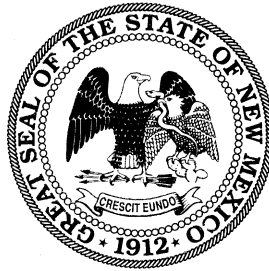


STATE OF NEW MEXICO
PUBLIC REGULATION COMMISSION
INSURANCE DIVISION



REQUEST FOR PROPOSALS
FOR THE ADMINISTRATION AND ADJUSTMENT OF CLAIMS UNDER
THE *MEDICAL MALPRACTICE ACT*, NMSA 1978, § 41-5-1 TO §41-5-29

RFP # _____

September 12, 2011

NOTICE: In addition to New Mexico criminal statutes that impose felony penalties for illegal bribes, gratuities and kickbacks, the New Mexico *Procurement Code*, NMSA 1978, § 13-1 to § 13-1-199, imposes civil and criminal penalties for its violation.

TABLE OF CONTENTS

	<u>Page No.</u>
I. INTRODUCTION	
A. PURPOSE OF THIS REQUEST FOR PROPOSAL	4
B. SUMMARY SCOPE OF WORK	4
C. SCOPE OF PROCUREMENT	4
D. PROCUREMENT MANAGER	4
E. DEFINITION OF TERMINOLOGY	5
F. BACKGROUND INFORMATION	7
II. CONDITIONS GOVERNING THE PROCUREMENT	
A. SEQUENCE OF EVENTS	8
B. EXPLANATION OF EVENTS	9
1. Issue of RFP	9
2. Pre-Proposal Conference	9
3. Acknowledgment of Receipt Form Due	9
4. Deadline to Submit Additional Questions	10
5. Response to Written Questions/RFP Amendments	10
6. Submission of Proposal	10
7. Proposal Evaluation	11
8. Selection and Notification of Finalists	11
9. Best and Final Offers from Finalists	11
10. Oral Presentation by Finalists	11
11. Recommendation Made and Presented to PRC	11
12. Finalize Contract	12
13. Contract Award	12
14. Protest Deadline	12
C. GENERAL REQUIREMENTS	
1. Acceptance of Conditions Governing the Procurement	12
2. Incurring Cost	13
3. Prime Contractor Responsibility	13
4. Subcontractors	13
5. Amended Proposals	13
6. Offeror's Rights to Withdraw Proposal	13
7. Proposal Offer Firm	13
8. Disclosure of Proposal Contents	14
9. No Obligation	14
10. Termination	14
11. Sufficient Appropriation	15
12. Legal Review	15
13. Governing Law	15
14. Basis for Proposal	15
15. Contract Terms and Conditions	15

	16. Offeror’s Terms and Conditions	16
	17. Contract Deviations	16
	18. Offeror Qualifications	16
	19. Right to Waive Minor Irregularities	16
	20. Change in Contractor Representatives	16
	21. Notice	17
	22. Agency Rights	17
	23. Right to Publish	17
	24. Ownership of Proposals	17
	25. Electronic mail address required	17
	26. Use of electronic versions of this RFP	17
III.	RESPONSE FORMAT AND ORGANIZATION	
	A. NUMBER OF RESPONSES	18
	B. NUMBER OF COPIES	18
	C. PROPOSAL FORMAT	18
	1. Proposal Organization	18
	2. Letter of Transmittal	19
IV.	SPECIFICATIONS	
	A. INFORMATION	19
	1. Agency Resources	19
	2. Work Performance	20
	3. Level of Effort	20
	4. Time Frame	20
	B. MANDATORY SPECIFICATIONS	20
	1. Minimum Qualification	20
	2. Experience	20
	3. References	21
	4. Cost	21
	5. Oral Presentation	21
V.	EVALUATION	
	A. EVALUATION POINT SUMMARY	22
	B. EVALUATION FACTORS	22
	C. EVALUATION PROCESS	23
	APPENDICES:	
	A. Acknowledgement of RFP Receipt Form	25
	B. Contract Terms and Conditions	27
	C. Cost Response Form	36

I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The State of New Mexico Public Regulation Commission Insurance Division (“Insurance Division”) is requesting proposals from an individual having appropriate experience and expertise to provide services for the administration and adjusting of claims arising under the *Medical Malpractice Act*, NMSA 1978, §§ 41-5-1 to -5-29 (1997), specifically, all items set forth in Paragraph 1 of Appendix B.

