TERMS.** Upon written request from Offeror for payment, UNMH shall submit payment within 30 days. Late payment charges shall be ½ of 1% per month.
- 5.42 PAYROLL OR EMPLOYMENT TAXES.** No federal, state, or local income, payroll or employment taxes of any kind shall be withheld or paid by UNMH with respect to payments to Seller or on behalf of Seller its agents or employees. Seller shall withhold and pay any such taxes on behalf of its employees as required by law. The payroll or employment taxes that are the subject to this paragraph include but are not limited to FICA, FUTA, federal personal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax. If Seller is not a corporation, Seller further understands that Seller may be liable for self-employment (Social Security) tax, to be paid by Seller according to law.
- 5.43 PENALTIES.** The Procurement Code, Section 13-1-28 at seq. NMSA 1978, as amended imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose criminal penalties for bribes, gratuities and kickbacks.
- 5.44 PERIOD FOR OFFER ACCEPTANCE.** Offeror agrees that any offer made submitted will be good for a period of one hundred and eighty days (180) calendar days; an additional time period may be requested by UNMH.
- 5.45 PUBLIC INFORMATION.** All information, except that classified as confidential, will become public information at the time that the RFP is awarded. Confidential information must be marked “CONFIDENTIAL” in red letters in the upper right hand corner of the pages containing the confidential information. Price and information concerning the specifications cannot be considered confidential. (UNMH Purchasing Regulations 11.6.3.)
- 5.46 PURCHASE ORDER/AGREEMENT.** Any resultant Purchase Order/Agreement shall be the sole and entire Purchase Order/Agreement between the parties; any documents incorporated into the Purchase Order/Agreement are listed explicitly on the front side of the Purchase Order/Agreement, or are incorporated by implication by the terms of any resultant Purchase Order/Agreement. Any terms inconsistent with or in addition to any resultant Purchase Order/Agreement proposed by Seller are deemed rejected unless agreed to in writing by an appropriate University official.
- 5.47 REJECTION OF OFFERS.** UNMH reserves the right to make an award based on the evaluation criteria contained herein, to reject any and all offers or any part thereof, and to accept the offer that is in the best interest of UNMH.
- 5.48 RELATIONSHIP OF PARTIES.** The parties and their respective employees are at all times acting as independent Offerors. Offeror will not be considered an employee of UNMH for any purpose, including, but not limited to, workers’ compensation, insurance, bonding or any other benefits afforded to employees of UNMH. Neither party has any express or implied authority to assume or create any obligation or responsibility on behalf of or in the name of the other party.
- 5.49 RELEASE UNMH REGENTS.** The Contractor shall, upon final payment of the amount due under the contract release Regents of the University of New Mexico Hospitals, their officers and employees and the State of New Mexico from liabilities, claims and obligations whatsoever arising from the contract. The Contractor agrees not to purport to bind the University of New Mexico Hospitals or the State of New Mexico to any obligation not assumed in the contract by the Regents

of the University of New Mexico Hospitals or the State of New Mexico unless the Contractor has express, written authority to do so, and then only within the strict limits of that authority.

- 5.50 REMOVAL OF OFFEROR'S EMPLOYEE(S).** UNMH may request that Offeror's employee(s) be removed from the work under the contract for cause. The UNMH may immediately terminate, with written notice to Offeror, the services of any Contractor employee, if the University of New Mexico's management believes in good faith that Offeror's employee is unable to perform the services with reasonable skill. Offeror's agreement may also be terminated if Offeror's liability insurance coverage is modified or terminated.
- 5.51 RETENTION OF RECORDS.** Contractor will maintain detailed records indicating the date, time and nature of services provided under the Agreement for a period of at least seven years after termination of the Agreement, and will allow access for inspection by the University of New Mexico Hospitals, the Secretary for Health and Human Services, the Comptroller General and the Inspector General to such records for the purpose of verifying costs associated with provisions of services under the Agreement.
- 5.52 RIGHT TO PROTEST.** The solicitation of the award of an RFP/Invitation for Bid (IFB) may be protested as per the UNMH Purchasing Regulation 11, Protest Procedures, which may be found at the following UNMH web site: <http://www.UNMH.edu/~purch/reg11.pdf>.
- 5.53 RIGHT TO WAIVE MINOR IRREGULARITIES.** The UNMH Evaluation Committee reserves the right to waive minor irregularities. The UNMH Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the UNMH Evaluation Committee.
- 5.54 SELLER'S EMPLOYEES AND AGENTS.** Seller shall have complete charge and responsibility for persons employed by Seller and engaged in the performance of the specified work. The Seller, its agents and employees state that they are independent contractors and not employees of UNMH. Seller, its agents and employees shall not accrue leave, retirement, insurance, bonding or any other benefit afforded to employees of UNMH as a result of any resultant Purchase Order/Agreement.
- 5.55 SITE FAMILIARITY.** The Seller shall be responsible for thoroughly inspecting the site and work to be done prior to submission of an offer. The Seller warrants by this submission that the site has been thoroughly inspected and the work to be done and that the offer includes all costs required to complete the work. The failure of the Seller to be fully informed regarding the requirements of this Request will not constitute grounds or any claim, demand for adjustment or the withdrawal of an offer after the opening.
- 5.56 SITE INSPECTION.** The site(s) referenced in this RFP are available for inspection. Arrangements may be made by contacting the individual listed on the cover sheet.
- 5.57 STATE AND LOCAL ORDINANCES.** The Offeror shall perform work under this contract in strict accordance with the latest adopted version of all State and local codes, ordinances, and regulations governing the work involved.
- 5.58 TERMINATION AND DELAYS.** UNMH may by written notice stating the extent and effective date, terminate any resultant Purchase Order/Agreement for convenience in whole or in part, at any time. UNMH shall pay Seller as full compensation for performance until such termination: (1) the unit or pro rata order price for the delivered and accepted portion; and (2) incidental damages, not otherwise recoverable from other sources by Seller, as approved by UNMH, with respect to the

undelivered or unaccepted portion of any resultant Purchase Order/Agreement provided compensation hereunder shall in no event exceed the total contracted price. Such amount will be limited to Seller's actual cost, and may not include anticipated profits. UNMH shall not be liable for consequential damages. UNMH may by written notice terminate any resultant Purchase Order/Agreement in whole or in part for Seller's default if Seller refuses or fails to comply with the provisions of a resultant Purchase Order/Agreement or fails to make progress so as to endanger performance and does not cure such failure within a reasonable period of time. In such event, UNMH may otherwise secure the materials, supplies or services ordered, and Seller shall be liable for damages suffered by UNMH thereby, including incidental and consequential damages. If after notice of termination, UNMH determines Seller was not in default, or if Seller's default is due to failure of UNMH, termination shall be deemed for the convenience of UNMH. The rights and remedies of UNMH provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under a resultant Purchase Order/Agreement as used in this paragraph, the word "Seller" includes Seller and Seller's sub-suppliers at any tier.

