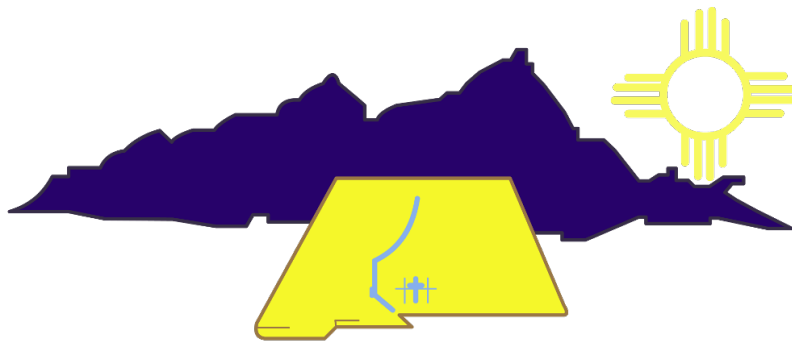


**DOÑA ANA MUTUAL DOMESTIC WATER CONSUMERS
ASSOCIATION**

REQUEST FOR PROPOSALS (RFP)

Legal Services



RFP# 2021 – 01

Release Date: January 15, 2021

Due Date: January 28, 2021

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of **Legal Services**

B. BACKGROUND INFORMATION

Doña Ana Mutual Domestic Water Consumers Association is requesting proposals RFP's from qualified legal firms and practitioners to provide professional legal services to designated officers and employees of the Association.

C. SCOPE OF PROCUREMENT

Proposals are hereby requested from qualified Offerors to provide professional legal services as general counsel to assist the Association's Board of Directors and Executive Director with various projects that may be assigned from time to time. The Association reserves the right to award one or more contracts in each area of expertise as described below.

Responsibilities include attending monthly board meetings, or other public meetings if requested, addressing any legal matter that arises, including but not limited to State of New Mexico water law, U.S. Reclamation Law, tort claims, watershed easements, reviewing contracts, reviewing services and goods, proposals and procurement, advising on personnel matters, drafting and reviewing and defending resolutions, statutes and regulations, planning and zoning, historic preservation, environmental law, intergovernmental affairs, and may include various areas of litigation. Offerors must possess necessary licenses to enable them to provide representation to the Association before New Mexico State and Federal Courts. Contractors will be expected to be proactively aware of and involved to counsel in matters of import to the Association.

D. PROCUREMENT MANAGER

1. Doña Ana Mutual Domestic Water Consumers Association has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name:	Margo Lopez, Procurement Manager
Address:	Doña Ana Mutual Domestic Water Consumers Association 5535 Ledesma Drive, Las Cruces, NM 88007 or PO Box 866, Dona Ana, NM 88032
Telephone:	(575) 526-3491
Email:	margo@dawater.org

2. All deliveries of responses via express carrier must be addressed as follows:

Name: Margo Lopez, Procurement Manager
Reference RFP Name: Legal Service
RFP# 2021 – 01
Address: Doña Ana Mutual Domestic Water Consumers Association
5535 Ledesma Drive
Las Cruces, NM 88007

3. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of Doña Ana Mutual Domestic Water Consumers Association. **Protests of the solicitation or award must be delivered by mail to the Protest Manager.** As A Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Emailed protests will not be considered as properly submitted nor will protests delivered to the Procurement Manager be considered properly submitted.

E. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations:

“Association” means Doña Ana Mutual Domestic Water Consumers Association.

“Authorized Purchaser” means an individual authorized by a Participating Entity to place orders against this contract.

“Award” means the final execution of the contract document.

“Business Hours” means 8:00 AM thru 5:00 PM Local Time, whichever is in effect on the date given.

“Close of Business” means 5:00 PM Local Time, whichever is in use at that time.

“Confidential” means confidential financial information concerning offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7. See NMAC 1.4.1.45. As one example, no information that could be obtained from a source outside this request for proposals can be considered confidential information.

“Contract” means any agreement for the procurement of items of tangible personal property, services or construction.

“Contractor” means any business having a contract with a state agency or local public body.

“Desirable” the terms "may", "can", "should", "preferably", or "prefers" identify a desirable or discretionary item or factor.

“Evaluation Committee” means a body appointed to perform the evaluation of Offerors’ proposals.

“Evaluation Committee Report” means a report prepared by the Procurement Manager and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.

“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.