B. SUMMARY SCOPE OF WORK

The initial scope of work shall consist of providing services for the administration and adjusting of claims arising under the *Medical Malpractice Act*, NMSA 1978, §§ 41-5-1 through 29 (1997).

The initial contract shall begin on July 01, 2011, or as soon as possible thereafter, and end on June 30, 2015.

C. SCOPE OF PROCUREMENT

The Agency reserves the option of renewing the initial contract on an annual basis for three additional one-year terms. In no case will the contract, including all renewals thereof, exceed a total of four years in duration.

D. PROCUREMENT MANAGER

The Agency has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address and telephone numbers are listed below.

Alan Seeley, Deputy Superintendent
Public Regulation Commission, Insurance Division
P.O. Box 1269
Santa Fe, NM 87504-1269
Telephone: (505) 827-4309
Fax: (505) 476-0326

Alan.seeley@state.nm.us

All deliveries via express carrier should be addressed as follows:

Alan Seeley, Deputy Superintendent
Public Regulation Commission, Insurance Division
1120 Paseo de Peralta, Room 430
Santa Fe, NM 87501

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other state employees do not have the authority to respond on behalf of the Agency.

E. DEFINITION OF TERMINOLOGY

This section contains definitions and abbreviations that are used throughout this procurement document.

1. "Agency" means the New Mexico Public Regulation Commission Insurance Division.
2. "Close of Business" means 5:00 p.m. Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.
3. "Commission" means the five-member Commission of the New Mexico Public Regulation Commission.
4. "Contract" means a written agreement for the procurement of items of tangible personal property or services.
5. "Contractor" means a successful offeror who enters into a binding contract.
6. "Determination" means the written documentation of a decision by the Procurement Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

7. "Desirable" means a discretionary or permissible, as opposed to mandatory, item or factor, as indicated by the terms "may", "can", "should", "preferably", or "prefers."
8. "Evaluation Committee" means a body appointed by the Agency management to perform the evaluation of offeror proposals.
9. "Evaluation Committee Report" means a document prepared by the Procurement Manager and the Evaluation Committee for submission to the Superintendent for contract award. It contains all written determinations resulting from the procurement.
10. "Finalist" means an offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.
11. "Mandatory" means a required, as opposed to desirable, item or factor, as indicated by the terms "must", "shall", "will", "is required", or "are required." Failure to meet a mandatory item or factor will result in the rejection of the offeror's proposal.
12. "Offeror" is any person, corporation, or partnership who chooses to submit a proposal.
13. "Procurement Manager" means the person or designee authorized by the Agency to manage or administer a procurement requiring the evaluation of competitive sealed proposals.
14. "Request for Proposals" or "RFP" means all documents, including those attached or incorporated by reference, used for soliciting proposals.
15. "Responsible Offeror" means an offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his or her financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.
16. "Responsive Offer" or "Responsive Proposal" means an offer or proposal which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality,

quantity or delivery requirements.

F. BACKGROUND INFORMATION

The New Mexico *Patient's Compensation Fund*, NMSA 1978, § 41-5-25, established under the *Medical Malpractice Act*, NMSA 1978, §§ 41-5-1 to -5-29, is administered by the Superintendent. The successful Offeror shall provide claims adjustment and administrative services for the Superintendent and the *Patients Compensation Fund* with regard to claims and cases arising under the *Medical Malpractice Act*.