- 5.59 THIRD PARTIES.** Nothing in this Agreement, express or implied, is intended to confer any rights, remedies, claims, or interests upon a person not a party to this Agreement.
- 5.60 TITLE AND DELIVERY.** Title to the materials and supplies passed hereunder shall pass to UNMH upon acceptance at the FOB point specified, subject to the right of UNMH to reject. For any exception to the delivery date specified, Seller shall give prior notification and obtain approval thereto from UNMH's Purchasing Department. Time is of the essence and the Purchase Order/Agreement is subject to termination for failure to deliver on time.
- 5.61 WAIVER.** The Contract shall contain a provision that states that no waiver of any breach of the Contract or any terms or conditions thereof shall be held to be a waiver of any other or subsequent breach; nor shall any waiver be valid, alleged or binding unless the same shall be in writing and signed by the party to have granted the waiver.
- 5.62 WARRANTIES.** Seller warrants the goods and/or services furnished to be exactly as specified in any resultant Purchase Order/Agreement, free from defects in Seller's design, labor, materials and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by Seller. All applicable UCC warranties express and implied are incorporated herein.
- 5.63 WARRANTY:** Please state the warranty for equipment to be supplied under this RFP. A copy of the warranty should be included in your submission.
- 5.64 WITHDRAWAL OF OFFERS.** Offers may be withdrawn by written notice, electronically or in person by an Offeror or an authorized representative at any time prior to the submittal due date and time. Offerors requiring bid security will result in forfeiture of the bid security if the offer is withdrawn following the opening.
- 5.65 WORKERS COMPENSATION.** No workers compensation insurance has been or will be obtained by UNMH on account of Seller or its employees or agents. Seller shall comply with the workers compensation laws with respect to Seller and Seller's employees and agents.
- 5.66 WORKMANSHIP/COOPERATION.** All work shall be done in a neat, workman-like manner using acceptable equipment and methods consistent with that level of care and skill ordinarily exercised by members of the profession/trade and in accordance with sound professional/trade standards and ethical practice. The Seller will cooperate with UNMH and other contractors and coordinate their work involving other contractors through UNMH's authorized representative.

**EXHIBIT A**  
**Resident Veterans Preference Certification**

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

Please check one only:

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

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

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

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

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

“I understand that knowingly giving false or misleading information on this report constitutes a crime”

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

\_\_\_\_\_  
(Signature of Business Representative)\*

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

**\*Must be an authorized signatory for the Business**

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

**EXHIBIT B  
AUTHORIZED SIGNATURE PAGE**

**THE FOLLOWING OFFEROR INFORMATION MUST BE COMPLETED AND RETURNED WITH THE RFB:**

Please note that the information requested on the certification form is for reporting purposes only and will not be used in evaluating or awarding an agreement.

**ACKNOWLEDGMENT OF ADDENDA**

The undersigned acknowledges receipt of the following addenda:

Addenda No. \_\_\_\_\_ Dated \_\_\_\_\_ Addenda No. \_\_\_\_\_ Dated \_\_\_\_\_

Addenda No. \_\_\_\_\_ Dated \_\_\_\_\_ Addenda No. \_\_\_\_\_ Dated \_\_\_\_\_

**New Mexico State Preference Number** (Pursuant to Sections 13-1-1, 13-1-21.2 & 13-4-2 NMSA 1978, Offerors Claiming 5% Preference Must be Certified Prior to IFB Opening):

- Resident Business: Pref. Number \_\_\_\_\_
- Resident Manufacturer: Pref. Number \_\_\_\_\_
- Resident Offeror: Pref. Number \_\_\_\_\_
- New York state business enterprise: Yes \_\_\_\_\_ No \_\_\_\_\_

The undersigned, as an authorized representative for the Company named below, acknowledges that the Offeror has examined this RFP with its related documents and is familiar with all of the conditions surrounding the described materials, labor and/or services. Offeror hereby agrees to furnish all labor, materials and supplies necessary to comply with the specifications in accordance with the Terms and Conditions set forth in this IFP and at the prices stated within the IFP.

The undersigned further states that the company submitting this IFP is not in violation of any applicable Conflict of Interest laws or regulations or any other related clauses included in this IFB.

**COMPANY NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**CITY/STATE/ZIP** \_\_\_\_\_

**TELEPHONE:** \_\_\_\_\_ **FAX:** \_\_\_\_\_ **EMAIL:** \_\_\_\_\_

**NEW MEXICO GROSS RECEIPTS TAX NO** \_\_\_\_\_

**FEDERAL EMPLOYER ID NUMBER (FEIN)** \_\_\_\_\_

**SIGNATURE OF AUTHORIZED REPRESENTATIVE** \_\_\_\_\_

**PRINTED OR TYPED NAME** \_\_\_\_\_

**TITLE** \_\_\_\_\_

**DATE** \_\_\_\_\_

## EXHIBIT C

### SMALL AND SMALL DISADVANTAGED BUSINESS CERTIFICATION

The University of New Mexico Hospitals participates in the Government's Small and Small Disadvantaged Business programs. This requires written certification from our suppliers and Offerors as to their business status. Please furnish the information requested below.

1.0 Small Business – An enterprise independently owned and operated, not dominant in its field and meets employment and/or sales standards developed by the Small Business Administration. See 13 CFR 121.201

1.a Small Disadvantaged Business – a Small Business Concern owned and controlled by socially and economically disadvantaged individuals; and

- (1) Which is at least 51% owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals and
- (2) Whose management of daily operations is controlled by one or more such individuals. The Offeror shall presume Black Americans, Hispanic Americans, Native Americans (such as American Indians, Eskimos, Aleuts and Native Hawaiians), Asian-Pacific Americans and other minorities or any other individual found to be disadvantaged by the Administration pursuant to Section 8 (a) of the Small Business Act and
- (3) Is certified by the SBA as a Small Disadvantaged Business.

1.b Women-Owned Business Concern – A business that is at least 51% owned by a woman or women who also control and operate it. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management.