“Hourly Rate” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

“Mandatory” – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

“Minor Technical Irregularities” means anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.

“Multiple Source Award” means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“Procurement Manager” means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.

“Redacted” means a version/copy of the proposal with the information considered confidential as defined by NMAC 1.4.1.45 and defined herein and outlined in Section II.C.8 of this RFP blacked out BUT NOT omitted or removed.

“Request for Proposals (RFP)” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Responsible Offeror” means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his 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.

“Responsive Offer” or means an offer 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.

“Sealed” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

“Staff” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

“Statement of Concurrence” means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (E.g. “We concur”, “Understands and Complies”, “Comply”, “Will Comply if Applicable” etc.)

“Unredacted” means a version/copy of the proposal containing all complete information including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.

“Written” means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates Sample Time Frames
1. Issue RFP	Dona Ana MDWCA	January 15, 2021
2. Distribution List	Dona Ana MDWCA	January 20, 2021
4. Deadline to submit Questions	Potential Offerors	January 25, 2021
5. Response to Written Questions	Procurement Manager	January 26, 2021
6. Submission of Proposal	Potential Offerors	January 28, 2021
11. Finalize Contractual Agreements	Dona Ana MDWCA /Finalist Offeror	February 2, 2021
12. Contract Awards	Dona Ana MDWCA / Finalist Offeror	February 4, 2021
13. Protest Deadline	Dona Ana MDWCA	February 19, 2021

B. EXPLANATION OF EVENTS

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

1. Issuance of RFP

This RFP is being issued on behalf of Doña Ana Mutual Domestic Water Consumers Association on January 15, 2021

2. Acknowledgement of Receipt

Potential Offerors should hand deliver, return by registered or certified mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, 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 to the Procurement Manager by 2:00 pm MST or MDT on January 20, 2021.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt 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.

3. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 2:00 Local Time as indicated in the sequence of events. All written questions must be addressed to the Procurement Manager as declared in Section I, Paragraph D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

4. Response to Written Questions

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offeror's that provide Acknowledgement of Receipt Forms described in II.B.2 before the deadline.

5. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 2:00 PM LOCAL TIME ON **January 28, 2021**. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section I, Paragraph D2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the **Legal Services RFP #2021-01**. Proposals submitted by facsimile or other electronic means, will not be accepted.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required state agency signature on the contract(s) resulting from the procurement has been obtained.

6. Proposal Evaluation

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in the sequence of events, depending upon the number of

proposals received. 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. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

7. Finalize Contractual Agreements

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s) as per schedule Section II. A., Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of the Doña Ana Mutual Domestic Water Consumers Association. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the Association reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

8. Contract Awards

After review of the Evaluation Committee Report and the signed contractual agreement, The Association will award as per the schedule in Section II. A., Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the Doña Ana Mutual Domestic Water Consumers Association.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to Doña Ana Mutual Domestic Water Consumers Association, taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points.

9. Protest Deadline

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Local Time on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Jennifer J. Horton, Executive Director
Dona Ana Mutual Domestic Water Consumers Association
PO Box 866

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Potential 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 potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with The Association which may derive from this RFP. The Association entering into a contractual agreement with a vendor will make payments to only the prime contractor.

4. Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from The Association awarding any resultant contract, before any subcontractor is used during the term of this agreement.

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 Association personnel will not merge, collate, or assemble proposal materials.

6. Offeror's 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 addressed to the Procurement Manager and signed by the Offeror's duly authorized representative.

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

7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals.

8. Disclosure of Proposal Contents

- A. Proposals will be kept confidential until negotiations and the award are completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
- B. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
- C. Confidential data is restricted to:
 - 1. confidential financial information concerning the Offeror's organization;
 - 2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
 - 3. PLEASE NOTE: 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 Association 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 RFP in no manner obligates The Association to the use of any Offeror's services until a valid written contract is awarded and approved by 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 Doña Ana Mutual Domestic Water Consumers Association.

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 terminations will be effected by sending written notice to the contractor. Doña Ana Mutual Domestic Water Consumers Association's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The Association requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror's concerns must be promptly submitted in writing to the attention of the Procurement Manager.

13. Governing Law

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

14. Basis for Proposal

Only information supplied, in writing, by the Agency 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 Association and a contractor will follow the format specified by The Association and contain the terms and conditions set forth in Appendix C. However, The Association reserves the right to negotiate provisions in addition to those contained in this RFP with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of any resultant contract.