II. CONDITIONS GOVERNING THE PROCUREMENT

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule:

<u>ACTION</u>	<u>RESPONSIBILITY</u>	<u>DATE</u>
1. Issue of RFP	Agency	9/12/11
2. Pre-Proposal conference	Agency, Potential Offerors	9/22/11
3. Acknowledgement of RFP Receipt Potential Offerors		9/26/11
4. Deadline to Submit Additional Questions	Potential Offerors	9/29/11
5. Response to Written Questions/RFP Amendments	Agency	10/ 4/11
6. Submission of Proposal	Offeror	10/10/11
7. Proposal Evaluation	Evaluation Committee	10/11/11 through 10/14/11
8. Selection/Notification of Finalists	Evaluation Committee	10/17/11
9. Best and Final Offers	Offeror	10/20/11
10. Oral Presentation by Finalists	Offeror	10/20/11
11. Recommendation Made and Presented to PRC	Evaluation Committee, Procurement Manager	10/21/11 through 10/27/11
12. Finalize Contract	Agency, Offeror	10/27/11 through 10/28/11
13. Contract Award	Agency	10/28/11
14. Protest Deadline	Offeror	11/15/11

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue of RFP

This RFP is being issued by the Agency, posted on the Agency's website, and advertised in a paper of general circulation in New Mexico and one other regional newspaper.

2. Pre-Proposal Conference

A pre-proposal conference will be held on September 22, 2011 at 10:00 a.m. Mountain Time at the PERA Building, 1120 Paseo de Peralta Santa Fe, New Mexico. Potential offerors are encouraged to submit written questions in advance of the conference to the Procurement Manager (See Section I, Paragraph D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All written questions will be addressed at the conference. A public log will be kept of the names of potential offerors that attended the pre-proposal conference. Attendance at the pre-proposal conference is not a prerequisite for submission of a proposal.

3. Acknowledgement of RFP Receipt Due

Potential offerors should hand deliver or return by registered or certified mail the "Acknowledgement of Receipt of Request For Proposals Form" that accompanies this document (See Appendix A) to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by close of business on September 26, 2011.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential offeror's organization name shall not appear on the distribution list.

4. Deadline to Submit Additional Written Questions

Potential offerors may submit additional written questions as to the intent or clarity of this RFP until close of business on September 29, 2011. All written questions must be addressed to the Procurement Manager (See Section I, Paragraph D).

5. Response to Written Questions/RFP Amendments

Written responses to written questions and any RFP amendments will be distributed on October 4, 2011 to all potential offerors whose organization name appears on the procurement distribution list. An Acknowledgement of Receipt Form will accompany the distribution package. The form should be signed by the offeror's representative, dated, and hand-delivered or returned by facsimile or by registered or certified mail by the date indicated thereon. Failure to return this form shall constitute a presumption of receipt and withdrawal from the procurement process. Therefore, the offeror's organization name shall be deleted from the procurement distribution list.

Additional written requests for clarification of distributed answers and/or amendments must be received by the Procurement Manager no later than three (3) days after the answers and/or amendments were issued.

6. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 4:00 P.M. MOUNTAIN TIME ON October 10, 2011. Proposals received after this deadline will not be accepted. The date and time will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section I, Paragraph D. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the Request for Proposals for Custodian to Act as Depository. Proposals submitted by facsimile will not be accepted.

A public log will be kept of the names of all offeror organizations that submitted proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing offerors prior to contract award.

7. Proposal Evaluation

The evaluation of proposals will be performed by an evaluation committee appointed by Agency management. This process will take place between October 11, 2011 and October 14, 2011. During this time, the Procurement Manager may initiate discussions with offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion.

Discussions SHALL NOT be initiated by the offerors.

8. Selection and Notification of Finalists

The Evaluation Committee will select and Procurement Manager will notify the finalist offerors on October 17, 2011. Only finalists will be invited to participate in the subsequent steps of the procurement. The schedule for the oral presentations will be determined at this time.

9. Best and Final Offers From Finalists

Finalist offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by October 20, 2011. Best and final offers may be clarified and amended at the finalist offeror's oral presentation.