1.c HUBZone Small Business Concern – A business that is located in historically underutilized business zones, in an effort to increase employment opportunities, investment and economic development in those areas as determined by the Small Business Administration's (SBA) List of Qualified HUBZone Small Business Concerns.

1.d Veteran-Owned Small Business Concern – A business that is at least 51% owned by one or more veterans; or in the case of any publicly owned business, at least 51% of the stock of which is owned and controlled by one or more veterans and the management and daily business operations of which are controlled by one or more veterans.

1.e Service Disabled Veteran-Owned Small Business – A business that is at least 51% owned by one or more service disabled veterans; or in the case of any publicly owned business, at least 51% of the stock of which is owned and controlled by one or more service disabled veterans and the management and daily business operations of which are controlled by one or more service disabled veterans. Service disabled veteran means a veteran as defined in 38 U.S.C. 101(2) with a disability that is service connected as defined in 13 U.S.C. 101(16).

Company Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
 Street Address: \_\_\_\_\_ County: \_\_\_\_\_  
 City: \_\_\_\_\_ State & Zip: \_\_\_\_\_  
 Is this firm a (please check):     Division     Subsidiary     Affiliated?    Primary NAICS Code: \_\_\_\_\_  
 If an item above is checked, please provide the name and address of the Parent Company below:  
 \_\_\_\_\_  
 \_\_\_\_\_

Check All Categories That Apply:

- 1. Small Business
- 2. Small Disadvantaged Business (**Must be SBA Certified**)
- 3. Woman Owned Small Business
- 4. HUBZone Small Business Concern (**Must be SBA Certified**)
- 5. Veteran Owned Small Business
- 6. Disabled Veteran Owned Small Business
- 7. Historically Black College/University or Minority Institution
- 8. Large Business

1 **THANK YOU FOR YOUR COOPERATION**

Signature and Title of Individual Completing Form: \_\_\_\_\_

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

<p><b>Please return this form to:</b></p> <p>The University of New Mexico          Hospitals          Purchasing Department          MSC01 1240          Albuquerque, NM 87131          505-277-2036 (voice)          505-277-7774 (fax)</p>	<p><b>NOTE:</b></p> <p>This certification is valid for a one year period. It is your responsibility to notify us if your size or ownership status changes during this period. After one year, you are required to re-certify with us.</p>
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Notice: In accordance with U.S.C. 645(d), any person who misrepresents a firm's proper size classification shall (1) be punished by imposition of a fine, imprisonment, or both; (2) be subject to administrative remedies; and (3) be ineligible for participation in programs conducted under the authority of the Small Business Act.

If you have difficulty determining your size status, you may contact the Small Business Administration at 1-800-U-ASK-SBA or 202-205-6618. You may also access the SBA website at [www.sba.gov/size](http://www.sba.gov/size) or you may contact the SBA Government Contracting Office at 817-684-5301. (Rev. 6/2002)

**EXHIBIT D**  
**THE UNIVERSITY OF NEW MEXICO HOSPITALS SUPPLIER CONFLICT OF INTEREST**  
**AND DEBARMENT/SUSPENSION CERTIFICATION FORM**

CONFLICT OF INTEREST

**The authorized Person, Firm and/or Corporation states that to the best of his/her belief and knowledge:**

No employee or Regent of The University of New Mexico Hospitals (or close relative), with the exception of the person(s) identified below, has a direct or indirect financial interest in the Offeror or in the proposed transaction. Offeror neither employs, nor is negotiating to employ, any University of New Mexico Hospitals employee, Regent or close relative, with the exception of the person(s) identified below. Offeror did not participate, directly or indirectly, in the preparation of specifications upon which the IFB or offer is made. If the Offeror is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in Offeror, please identify the legislator: \_\_\_\_\_ List below the name(s) of any University or New Mexico employee, Regent or close relative who now or within the preceding 12 months (1) works for the Offeror; (2) has an ownership interest in the Offeror (other than as an owner of less than 1% of Offeror's stock, if Offeror is a publicly traded corporation); (3) is a partner, officer, director, trustee or consultant to the Offeror; (4) has received grant, travel, honoraria or other similar support from Offeror; or (5) has a right to receive royalties from the Offeror.

DEBARMENT/SUSPENSION STATUS

The Offeror certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice or proposed debarment from any Agency. The Offeror agrees to provide immediate notice to The University of New Mexico Hospitals Purchasing Department Buyer 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 IFB or offer but prior to the award of the purchase order or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST and DEBARMENT/SUSPENSION Status requirements 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 Offeror named **and that the information contained in this document is true and accurate to the best of their knowledge.**

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_  
Name Typed: \_\_\_\_\_ Company Name: \_\_\_\_\_  
Address \_\_\_\_\_ City/State/zip: \_\_\_\_\_

**THE FOLLOWING MUST BE CERTIFIED IF THIS PURCHASE ORDER IS \$100,000 OR GREATER:**

CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (September, 2005)

- (a) In accordance with FAR 52.203-11, the definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.
- (b) The Offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after; December 23, 1989:
  - 1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to Influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract.
  - 2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal Transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the Offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and
  - 3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
- (c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The undersigned company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.)

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTION (APR 1991) and CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT requirements 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 Offeror named below.

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

Name Typed: \_\_\_\_\_

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

Address: \_\_\_\_\_ City/State/zip: \_\_\_\_\_

## **EXHIBIT E**

### **INSURANCE REQUIREMENTS**

#### **CERTIFICATES OF INSURANCE:**

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

1. "The Regents of the University of New Mexico Hospitals, the University of New Mexico Hospitals, its agents, servants and employee are held as additional insured."
2. "The insurance coverage certified herein shall not be canceled or materially changed except after forty five (45) days written notice has been provided to the owner."

#### **COMPENSATION INSURANCE:**

The Offeror shall procure and shall maintain during the life of this contract Worker's Compensation as required by applicable State law for all Offeror's employees to be engaged at the site of the project under this project and in case of any such work sublet the Offeror shall require the subOfferor or sub subOfferor similarly to provide Worker's Compensation Insurance for all the subOfferor's or sub subOfferor's Workers which are covered under the Offeror's Worker's Compensation Insurance. In case any class of employee engaged in work on the project under this contract is not protected under a Worker's Compensation Status, the Offeror shall provide and shall cause each subOfferor or sub subOfferor to provide Employer's insurance in any amount of not less than \$500,000.

#### **OFFEROR'S PUBLIC LIABILITY INSURANCE**

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

\$400,000 per person/\$750,000 per occurrence plus \$300,000 for medical and \$200,000 for property damage for a total maximum of \$1,250,000 per occurrence.