The Association discourages exceptions from the contract terms and conditions as set forth in the RFP. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of Doña Ana Mutual Domestic Water Consumers Association, the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should an Offeror object to any of the terms and conditions as set forth in the RFP (APPENDIX C) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The Association may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions of the Contract are not acceptable to The Association 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.

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an **explicit agreement** by the Offeror that the contractual terms and conditions contained herein are **accepted** by the Offeror.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Agency. Please see Section II.C.15 for requirements.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Offeror), will be discussed only between The Association and the Offeror selected 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 potential Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a responsive offer as defined in NMSA 1978, § 13-1-83 and 13-1-85.

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 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 Evaluation Committee.

20. Change in Contractor Representatives

The Agency reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of Doña Ana Mutual Domestic Water Consumers Association, adequately meeting the needs of Doña Ana Mutual Domestic Water Consumers Association.

21. Notice of Penalties

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

22. Agency Rights

The Association in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from The Association written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or agency contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or removal from the contract.

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of Doña Ana Mutual Domestic Water Consumers Association.

25. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of Doña Ana Mutual Domestic Water Consumers Association.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring Doña Ana Mutual Domestic Water Consumers Association's written permission.

26. 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. (See also Section II.B.5, Response to Written Questions).

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the Doña Ana Mutual Domestic Water Consumers Association, the Offeror acknowledges that the version maintained by The Association shall govern.

28. New Mexico Employees Health Coverage

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <http://www.insurenwnewmexico.state.nm.us/>.
- D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

29. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX B, as a part of their proposal. This requirement applies regardless whether a

covered contribution was made or not made for the positions of Governor and Lieutenant Governor or other identified official. Failure to complete and return the signed unaltered form will result in disqualification.

30. Letter of Transmittal

Offeror's proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX E which must be completed and signed by an individual person authorized to obligate the company. The letter of transmittal MUST:

1. Identify the submitting business entity.
2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.
5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.
7. Identify the following with a check mark and signature where required:
 - a. **Explicitly** indicate acceptance of the Conditions Governing the Procurement stated in Section II. C.1;
 - b. **Explicitly** indicate acceptance of Section V of this RFP; and
 - c. Acknowledge receipt of any and all amendments to this RFP.
8. Be signed by the person identified in para 2 above.

31. Pay Equity Reporting Requirements

- A. If the Offeror has ten (10) or more employees OR eight (8) or more employees in the same job classification, Offeror must complete and submit the required reporting form (PE10-249) if they are awarded a contract. Out-of-state Contractors that have no facilities and no employees working in New Mexico are exempt if the contract is directly with the out-of-state contractor and fulfilled directly by the out-of-state contractor, and not passed through a local vendor.
- B. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Offeror must also agree to complete and submit the required form annually within thirty (30) calendar days of the annual bid or proposal submittal anniversary date and, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract.

- C. Should Offeror not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, Offeror must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.
- D. Offeror must also agree to levy these reporting requirements on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Offeror must further agree that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, offer will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement.

32. Disclosure Regarding Responsibility

- A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
 - 1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
 - 2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers; or
 - c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
 - 3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
 - 4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the

Doña Ana Mutual Domestic Water Consumers Association

liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

- b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Contractor shall provide immediate written notice to the Procurement Manager for the Association or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
- D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the Procurement Manager for the Association or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the Procurement Manager for the Association Officer may terminate the involved contract for cause. Still further the Procurement Manager for the Association may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the Procurement Manager for the Association.

33. New Mexico Preferences

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors must include a copy of their preference certificate with their proposal. Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue <http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx>.

A. New Mexico Business Preference

B. New Mexico Resident Veterans Business Preference

In addition to a copy of the certification, the Offeror should sign and complete the Resident Veterans Preference Certificate form, as provided in this RFP.

An agency shall not award a business both a resident business preference and a resident veteran business preference.