10. Oral Presentation by Finalists

Finalist offerors will be required to present their proposals to the Evaluation Committee on October 20, 2011. The Procurement Manager will schedule the time and place for each offeror presentation. Each presentation will be limited to one hour in duration.

11. Recommendation Made and Presented to the PRC

The Evaluation Committee shall make a recommendation for one offeror, and the Procurement Manager shall present this recommendation to the Commission in an Open Meeting, all between October 21, 2011 and October 27, 2011.

12. Finalize Contract

The contract will be finalized with the most advantageous offeror between October 27, 2011 and October 28, 2011. In the event that mutually agreeable terms cannot be reached within the time specified, the Agency reserves the right to finalize a contract with the next most advantageous offeror without undertaking a new procurement process.

13. Contract Award

After review the Evaluation Committee Recommendation, the Agency will award the contract on October 28, 2011. This date is subject to change at the discretion of the Agency.

The contract shall be awarded to the offeror or offerors whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

14. Protest Deadline

Any protest by an offeror must be timely and in conformance with Section 13-1-172 NMSA 1978 and applicable procurement regulations. The fifteen (15) day protest period for responsive offerors shall begin on the day following the contract award and will end as of close of business on November 15, 2011 unless the contract award date is changed pursuant to paragraph 13. Protests must be written and must include the name and address of the protestor and the request for proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the State Purchasing Agent. The protest must be delivered to the Agency. Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the New Mexico General Services Department - State Purchasing Division Procurement Code Regulations, 1.4.1 NMAC.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the

Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Incurring Cost

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

3. Prime Contractor Responsibility

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the Agency.

4. Subcontractors

The use of subcontractors will be permitted, but only with prior approval by the Insurance Division.

5. Amended Proposals

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

6. Offerors' Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The offeror must submit a written withdrawal request signed by the offeror's duly authorized representative addressed to the Procurement Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after receipt of a best

and final offer if one is submitted.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Procurement Manager 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 nonconfidential 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 products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an offeror has made a written request for confidentiality, the Procurement Manager 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.

9. No Obligation

This procurement in no manner obligates the State of New Mexico or any of its agencies to the use of any proposed professional services until a valid written contract is awarded and approved by the appropriate authorities.

10. Termination

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

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. The Agency's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The Agency requires that all offerors agree to be bound by the General Requirements contained in this RFP. Any offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Governing Law

This procurement and any agreement with offerors that may result shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied by the Agency in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of offeror proposals.

15. Contract Terms and Conditions

The contract between the Agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in Appendix B, "Contract Terms and Conditions". However, the Agency reserves the right to negotiate with a successful offeror provisions in addition to those contained in this RFP. The contents of this RFP, as revised and/or supplemented, and the successful offeror's proposal will be incorporated into and become part of the contract.

Should an offeror object to any of the Agency's terms and conditions, as contained in this Section or in Appendix B, that offeror must propose specific alternative language. The Agency may or may not accept the alternative language. General references to the offeror's terms and conditions or attempts at complete substitutions are not acceptable to the Agency and will result in disqualification of the offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions which they expect to have included in a contract negotiated with the Agency.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Agency and the selected offeror and shall not be deemed an opportunity to amend the offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any offeror who is not a responsible offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the mandatory requirements and/or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

The Agency reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the Agency, meeting its needs adequately.

21. Notice

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

22. Agency Rights

The Agency reserves the right to accept all or a portion of an offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, potential offerors, offerors and contractors must secure from the Agency written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the offeror's proposal or termination of the contract.

24. Ownership of Proposals

All documents submitted in response to this Request for Proposals shall become the property of the Agency and the State of New Mexico.

25. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

26. Use of Electronic versions of this RFP

This RFP is being made available by electronic means. If accepted by such means, the offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the offeror's possession and the version maintained by the Agency, the version maintained by the Agency shall govern.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal.