#### **OFFEROR'S VEHICLE LIABILITY INSURANCE:**

The Offeror shall procure and shall maintain during the life of this contract Vehicle Liability Insurance coverage "equal to the maximum liability amounts set forth in the New Mexico Tort Claims Act Section 41-4-1 Et.Seq. NMSA 1978." The insurance must remain in force for the life of the contract including all contract extensions or renewals. The limits effective July 1, 1992 are:

Bodily Injury	\$750,000 Each Occurrence
Property Damage	\$200,000 Each Occurrence

#### **SUBOFFEROR'S AND SUB OFFEROR'S PUBLIC AND VEHICLE LIABILITY INSURANCE:**

The Offeror shall either:

1. Require each subOfferor or sub Offeror to procure and maintain during the life of the subcontract or sub subcontract public Liability Insurance of the types and amounts specified above or,
2. Insure the activities of the subOfferors of sub subOfferors in the Offeror's Policy as required under this Article.

#### **GENERAL:**

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

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

## **EXHIBIT F**

### **INFORMATION SYSTEMS SECURITY PLAN INFORMATION**

UNMH Information Security Plans are to be developed and documented for IT systems, as per the UNM Hospitals' Information Technology Security Procedures. This template is to be used as a guide in developing individual security plans for new and changing application and infrastructure systems. All projects must also be placed into the Online Request System (ORS) for project prioritization, development and resource review. Purchases, Contracts and Implementation of new IT assets may not move forward without the completion of an IT Security Plan.

- Note to our vendors: your equipment, applications, databases, etc. end up on our environment. All of these must be reviewed for proper resources, security, backup, etc. You must work with the team or project leader to complete the questions below for the most effective and timely implementation.
- The IT Security Plan answers start with the data flow diagram. Without an understanding how the system works and where the application, system or database resides and how the users and support access and support the system is very difficult to answer the following questions.

Important: Start this effort by creating a Visio or other graphical workflow of the system. Include workstation or other device where information is created or accessed mapping through appropriate network areas, include the server/database/application and then diagram return paths if applicable. Finally, map the backup and recovery processes.

A security plan should include at minimum a description of the security processes for the system, access and confidentiality requirements and restrictions, security administration processes, data classification designations, legal requirements for security and privacy, training, security testing, infrastructure security components, roles & responsibilities for security functions, physical security, and back up and disaster recovery requirements. The Security Plan should describe the security needs and processes for the 'Life Cycle Support' of the system.

The Security Plan will be initiated in the early phases (business analysis and requirements) of a project, and completed before the system is migrated to production. This template will be used to document security plans upgrades to current systems as well as for current systems, where such documentation does not exist.

Please complete all sections of the plan. To view this exhibit please visit RFP P371-17:  
<http://hsc.unm.edu/health/about/bids-proposals/proposals.html>

Contact the IT Security Office with questions at 505-272- 3282.

**Exhibit G**

**CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APRIL 1991)**

1. The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to influence Certain Federal Transactions, I included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.
2. The Offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after; December 23, 1989;
  - a. Federal appropriated funds have not been paid and will not be paid to any person for influencing or attempting to Influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
  - b. If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal Transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the Offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
  - c. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**CERTIFICATION**

The undersigned hereby certifies that he/she has read the above CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTION (APR 1991) requirements 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 Offeror named below.

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

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

Address: \_\_\_\_\_ City/State/zip: \_\_\_\_\_

## **EXHIBIT H BUSINESS ASSOCIATE ADDENDUM**

This Business Associate Addendum (this “**Addendum**”) is entered into between the Regents of the University of New Mexico, for its public operation known as UNM Hospitals, (referred to in this Addendum as the “Covered Entity”) The “Effective Date” of this Addendum shall be the Effective Date of the Underlying Agreement, as defined below.

### **I. RECITALS**

- A. Under the agreement between the parties to which this Addendum is attached (the “**Underlying Agreement**”), Business Associate is receiving from, or creating or receiving, or maintaining or transmitting on behalf of, Covered Entity, certain data that would constitute “protected health information” within the meaning of the Standards for Privacy of Individually Identifiable Health Information and as further defined below (the “**Privacy Rule**”).
- B. The Parties are committed to complying with the Privacy Rule and the Standards for Security of Electronic Protected Health Information (the “**Security Rule**”) in accordance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“**HIPAA**”), the Health Information Technology for Economic and Clinical Health (“**HITECH**”) Act, Title XIII of Division A and Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5 (Feb. 17, 2009) and related regulations, the HIPAA Privacy Rule, 45 C.F.R. Parts 160 and 164, as amended, the HIPAA Security Rule, 45 C.F.R. Parts 160, 162 and 164, as amended, and other relevant laws, including subsequently adopted provisions applicable to use and disclosure of confidential information, and applicable agency guidance.
- C. This Addendum, in conjunction with the Privacy and Security Rules and the U.S. Department of Health and Human Services' final rule, effective March 26, 2013, modifying HIPAA and the Privacy and Security Rules, sets forth the terms and conditions pursuant to which PHI (electronic and non-electronic) that is created, received, maintained, or transmitted by, the Business Associate from or on behalf of Covered Entity, will be handled between the Business Associate and Covered Entity and with third parties during the term of their Underlying Agreement and after its termination.
- D. Business Associate hereby acknowledges and agrees that Covered Entity is a Covered Entity and that Business Associate is a Business Associate of Covered Entity.

The Parties agree as follows:

### **II. PERMITTED USES AND DISCLOSURES OF PHI**

- A. Services. Pursuant to the Underlying Agreement, Business Associate provides services (“**Services**”) for Covered Entity that involve the receipt, use and disclosure of PHI. Except as otherwise specified herein, the Business Associate may make any and all uses of PHI necessary to perform its obligations under the Underlying Agreement. All other uses not authorized by this Addendum are prohibited. Moreover, Business Associate may disclose PHI for the purposes authorized by this Addendum only: (i) to its employees, subcontractors and agents, in accordance with Section III.A.7, or (ii) as otherwise permitted by or as required by the Privacy or Security Rule.

**B.** Business Activities of the Business Associate. Unless otherwise limited herein and if such use or disclosure of PHI would not violate the Privacy or Security Rules if done by the Covered Entity, the Business Associate may:

1. Use the PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of the Business Associate provided that such uses are permitted under state and federal confidentiality laws;
2. Disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of the Business Associate, provided that the Business Associate represents to Covered Entity, in writing, that (i) the disclosures are required by law, as defined within 45 C.F.R. §164.501; or (ii) the Business Associate has received from the third party written assurances regarding its confidential handling of such PHI as required under 45 C.F.R. §164.504(e)(4) and §164.314, and the third party notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
3. Business Associate may provide data aggregation services relating to the health care operations of the Covered Entity.