The New Mexico Preferences shall not apply when the expenditures for this RFP includes federal funds.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES

1. Hard Copy Responses

Offeror's proposal must be clearly labeled and numbered and indexed as outlined in **Section III.C. Proposal Format**. Proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the binder. Each portion of the proposal (technical/cost) must be submitted in separate binders and must be prominently displayed on the front cover. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

Offerors should deliver:

1. **Technical Proposals** – One (1) ORIGINAL, four (2) HARD COPIES, proposal containing ONLY the Technical Proposal; ORIGINAL and COPY shall be in separate labeled binders.
 - Proposals containing confidential information **must** be submitted as two separate binders:
 - **Unredacted** version for evaluation purposes
 - **Redacted** version (information blacked out and not omitted or removed) for the public file
2. **Cost Proposals** – One (1) ORIGINAL, four (2) HARD COPIES, proposal containing ONLY the Cost Proposal; ORIGINAL and COPY of Cost Proposal shall be in separate labeled binders from the Technical Proposals.

Any proposal that does not adhere to the requirements of this Section and **Section III.C.1 Response Format and Organization**, may be deemed non-responsive and rejected on that basis.

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Hard copies must be typewritten on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

1. Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Technical Proposal (Binder 1):

- A. Signed Letter of Transmittal
- B. Table of Contents
- C. Proposal Summary (Optional)
- D. Response to Contract Terms and Conditions
- E. Offeror's Additional Terms and Conditions
- F. Response to Specifications (**except cost information which shall be included in Cost Proposal/Binder 2 only**)
 - 1. Organizational Experience
 - 2. Organizational Qualifications
 - 3. Mutual Domestic Experience
 - 4. Oral Presentation
 - 5. Conflicts of Interest (May Be Marked as Confidential)
 - 6. Signed Campaign Contribution Form
 - 7. New Mexico Preferences (If applicable)
- G. Other Supporting Material (If applicable)

Cost Proposal (Binder 2):

- 1. Completed Cost Response Form

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates or expenses must occur only in Binder #2 on the cost response form.

The proposal summary may be included by potential Offerors to provide the Evaluation Committee with an overview 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.

IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

A. DETAILED SCOPE OF WORK

Responsibilities include attending monthly board meetings, or other public meetings if requested, addressing any legal matter that arises, including but not limited to State of New Mexico water law, U.S. Reclamation Law, tort claims, watershed easements, reviewing contracts, reviewing services and goods, proposals and procurement, advising on personnel matters, drafting and reviewing and defending resolutions, statutes and regulations, planning and zoning, historic preservation, environmental law, intergovernmental affairs, and may include various areas of litigation. Offerors must possess necessary licenses to enable them to provide representation to the Association before New Mexico State and Federal Courts. Contractors will be expected to be proactively aware of and involved to counsel in matters of import to the Association.

The Association may request written reports on the status of pending cases and other matters. The Offeror shall address and designate which of the following area(s) of expertise, experience, and interest the attorney or law firm is proposing to provide:

1. **General and Auto Liability** - Defense of the Association and its employees or agents in cases brought under the New Mexico Tort Claims Act or similar laws. This includes cases alleging negligence in the operation and maintenance of motor vehicles, storm water drainage, grounds, buildings, etc.
2. **Public Official Liability** - Representation of the Association and its officials, officers and employees in matters involving alleged violations of state and federal civil rights laws or other unlawful or improper actions or activities.
3. **Security Liability** - Defense of the Association and its employees or agents in cases involving allegations of negligent or wrongful conduct involving security activities.
4. **Personnel and Labor** - Representation of the Association and its employees in matters involving the hiring, discipline, termination or other actions taken as an employer, including wrongful termination, sexual harassment, equal employment opportunity, wage and hour, and similar issues. Also includes representation of the Association management in collective bargaining or other labor/management issues.
5. **Water Rights** - Advice and representation regarding the acquisition and protection of the Association's water rights.
6. **Environmental Law** - Advice and representation in regards to local, state and federal laws protecting the environment.
7. **Land Use Law** - Representation in cases involving land use issues planning and platting, zoning, building codes, etc.
8. **Workers Compensation** - Representation of the Association as employer in matters concerning workers' compensation; defense of claims; advise Association officials as to matters pertaining to its obligations under the New Mexico Workers Compensation statutes.

9. **Employee Benefits** - Advise the Association as to federal and state law regarding employee health insurance and other benefits.
10. **Bond Disclosure and Financial Counsel** - Advise the Association on New Mexico bond law including but not limited to: general obligation bonds, revenue bonds, utility bonds, special assessment and improvement districts; Federal and State Securities laws and regulations which relate to bonds, bond marketing and disclosure requirements; Federal and state tax laws which affect New Mexico water and wastewater providers and their bonds and obligations including, but not limited to taxes such as income, gross receipts, and excise taxes which are pledged to secure payment of bonds and undertakings; Industrial Revenue Bonds, and other conduit financing; liens and finances, debt limitations and constitutional constraints upon educational spending and financing.
11. **Real Estate Transactions** – Advise the Association on New Mexico Real Estate Law issues including but not limited to property leasing, purchasing, eminent domain, and selling and renting.