B. NUMBER OF COPIES

Offerors shall deliver three identical copies of their proposal to the location specified in Section I, Paragraph D on or before the closing date and time for receipt of proposals, one copy for each of the members of the Evaluation Committee.

C. PROPOSAL FORMAT

All proposals must be typewritten on standard 8 1/2 x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within a binder with tabs delineating each section.

1. Proposal Organization

The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated below:

- a. Letter of Transmittal
- b. Table of Contents
- c. Proposal Summary
- d. Response to Mandatory Specifications
- e. Completed Cost Response Form
- g. Response to Agency Terms and Conditions
- h. Offeror's Additional Terms and Conditions
- i. Other Supporting Material

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The proposal summary may be included by offerors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the offeror's proposal.

Offerors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

2. Letter of Transmittal

Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:

- a. identify the submitting organization;
- b. identify the name and title of the person authorized by the organization to contractually obligate the organization;
- c. identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;
- d. identify the names, titles and telephone numbers of persons to be contacted for clarification;
- e. explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II, Paragraph C.1;
- f. be signed by the person authorized to contractually obligate the organization;
- g. acknowledge receipt of any and all amendments to this RFP.

IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each mandatory specification. The narratives along with required supporting materials will be evaluated and awarded points accordingly.

A. INFORMATION

1. Agency Resources

The Chief Deputy Superintendent or the Superintendent will make case

assignments and work with the contractor, reviewing the contractor's work, analysis and reports, and will provide settlement authority. Agency staff will work with the contractor to secure payment vouchers and warrants for payment of claims.

2. Work Performance

The contractor shall provide competent claim adjusting services with regard to medical malpractice claims, provide routine status and evaluative reports to the Agency and maintain appropriate documentation of adjusting services provided.

3. Level of Effort

The contractor will work on an as-needed basis, dependent upon the volume and complexity of cases assigned.

4. Time Frame

The contract is scheduled to begin on October 28, 2011 or as soon as possible thereafter.

B. MANDATORY SPECIFICATIONS

The proposal must address the following areas in order to meet the minimum qualifications for consideration.

1. Minimum Qualifications

The Offeror must be a highly motivated, responsible, efficient and competent individual with extensive experience in the adjusting and administration of medical malpractice, property and casualty insurance claims, either in New Mexico or in other States.

2. Experience

Offerors must submit résumés and a statement of relevant experience of all individuals to be performing work under the contract, including the experience of any staff and, if appropriate, subcontractors.

Offerors should include in their proposal copies of their New Mexico Bar card and other appropriate professional certifications.

Offerors should include in their proposals samples of work performed for previous clients.

3. References

Proposals must include three (3) external client references from clients who received similar services. In addition, one (1) reference must be submitted for each proposed subcontractor. The minimum information that must be provided about each reference is:

- a. Name and address of individual or company
- b. Name, telephone number and email address of contact person
- c. Type of services provided and dates services were provided

4. Cost

Offerors must propose a schedule of fees they will bill for their services. See Appendix C.

5. Oral Presentation

If selected as a finalist, each offeror agrees to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee in the finalist notification letter at the oral presentation. A statement of concurrence is required.

V. EVALUATION

A. EVALUATION POINT SUMMARY

The selected Offeror must meet the minimum qualifications of offerors and requirements set out above. The award of a contract shall be made to the competent and responsible Offeror whose proposal is most advantageous to the Division, taking into consideration the following weighted criteria evaluation. Please note, however, that the listing of cost as an evaluation criterion does not require the Division to select the Offeror who submits the lowest cost proposal.

A serious deficiency in any one criterion may be grounds for rejection regardless of overall score. In evaluating an offeror's knowledge and experience, the Division shall weigh the relevant knowledge and experience of the Offerors. The following is a summary of evaluation factors with point value assigned to each. These, along with the general requirements, will be used in the evaluation of Offeror proposals.