### **III. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

**A.** Responsibilities of the Business Associate. With regard to its use and/or disclosure of PHI, the Business Associate hereby agrees to do the following:

1. Not use or further disclose PHI other than as permitted or required by this Addendum, or the Underlying Agreement;
2. Not, without the prior written consent of Covered Entity, disclose any PHI on the basis that such disclosure is required by law without notifying Covered Entity so that Covered Entity shall have an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all alternatives for relief. Business Associate shall require reasonable assurances from persons receiving PHI in accordance with Section II.B.2 hereof that such persons will provide Covered Entity with similar notice and opportunity to object before disclosing PHI on the basis that such disclosure is required by law;
3. Ensure the confidentiality, integrity, and availability of all electronic PHI created, received, maintained, or transmitted;
4. Use reasonable and appropriate safeguards to prevent the unauthorized use or disclosure of PHI other than pursuant to the terms and conditions of this Addendum, and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Addendum;
5. Use appropriate administrative, physical and technical safeguards consistent with the HIPAA Security Rule that reasonably and appropriately protect the confidentiality, integrity, and availability of any Electronic PHI in accordance with the HIPAA Security Rule and the HITECH Standards;

6. Report promptly, in writing, to Covered Entity, but in no event later than within two (2) days of which it becomes aware any use or disclosure of PHI not provided for by the Agreement, including breaches of unsecured PHI as required at 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware, and cooperate with the Covered Entity in any mitigation or breach reporting efforts;
7. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, to ensure that any agents, including subcontractors, that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information; provided, however, that Business Associate shall not disclose or provide access to PHI to any subcontractor or agent without the prior written consent of Covered Entity;
8. Ensure that any agent or subcontractor to whom the Business Associate provides PHI, as well as Business Associate, not export PHI beyond the borders of the United States of America;
9. Have procedures in place to mitigate, to the maximum extent practicable, any deleterious effect from any use or disclosure of PHI in violation of this Addendum or applicable law;
10. Have and apply appropriate sanctions against any workforce member, subcontractor or agent who uses or discloses PHI in violation of this Addendum or applicable law;
11. Within five (5) business days' request of Covered Entity, make available PHI in a designated record set, if applicable, to Covered Entity, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.524;
12. Within five (5) business days, make any amendment(s) to PHI, if applicable, in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.526;
13. As applicable, maintain and make available the information required to provide an accounting of disclosures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.528;
14. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s);
15. Upon request, make its internal practices, books, and records available to the Secretary and to the Covered Entity for purposes of determining compliance with the HIPAA Rules; and
16. Comply with minimum necessary requirements under the HIPAA Rules.

**B.** Responsibilities of Covered Entity. With regard to the use and/or disclosure of PHI by the Business Associate, Covered Entity hereby agrees to do the following:

1. Inform the Business Associate of any limitations in the form of notice of privacy practices that Covered Entity provides to individuals pursuant to 45 C.F.R. §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
2. Inform the Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose PHI, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
3. Notify the Business Associate, in writing and in a timely manner, of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. §164.522, to the extent that such restriction may impact in any manner the use and/or disclosure of PHI by the Business Associate under this Addendum, except if the Business Associate will use or disclose PHI for (and the Underlying Agreement includes provisions for) data aggregation or management and administration and legal responsibilities of the Business Associate, Covered Entity will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy and Security Rule if done by the Covered Entity.

#### **IV. REPRESENTATIONS**

##### **A. Mutual Representations of the Parties. Each party represents to the other party:**

1. That all of its employees and members of its workforce, whose services may be used to fulfill obligations under this Addendum or the Underlying Agreement are or shall be appropriately informed of the terms of this Addendum and are under legal obligation to each party, respectively, by contract or otherwise, sufficient to enable each party to fully comply with all provisions of this Addendum including, without limitation, the requirement that modifications or limitations that Business Associate has agreed to adhere to with regard to the use and disclosure of PHI of any individual that materially affects and/or limits the uses and disclosures that are otherwise permitted under the Standard will be communicated to the Business Associate, in writing, and in a timely fashion.
2. That it will reasonably cooperate with the other party in the performance of the mutual obligations under this Addendum.
3. That neither the party, nor its directors, regents, officers, agents, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deterred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program

operated by or financed in whole or in part by any federal, state or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense.

4. That it will notify the other party immediately after it becomes aware that any of the foregoing representations may be inaccurate or may become inaccurate.

## V. TERM AND TERMINATION

- A. Term. The term of this Addendum shall commence on the Effective Date, and shall terminate on the termination date of the relevant Underlying Agreement or on the date Covered Entity terminates this Addendum for cause as authorized in Section 4.2, whichever is sooner.
- B. Termination for Cause. Business Associate authorizes termination of this Addendum by Covered Entity, if Covered Entity determines Business Associate has violated a material term of this Addendum and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.
- C. Obligations of Business Associate upon Termination. Business Associate agrees to return or destroy all PHI pursuant to 45 C.F.R. §164.504(e)(2)(J). Prior to doing so, the Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents. If it is not feasible for the Business Associate to return or destroy said PHI, the Business Associate will notify Covered Entity in writing and the Covered Entity may disagree with the Business Associate's determination. Said notification shall include: (i) a statement that the Business Associate has determined that it is not feasible to return or destroy the PHI in its possession, and (ii) the specific reasons for such determination. Business Associate further agrees to extend any and all protections, limitations and restrictions contained in this Addendum to the Business Associate's use and/or disclosure of any PHI retained after the termination of this Addendum, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible. If it is infeasible for the Business Associate to obtain, from a subcontractor or agent any PHI in the possession of the subcontractor or agent, the Business Associate must provide a written explanation to Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations and restrictions contained in this Addendum to the subcontractors' and/or agents' use and/or disclosure of any PHI retained after the termination of this Addendum, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible.
- D. Automatic Termination. This Addendum will automatically terminate without any further action of the parties upon the termination or expiration of the Underlying Agreement.