B. Qualifications of Offerors

1. Offerors must be licensed pursuant to the requirements of any applicable statutes and must be in good standing and have a good reputation for reliability, honesty and integrity.
2. Offeror should provide excerpts from any standard publications, which refer to the qualifications or standing of the firm or practitioner such as a listing in Martindale Hubbell, the bond buyer red book, and similar journals, or publications.
3. The attorney(s) named in the proposal submitted by the Offeror shall remain responsible throughout the period of the resultant agreement. No diversion or replacement may be made without submission of the proposed replacement with final approval being granted by the Association's Board of Directors.
4. Submit resumes of the principal lawyers or attorneys who will be providing the services contemplated to the Association together with identification of the particular specialty or area of expertise of each such individual or the role of each such individual.
5. Identify depth of staffing, ability of Offeror to respond quickly to requests for service.
6. Identify the familiarity of the Offeror with the Association, its utilities, structure, financing, etc.
7. The successful Offeror should be prepared to commence work immediately upon award of contract.
8. Offerors proposal shall address their skill, ability, expertise, and experience in the following areas:
 - a. Research capabilities; ability to draft legal opinions and give advice to the Association on legal matters;
 - b. Dedication of blocks of time and continuous effort toward the cases and projects which may be assigned.
 - c. Experience and knowledge of rules of procedure, motion practice, discovery practice, trial preparation and trial, technique and practice.

C. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offerors **must**:

Provide a description of experience and ability of the attorney(s) (individual) listed in the Offeror's proposal in the specified area(s) of law referenced in Section IV, Item A – Detailed Scope of Work.

2. Organizational Qualifications

Provide a description of experience and ability of the attorney(s) (individual) listed in the Offeror's proposal in the areas referenced in Section IV, Item B - Qualifications of Offerors.

3. Mutual Domestic Experience

Provide a description of general experience, qualifications and resources of the Offeror (firm) in providing representation and services to other Mutual Domestics in the State of New Mexico

D. BUSINESS SPECIFICATIONS

1. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX E. The form **must** be completed and must be signed by the person authorized to obligate the company.

2. Conflicts of Interest

The Offeror's proposal **must** be accompanied by a list of potential conflicts of interest the Offeror may have if selected to represent Doña Ana Mutual Domestic Water Consumers Association. (May be marked confidential)

3. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B)

4. Cost

Offerors must complete the Cost Response Form in APPENDIX D. Cost will be measured by hourly rate. All charges listed on APPENDIX D must be justified and evidence of need documented in the proposal.

5. Resident Business or Resident Veterans Preference

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors must include a copy of their preference certificate in this section. In addition, for resident Veterans Preference, the attached certification Form (APPENDIX G) must accompany any Offer and any business wishing to receive the preference must complete and sign the form.

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category.

Factors – correspond to section IV.B and IV C	Points Available
	Points must be assigned and defined for all factors (must total 100% of available points)
B. 1. Organizational Experience	350
B. 2. Organizational Qualifications	350
B. 3. Mutual Domestic Experience	200
C.1. Letter of Transmittal	Pass/Fail
C.2. Conflicts of Interest	Pass/Fail
C.3. Signed Campaign Contribution Disclosure Form	Pass/Fail
C.4. Cost	100
TOTAL	1,000 points
C.5. New Mexico Preference - Resident Vendor	Points per Section IV C. 6
C.5. New Mexico Preference - Resident Veterans	Points per Section IV C.6

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

1. B.1 Organizational Experience

Experience and ability of the attorney(s) (individual) listed in the Offeror's proposal in the specified area(s) of law referenced in Section IV, Item A – Detailed Scope of Work.

2. B.2 Organizational Qualifications

Experience and ability of the attorney(s) (individual) listed in the Offeror's proposal in the areas referenced in Section I, Item C - Qualifications of Offerors.

3. B.3 Mutual Domestic Experience

Experience of the Offeror with Mutual Domestic Water Consumers in the State of New Mexico

4. C.1 Letter of Transmittal

Pass/Fail only. No points assigned.