<u>Factor</u>	<u>Points Available</u>
1. Experience	250
2. References	125
3. Cost	100
4. Oral Presentation	<u>25</u>
TOTAL:	500

B. EVALUATION FACTORS

Points will be awarded on the basis of the following evaluation factors:

1. Experience (250 points)

Evaluation will include Offerors' experience in the particular areas of medical malpractice, property and casualty insurance claims as well as general litigation experience. The experience of the offeror includes that of any staff and subcontractors.

2. References (125 points)

Points for references will be awarded based upon an evaluation of the offeror's work for

previous clients receiving services similar to those proposed by the offeror for this contract.

3. Cost (100 points)

The evaluation of each offeror's cost proposal will be conducted using the following formula:

$$\frac{\text{Lowest Responsive Offer Average Hourly Rate}}{\text{this offeror's Average Hourly Rate}} \times 100 = \text{Award Points}$$

4. Oral Presentation (25 points)

Points for the oral presentation will be awarded based upon an evaluation of the qualifications of the proposed staff. Effective communication, technical knowledge, experience with similar contracts and the quality of the responses to questions will be the principle criteria for the evaluation.

C. EVALUATION PROCESS

The evaluation process will follow the steps listed below:

1. All offeror proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

2. The Procurement Manager may contact the offeror for clarification of the response as specified in Section II, Paragraph B.7.

3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section II, Paragraph C.18.

4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible offerors with the highest scores will be selected as finalist offerors based upon the proposals submitted. Finalist offerors who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from the oral presentations will be added to the previously assigned points to attain final scores. The

responsible offeror whose proposal is most advantageous to the Agency, taking into consideration the evaluation factors in Section V, will be recommended for contract award as specified in Section II, Paragraph B.12. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

Acknowledgement of Receipt Form

REQUESTS FOR PROPOSALS FOR
THE ADMINISTRATION AND ADJUSTMENT OF CLAIMS UNDER
THE *MEDICAL MALPRACTICE ACT*, NMSA 1978, §§ 41-5-1 TO -5-29 (1997)

ACKNOWLEDGEMENT OF RECEIPT FORM

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix C. The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than close of business on September 26 2011. Only potential offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all offeror written questions and the Agency's written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

This firm does/does not (**circle one**) intend to respond to this Request for Proposals.

This firm will use the following name and address for all correspondence related to the Request for Proposal:

Alan Seeley, Deputy Superintendent
Insurance Division, Public Regulation Commission
P.O. Box 1269
Santa Fe, NM 87504-1269
Telephone: (505) 827-4309
Fax: (505) 476-0326
Alan.Seeley@state.nm.us

APPENDIX B

Contract Terms and Conditions

STATE OF NEW MEXICO

PUBLIC REGULATION COMMISSION
PROFESSIONAL SERVICES CONTRACT # _____

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **PUBLIC REGULATION COMMISSION INSURANCE DIVISION**, hereinafter referred to as the "Agency" and _____, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by both parties.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

A. The Contractor shall perform the following work:
The New Mexico Patient's Compensation Fund, NMSA 1978, Section 41-5-25, established under the Medical Malpractice Act, NMSA 1978, Sections 41-5-1 to -5-29, is administered by the Superintendent of Insurance for the Public Regulation Commission. The Contractor shall provide claims adjustment and administrative services for the Superintendent and the Patient's Compensation Fund with regard to claims and cases arising under the Medical Malpractice Act.

The Contractor shall provide services under this Agreement for such claims and cases as the Superintendent may assign. The Superintendent may, in his sole discretion, assign or reassign claims and cases, as he deems expedient. By entering into this Agreement, the Superintendent does not grant the Contractor the right to handle any particular claims and cases or any particular volume of claims and cases. The Contractor shall:

1. Provide claims administration for claims arising under the Medical Malpractice Act, including prompt, competent, thorough and cost-effective investigation and adjustment services;
2. Engage in settlement negotiations;
3. Contact all claimants and attorneys promptly after receipt of each claim and handle all claims in accordance with accepted claims administration and adjusting procedures, including such procedures and instructions as the Superintendent may specify;
4. Conduct all activities under this Agreement so as not to violate any provision of Article 16 (Trade Practices and Frauds) of the New Mexico Insurance Code, NMSA 1978, § 59A-16-1 to -16-30;
5. Maintain complete records and files of claims;