## VI. CONFIDENTIALITY

- A. Confidentiality Obligations. In the course of performing under this Addendum, each party may receive, be exposed to or acquire the Confidential Information including but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer data base or computer readable form, as well as any information identified as confidential ("Confidential Information") of the other party. For purposes of this Addendum, "Confidential Information" shall not include PHI, the security of which is the subject of this Addendum and is provided for elsewhere. The parties including their employees, agents or

representatives (i) shall not disclose to any third party the Confidential Information of the other party except as otherwise permitted by this Addendum or as required by law including, without limitation, the New Mexico Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978, as amended, (ii) only permit use of such Confidential Information by employees, agents and representatives having a need to know in connection with performance under this Addendum, and (iii) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential. Notwithstanding anything to the contrary herein, each party shall be free to use, for its own business purposes, any ideas, suggestions, concepts, know-how or techniques contained in information received from each other that directly relates to the performance under this Addendum. This provision shall not apply to Confidential Information: (a) after it becomes publicly available through no fault of either party; (b) which is later publicly released by either party in writing; (c) which is lawfully obtained from third parties without restriction; or (d) which can be shown to be previously known or developed by either party independently of the other party.

## **VII. INSURANCE, LIABILITY, AND INDEMNIFICATION**

- A.** Insurance. Business Associate will procure and maintain in effect during the term of this Addendum: (1) general liability insurance coverage with minimum limits of \$1 million per occurrence and \$3 million aggregate; and (2) as applicable, professional liability insurance coverage within minimum limits of \$1 million per occurrence and \$3 million in aggregate; and (3) workers' compensation insurance coverage within statutory limits of the state in which Business Associate is located. Upon request, Business Associate shall provide evidence of continuous coverage to Covered Entity.
- B.** Liability. As between the parties, subject to Section VII.C of this Addendum, each party acknowledges that it will be responsible for claims or damages arising from personal injury or damage to persons or property to the extent they result from negligence of that party's employees. Business Associate understands that Covered Entity is not indemnifying Business Associate for the acts or omissions to act of Covered Entity or its employees. The liability of Covered Entity will be subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 et seq. NMSA 1978, as amended.
- C.** Indemnification. The Business Associate agrees to indemnify, defend and hold harmless Covered Entity and Covered Entity's employees, directors, officers, subcontractors, agents or other members of its workforce from any costs, damages, expenses, judgments, losses, attorneys' fees, and all liability to third parties arising from or in connection with any breach of this Agreement or of any warranty hereunder by Business Associate, or arising from any negligent or wrongful acts or omissions of Business Associate, including failure to perform its obligations under the Privacy Regulations, the Security Regulations, the HITECH Act. Accordingly, on demand, Business Associate shall reimburse Covered Entity for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon Covered Entity by reason of any suit, claim, action, proceeding or demand by any third party which results from Business Associate's breach hereunder. The Business Associate's indemnification obligation shall survive the expiration or termination of this Agreement for any reason.
- D.** LIMITATION OF LIABILITY. THE PARTIES UNDERSTAND, ACKNOWLEDGE, AND AGREE THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER

PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

#### VIII. MISCELLANEOUS

- A. Business Associate. For purposes of this Addendum, Business Associate shall include the named Business Associate herein. However, in the event that the Business Associate is otherwise a Covered Entity under the Privacy or Security Rule, that entity may appropriately designate a health care component of the entity, pursuant to 45 C.F.R. §164.504(a), as the Business Associate for purposes of this Addendum.
- B. Survival. The respective rights and obligations of Business Associate and Covered Entity under this Addendum, shall survive termination of this Addendum indefinitely.
- C. Amendments; Waiver. This Addendum may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events. The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- D. Interpretation. Any ambiguity in this Addendum shall be interpreted to permit compliance with the HIPAA Rules.
- E. Changes in Law. The parties recognize that this Addendum is at all times subject to applicable state, local, and federal laws. The parties further recognize that this Addendum may become subject to amendments in such laws and regulations and to new legislation. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Addendum, or that would cause one or both of the parties hereto to be in violation of law(s), shall be deemed to have superseded the terms of this Addendum and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Addendum to be consistent with the requirements of such law(s). In order to effectuate the purposes and intent of this Addendum the parties will set forth an executed written agreement within thirty (30) days of receipt of notice from one party to the other party setting forth the proposed changes, then either party may, by giving the other an additional sixty (60) days written notice, terminate this Addendum, unless this Addendum would terminate earlier by its terms. In the event amendments or changes in existing law(s), general instructions, or new legislation, rules, regulations, or decisional law preclude or substantially preclude a contractual relationship between the parties similar to that expressed in this Addendum, then, under such circumstances, where renegotiation of the applicable terms of this Addendum would be futile, either party may provide the other at least sixty (60) days advance written notice of termination of this Addendum, unless this Addendum would terminate earlier by its terms. Upon termination of this Addendum as hereinabove provided, neither party shall have any further obligation hereunder except for (i) obligations occurring prior to the date of termination, and (ii) obligations, promises or covenants contained herein which are expressly made and intended to extend beyond the term of this Addendum.

- F. Construction of Terms. The terms of this Addendum shall be construed in light of any applicable interpretation or guidance on HIPAA and/or the Privacy Rule issued by the U.S. Department of Health and Human Services of the Office for Civil Rights from time to time.
- G. Contradictory Terms. Any provision of the Underlying Agreement that is directly contradictory to one or more terms of this Addendum (“**Contradictory Term**”) shall be superceded by the terms of this Addendum as of the Effective Date of this Addendum to the extent and only to the extent of the contradiction, only for the purpose of the Covered Entity’s compliance with the Privacy Rule and only to the extent that it is reasonably impossible to comply with both the Contradictory Term and the terms of this Addendum.

**IX. DEFINITIONS.**

The following terms used in this Addendum shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information (“**PHI**”), Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use. Specific definitions include:

- A. Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. §160.103, and in reference to the party to this Addendum.
- B. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “Covered Entity” at 45 C.F.R. §160.103, and in reference to the party to this Addendum.
- C. Disclosure. “Disclosure” shall mean the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.
- D. Electronic Protected Health Information. “Electronic Protected Health Information” means Protected Health Information that is created, received, maintained, or transmitted by Electronic Media as defined at 45 C.F.R. §160.103.
- E. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160, 162 and 164, and as amended.
- F. HITECH Standards. “HITECH Standards” shall mean the privacy, security, and Breach notification provisions applicable to a Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act (“HITECH”) Act, which is Title XIII of the American Recover and Reinvestment Act of 2009 (Public Law 111-5), and any regulations promulgated.
- G. Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subpart A and Subpart E, as amended.
- H. Protected Health Information or “PHI”. “Protected Health Information or PHI” shall mean any information, transmitted or recorded in any form or medium; (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe that information can be used to identify the

individual, and shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations and agency guidance. Protected health information excludes individually identifiable health information: (i) in education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (ii) in records described at 20 U.S.C. 1232g(a)(4)(B)(iv); (iii) in employment records held by a covered entity in its role as employer; and (iv) regarding a person who has been deceased for more than 50 years.