5. C.2 Conflicts of Interest

Pass/Fail only. No points assigned.

6. C.3 Campaign Contribution Disclosure Form

Pass/Fail only. No points assigned.

7. C.4 Cost

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

$$\frac{\text{Lowest Responsive Offer Bid}}{\text{This Offeror's Bid}} \times \text{Available Award Points}$$

8. C.5 New Mexico Preferences

Percentages will be determined based upon the point based system outlined in NMSA 1978, § 13-1-21 (as amended).

A. New Mexico Business Preference

If the Offeror has provided their Preference Certificate the Preference Points for a New Mexico Business is 5%.

B. New Mexico Resident Veterans Business Preference

If the Offeror has provided their Preference Certificate **and** the Resident Veterans Certification Form the Preference Point are one of the following:

- 10% for less than \$1M (prior year revenue)
- 8% for more than \$1M but less than \$5M (prior year revenue)
- 7% for more than \$5M (prior year revenue)

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.

3. The Evaluation Committee may use other sources of to perform the evaluation as specified in Section II. C.18.
4. Responsive proposals will be evaluated on the factors in Section V, which have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the State taking into consideration the evaluation factors in Section IV will be recommended for award (as specified in Section II. B.8). 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

APPENDIX A
REQUEST FOR PROPOSAL
LEGAL SERVICES RFP 2021 – 01
ACKNOWLEDGEMENT OF RECEIPT FORM

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that s/he has received a complete copy, beginning with the title page and table of contents, and ending with APPENDIX G.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than January 20, 2021 at 2:00 p.m. local time. 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 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 name and address will be used for all correspondence related to the Request for Proposal.

Firm does/does not (circle one) intend to respond to this Request for Proposal.

Margo Lopez, Procurement Manager
Legal Services RFP 2021 – 01
Doña Ana Mutual Domestic Water Consumers Association

PO Box 866
Dona Ana, NM 88032
E-mail: margo@dawater.org

or 5535 Ledesma Drive
Las Cruces, NM 88007

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Campaign Contribution Disclosure Form

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

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

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

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

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

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

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

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

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

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

—OR—

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

Signature

Date

Title (Position)

APPENDIX C

AGREEMENT FOR PROFESSIONAL LEGAL SERVICES

APPENDIX C

AGREEMENT PROFESSIONAL LEGAL SERVICES #2021-01

THIS AGREEMENT, made and entered into this (Day) of (Month) between Doña Ana Mutual Domestic Water Association ("ASSOCIATION"), and _____ ("LAW FIRM") whose address is the ASSOCIATION and LAW FIRM also being herein referred to collectively as the "Parties". The Association Board of Directors of Doña Ana MDWCA Association approved the proposal of the LAW FIRM on (Date) for providing professional legal services as described in this Agreement.

ARTICLE 1 BASIS OF COMPENSATION

For Services, as described in Paragraphs 2.1 through 19.1, compensation shall be computed as follows:

1.1 The ASSOCIATION agrees to pay to the LAW FIRM such amounts for legal services as the LAW FIRM may bill to the ASSOCIATION according to the fee schedule attached as Attachment A.

1.2 The ASSOCIATION further agrees to reimburse the LAW FIRM for actual disbursements advanced by it on behalf of the ASSOCIATION including, but not necessarily limited to, expenses for long distance phone calls, facsimiles, travel reimbursement, out-of-town lodging, photocopy, and express mail, including applicable taxes, etc.

ARTICLE 2 TERM OF AGREEMENT

2.1 This Agreement shall be effective as of the 4th day of February, 2021 and shall continue until the 30th day of June, 2024. This Agreement shall thereafter be automatically renewed from year to year for three (3) additional one year terms without the necessity of further action on the part of either party and it shall expire, unless previously terminated as specified in Article 4.

ARTICLE 3 LAW FIRM'S SERVICES AND RESPONSIBILITIES

3.1 The LAW FIRM represents it is qualified by training and experience to render and perform the legal services contemplated by this Agreement.

2.1.1 The LAW FIRM shall, upon request of the ASSOCIATION which may be made during the terms of this Agreement or any renewal thereof, render the following legal services to the ASSOCIATION particularly in the areas of:

3.1.2 General and Auto Liability - Defense of the Association and its employees or agents in cases brought under the New Mexico Tort Claims Act or similar laws. This includes cases alleging negligence in the operation and maintenance of motor vehicles, storm water drainage, grounds, buildings, etc.