6. Submit periodic reports and summaries on a timely basis to the Superintendent to assist him in making an accurate assessment of each claim, including the possibility, cost and advisability of settlement;

7. Comply with the Superintendent's instructions in carrying out the Contractor's duties under this Agreement;

8. Provide the Superintendent with the terms of any arrangement and personnel to be used in association with other adjusters, if any, and remain responsible for the supervision and assume liability for errors and omissions of all associated persons and firms. All associated subcontracts must be approved in advance by the Superintendent;

9. Provide a qualified and experienced claims administrator as liaison with the Superintendent;

10. Make a claims adjuster available in Santa Fe to review claims files with the Superintendent on an "as-needed" basis;

11. Maintain all open and closed files at one central office within New Mexico that are available for review by the Superintendent or his designee(s) as required;

12. Cooperate and work with attorneys and other persons designated by the Superintendent, and provide copies of all pleadings, correspondence and other filed materials on an ongoing basis to any such person; and

13. Provide such other services in connection with the administration of the Medical Malpractice Act and the Patient's Compensation Fund as the Superintendent may request.

B. Services will be performed within the state of New Mexico.

C. Contractor shall substantially perform the following Performance Measures:

1. The Contractor shall attend all mediations where settlement authority has been granted by the Patient's Compensation Fund, as well as all court ordered mediations requiring Patient's Compensation Fund attendance. This shall be done throughout the fiscal years in order for the Superintendent to issue warrants payable under NMSA 1978, Section 41-5-25.

2. Attend a portion of all trials where there may be a judgment involving the Patient's Compensation Fund. This shall be done in order to advise the Superintendent of potential risk to the Patient's Compensation Fund.

2. Compensation.

A. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed _____. This amount is a maximum and not a guarantee that the work assigned to Contractor under this Agreement to be performed shall equal the amount stated herein.**

B. The Agency shall pay to the Contractor in full payment for services satisfactorily performed at the rate of _____, such compensation not to exceed _____ (as set forth in Paragraph A) including gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling _____ shall be paid by the Agency to the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

THIS AGREEMENTS SHALL BECOME EFFECTIVE ON October 28, 2011. This Agreement shall terminate on June 30, 2012, unless terminated pursuant to paragraph 4, infra, or paragraph 5. In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978. Accordingly, this agreement shall be renewable for one year, with no more than three renewals total possible.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date

of termination. Except as otherwise allowed or provided under this Agreement, the Agency's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the Agency is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Agency or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*"

B Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding,

use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind 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.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Agency.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

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

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

13. Amendment.

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

14. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

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

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency by certified mail.

21. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

22. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

23. Notices.

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

**To the Agency: Alan Seeley, Deputy Superintendent
Insurance Division, New Mexico Public Regulation Commission
1120 Paseo De Peralta/ P.O. Box 1269
Santa Fe, New Mexico 87504
alan.seeley@state.nm.us**

To the Contractor:

24. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of final signature below.

By: _____ Date: _____
John Montoya, Chief of Staff
Agency

By: _____ Date: _____
John G. Franchini, Superintendent of Insurance
Agency

By: _____ Date: _____
Insurance Division Legal Counsel certifying legal sufficiency

By: _____ Date: _____
Contractor

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

ID Number: _____

By: _____ Date: _____
Taxation and Revenue Department

APPENDIX C
COST RESPONSE FORM

SUMMARY OF PROPOSED RATES

The Offeror listed below submits the following firm, fixed Schedule of fees to complete the requirements as outlined in this RFP for the State of New Mexico.

SERVICE CLASSIFICATION	FEE
1. _____	_____
2. _____	_____
3. _____	_____

Offeror Name: _____