- I.** Security Incident. “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- J.** Security Rule. “Security Rule” shall mean the Standards for Security of Electronic Protected Health Information at 45 C.F.R. Parts 160, 162, and 164, and as amended.
- K.** A reference in this Addendum to a section in the HIPAA Rules means the section as in effect or as amended.
- L.** Any terms capitalized, but not otherwise defined, in this Addendum shall have the same meaning as those terms have under HIPAA, the HIPAA Privacy Regulations, the HIPAA Security Regulations, and the HITECH Standards.

**CONTRACTOR:**

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

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

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

**UNIVERSITY OF NEW MEXICO:**

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

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

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

## **Exhibit I: RFP Deviations**

### **VENDORS MUST COMPLETE THIS SECTION.**

The Employer's benefit plan documents which were submitted with the RFP will be the controlling documents for all claim definitions.

In the absence of any identified deviations, your organization will be bound to all of the terms and conditions for claims payment and eligibility as outlined in the Employer's benefit plan documents.

Identify all deviations from the current benefits/plan provisions.

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

(add additional lines as needed)

## Exhibit J: RFP Appendices

### THE FOLLOWING APPENDICES ARE INCLUDED WITH THIS RFP.

Appendix 1: UNMH

- Plan Document
- Plan Assets
- Employee demographics

Please contact Brian Curran at [Brian.Curran@mercer.com](mailto:Brian.Curran@mercer.com) for a copy of the files.

Appendix 2: UNM Sandoval Regional Medical Center

- Plan Document
- Plan Assets

Please contact Brian Curran at [Brian.Curran@mercer.com](mailto:Brian.Curran@mercer.com) for a copy of the files.

Appendix 3: UNM Medical Group

- Plan Document
- Plan Assets

Please contact Brian Curran at [Brian.Curran@mercer.com](mailto:Brian.Curran@mercer.com) for a copy of the files.

Appendix 4: Mercer

- Utilization

## **Exhibit K: Mercer Vendor Questionnaire**

**Offerors must complete Mercer's baseline Vendor Questionnaire with information on services offered.**

Offerors may provide different service offerings for the plans sponsored by UNMH, UNM Sandoval Regional Medical Center or UNM Medical Group based on their approach to providing defined contribution recordkeeping services to the various market segments. Your proposal must clearly state the service model offered for each plan and plan sponsor.

Please note the following regarding the Vendor Questionnaire:

- The Vendor Questionnaire has multiple worksheets and all worksheets must be completed to constitute a valid RFP response.
- Do not override or modify the Excel® workbook; doing so may nullify your response.
- Not all questions will be relevant to the services requested by UNMH, and will be denoted by N/A and no response is necessary.
- Your responses should be as concise as possible due to the constraints of the questionnaire format.

## Exhibit L: Vendor Supplemental Questions

**Provide written responses to the following supplemental questions.**

1. Company Name and Address:
2. Primary RFP Contact / Marketing Representative:

Name	
Title	
Mailing Address	
Telephone	
Fax	
Email	

3. Describe your firm's organization, highlighting where defined contribution plan services are positioned with respect to all of your business lines. Confirm if you have multiple platforms and include revenue composition by each line of business and platform if applicable. Indicate the market segment (by asset size/participants) within your organization that would service each plan and plan sponsor.
4. Describe your approach to responding to the RFP for each of the plans listed below:

Organization	Plan Name	Market Segment	Description of Service Model
University of New Mexico Hospitals	UNM Hospitals 457(b) Deferred Compensation Plan		
University of New Mexico Hospitals	UNM Hospital Tax Sheltered Annuity Plan		
University of New Mexico Hospitals	UNM Hospitals 401(a) Plan		
University of New Mexico Hospitals	UNM Hospitals 414(m) Plan		
UNM Sandoval Regional Medical Center	UNM Sandoval Regional Medical Center 403(b) Plan		
UNM Medical Group	UNM Medical Group 403(b) Retirement Plan		

5. Generally, recordkeeping is thought of as a low margin business. What is your firm's overall business strategy to support your continued delivery of and capital investment in your recordkeeping platform and services? What changes or enhancements is your firm committed to making in the future to remain competitive?
6. Provide the name and contact information for 3 current clients who will provide a reference to UNMH. You should include at least one health care client.

7. Provide the name and contact information for 3 former clients who will provide a reference to UNMH. Also, provide the reason the client terminated their services.

### **Core Services**

8. UNMH is considering making some plan changes, including the following.
  - Introduce a shared approach to retirement savings by adding employer match and reducing the current employer contribution rate for a cost neutral impact
  - Re-enroll all employees – increase deferral rate to receive the maximum match
    - participant can opt out or reduce their deferral rate
  - Change default investment option for future employee and employer contributions to age-appropriate target date fund – Effective July 1, 2017
  - Change to elapsed year vesting for all employees, including casual pool employees

Describe how you would assist UNMH in implementing the plan changes.

9. Does your firm offer a volume submitter or prototype plan that could be used for the UNMH plans? Are there any current plan features that would not be accommodated in your pre-approved documents?
10. Please confirm that you can provide recordkeeping services based on the terms of the Plans and the information you received pursuant to this RFP. Please note any services that your firm is unable to provide and describe your alternative solutions. Please describe any services that your firm will be required to “customize” or build specifically for UNMH based upon the terms of the Plans or the requested services. Also, provide the associated cost for any customization required.
11. How many health care clients do you have of similar size to the UNMH Plan? What participant services/tools does your organization provide that would align with UNMH’s mission to provide high quality medical care?

### **Client Service**

12. From what geographic location(s) will this account be serviced? It is important to UNMH that they have access to their primary day-to-day contact from 8 to 5 MST.
  - a. Participant Services (CSRs, IVRs, etc.)
  - b. Client Services (Relationship Manager, Account Management Team, Communications Manager, Compliance Team)
13. What are your procedures for monitoring client satisfaction? What are the major reasons clients become dissatisfied? What has been done to resolve the issues?
14. Describe how both participant and client issues are monitored, escalated and resolved. Explain how your issue tracking and resolution system works (i.e., are issues “ranked” or flagged by seriousness, describe the criteria used to rank issues and thresholds of escalation, etc.), how the system is used by the service team, who reviews the issues that are escalated and the process by which escalated issues are resolved and communicated back to the participant and client.
15. Provide more specific details on the single point of contact (Relationship Manager (RM)) who will be assigned to UNMH, including his/her industry experience, client load, tenure at your firm,

tenure in current position, other positions held at your firm, and his/her average tenure on client relationships. Has the proposed RM been assigned to any clients that your firm has lost over the last three years? Provide details on the client satisfaction results this RM has received over the last three years. Does this RM's client satisfaction result score above or below your median score for RMs?

16. Provide more specific details on the day-to-day contact (Account Manager (AM)) who will be assigned to UNMH, including his/her industry experience, client load, tenure at your firm and in current position, other positions held at your firm, and his/her average tenure on client relationships. Has this AM been assigned to any clients that your firm has lost over the last three years? Provide details on the client satisfaction results this AM has received over the last three years. Does this AM's client satisfaction result score above or below your median score for AMs?
17. It is expected that UNMH and your organization will mutually agree to a set of Service Level Agreements (SLAs) including but not limited to plan enrollment, participant deferral and allocation goals. Provide your standard SLAs and what fees you would place at risk.

### **Participant and Plan Sponsor Services**

Emphasis on the employee experience is essential to UNMH, and as such UNMH is looking for a recordkeeper that can provide proven communication ideas to impact plan participants on various behaviors, such as participation, asset allocation and maximizing contribution and match potential.

UNMH desires to partner with a recordkeeper who can understand the different segments of the UNMH workforce and offer innovative solutions to address them. Communication campaigns need to be targeted and must provide measurements to detail effectiveness. In addition, UNMH plays a large part in any and all employee facing communications, and as such the recordkeeper needs to have flexibility around the collateral they provide and allow UNMH to customize written communications, as necessary.

18. Based on UNMH's culture, goals and objectives provide a detailed communication proposal for their Plan that highlights the specific capabilities, services and approach that differentiates your firm from other providers. Please include a discussion of all communication and education mediums available, including mobile apps, webcasts & podcasts, onsite personal financial planning services and leveraging of walk-in investor facilities that may be utilized by participants.
19. How will you measure and benchmark the impact your communication efforts across a variety of media have on participant behavior? Describe your capability to track and report back to UNMH on a quarterly basis on the success or effectiveness of various communication and education outreach campaigns.
20. Please provide an example of your communication materials fully customized for UNMH. The example should reflect your understanding of the company, its culture, and its goals and objectives.
21. Please describe your experience in creating targeted customized communication campaigns guided by the goals and objectives of your clients. What level of creative value have you brought to these campaigns, and how do you collaborate with the sponsor throughout the process?
22. Please describe your approach to providing a dedicated on-site representative to UNMH?

### **Implementation and Conversion**

23. Provide details on the individual who would be directly responsible for the conversion of the plans including his/her experience, tenure in current position, other positions held, and years with your firm. Will this individual be working on other plan conversions at the time of UNMH conversion?
24. To allow un-interrupted service to UNMH the on-going Service Team should be heavily involved in the conversion of the Plan so they are aware of the agreed upon processes and procedures when the Plan goes live and UNMH does not have to re-communicate the information provided to the vendor during the conversion to the on-going Service Team. Confirm this approach will be provided to UNMH.

**Administrative Fees**

All proposed fees should be based on:

- Information supplied to your firm via this RFP
- The cost to administer and service the plan without regard to how the fees will be paid. In particular, you should not make any assumptions regarding payment of fees through revenue sharing or fund expenses.

Complete the enclosed Administrative Fee Worksheet with your firm’s proposed fees.

25. Complete the following table:

		Comments
Willingness to establish performance guarantees in fee structure	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please provide standards
Willingness to put fees at risk if guarantees are not met	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please provide percentage of recordkeeping revenue at risk
Defined contract duration (as opposed to evergreen)	<input type="checkbox"/> Yes <input type="checkbox"/> No	Number of Year agreement required
Contract termination fees	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, specify amount and period for which penalty applies _____
Willingness to review fee structure at least annually to assess potential fee reduction	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Budget for client to use for communication or consulting services included in stated pricing	<input type="checkbox"/> Yes <input type="checkbox"/> No	Specify amount \$_____

26. How will you disclose all client-related revenue your firm generated from your recordkeeping and administration business, including ancillary sources or revenue such as participant rollover accounts, participant 529 plan accounts, etc.?

27. If the Plan fiduciaries were sued on a claim that the plan paid excessive fees to your company, explain any defense or indemnity that you would provide.

28. Disclose any additional fees provided in the Administrative Fee Worksheet that may be assessed by your company in administering UNMH's plan.

## **Exhibit M: Sample Materials**

### **Sample Materials**

The following lists the requested sample materials that must be provided as part of your organization's response to the RFP. The sample materials should be customized, if necessary to reflect the deliverable that UNMH, UNM Sandoval Regional Medical Center and UNM Medical Group will actually receive. Printed copies of all sample materials should be provided in a 3-ring notebook with separate tabs that clearly label each separate item.

**You must provide separate sample materials for each plan sponsor and/or plan, if service offering differs for market segment.**

1. Standard communication/education package, including but not limited to:
  - a. Welcome letter
  - b. Automatic enrollment letter
  - c. Plan highlights
  - d. Investment fund fact sheets
  - e. Rollover forms
  - f. Managed Account Information
2. Sample Participant Account Statement
3. Sample Retirement Adequacy or Projection Employee account statements
4. Organization chart for client service team and detailed biographies for the proposed Service Team
5. Detailed project plan customized for conversion of plan
6. Annual plan communication calendars for year 1 and year 2 customized for plan
7. Log-in information to demo participant website, plan sponsor website, micro conversion site, etc.
8. Overview of mobile apps and screen shots
9. Overview of financial wellness tools and apps

Please provide website screen shots and a demo website log-in to highlight the following:

- Log-on screen/menu options
- Any customization that can be done for UNMH

## **Exhibit N: Administrative Fee Worksheet**

**Offerors should complete the Administrative Fee Worksheet.**

Offerors may provide different service offerings for the plans sponsored by UNMH, UNM Sandoval Regional Medical Center or UNM Medical Group based on their approach to providing defined contribution recordkeeping services to the various market segments.

- All fees associated with your proposed services must be provided in the Administrative Fees Worksheet on the separate tab provided for each plan and plan sponsor.
- The fees provided in the Administrative Fees Worksheet are considered binding.