3.1.3 Public Official Liability - Representation of the Association and its officials, officers and employees in matters involving alleged violations of state and federal civil rights laws or other unlawful or improper actions or activities.

3.1.4 Security Liability - Defense of the Association and its employees or agents in cases involving allegations of negligent or wrongful conduct involving security activities.

3.1.5 Personnel and Labor - Representation of the Association and its employees in matters involving the hiring, discipline, termination or other actions taken as an employer, including wrongful termination, sexual harassment, equal employment opportunity, wage and hour, and similar issues. Also includes representation of the Association management in collective bargaining or other labor/management issues.

3.1.6 Water Rights - Advice and representation regarding the acquisition and protection of the Association's water rights.

3.1.7 Environmental Law - Advice and representation in regard to state and federal laws protecting the environment.

3.1.8 Land Use Law - Representation in cases involving land use issues-planning and platting, zoning, building codes, etc.

3.1.9 Workers Compensation - Representation of the Association as employer in matters concerning workers' compensation; defense of claims; advise Association officials as to matters pertaining to its obligations under the New Mexico Workers Compensation statutes.

3.1.10 Employee Benefits - Advise the Association as to federal and state law regarding employee health insurance and other benefits.

3.1.11 Bond Disclosure and Financial Counsel - Advise the Association on New Mexico bond law including but not limited to: general obligation bonds, revenue bonds, utility bonds, special assessment and improvement districts; Federal and State Securities laws and regulations which relate to bonds, bond marketing and disclosure requirements; Federal and state tax laws which affect New Mexico Associations and their bonds and obligations including, but not limited to taxes such as income, gross receipts, and excise taxes which are pledged to secure payment of bonds and undertakings; Industrial Revenue Bonds, and other conduit financing; liens and finances, debt limitations and constitutional constraints upon educational spending and financing.

ARTICLE 4 RULES OF PROFESSIONAL CONDUCT

4.1 In the event of a situation which creates a conflict, or an appearance of a conflict of interest, the LAW FIRM shall notify the ASSOCIATION and may request a consideration for a waiver.

ARTICLE 5 TERMINATION OF SERVICES

5.1 It is expressly understood that this Agreement is an agreement for personal services and that either party shall have the right at the election of such party, to terminate this Agreement at any time upon 30 days written notice by one party to the other. In the event of termination of this Agreement by the ASSOCIATION, the ASSOCIATION shall pay, upon billing, all fees and expenses accrued to the LAW FIRM to the date of such termination less any lawful offset, if any, which may be owed by the LAW FIRM to the ASSOCIATION.

ARTICLE 6 CONSTITUTIONAL DEBT LIMITATIONS

6.1 This agreement is further subject to the Constitutional Debt Limitations imposed upon governmental entities by the Constitution of the State of New Mexico and particularly as imposed by the provisions of Article IX, Section 12 and Section 13 of the Constitution and the obligations imposed upon the ASSOCIATION by this Agreement shall never constitute a charge against the general credit or taxing power of the ASSOCIATION.

6.2 This agreement is further subject to the provisions of the Bateman Act and payments for service rendered hereunder shall be limited to budgeted items or special funds appropriated by the ASSOCIATION for the purposes of paying for services rendered under this Agreement.

ARTICLE 7 ADDITIONAL LEGAL COUNSEL

7.1 Nothing in this agreement shall be construed as limiting the right of the ASSOCIATION to employ or retain other legal counsel of its choosing to advise the ASSOCIATION upon any matter whether such matter be the subject of this agreement or otherwise. If the ASSOCIATION shall retain other counsel to advise the ASSOCIATION upon matters which may be the subject of this Agreement or if the ASSOCIATION should employ other counsel to assist the LAW FIRM, the ASSOCIATION shall promptly notify the LAW FIRM of such fact.

ARTICLE 8 PAYMENTS

8.1 Payments shall be paid to LAW FIRM within 30 days upon receipt by the Association of properly documented invoices for payment as determined by the budgetary and fiscal guidelines of the Association and on the condition that the LAW FIRM has accomplished the Services to the satisfaction of the Association. Any taxes (specifically including the New Mexico Gross Receipts tax), licenses, or other governmental fees and charges are the responsibility of the LAW FIRM.

ARTICLE 9 PROPERLY DOCUMENTED INVOICES FOR PAYMENT

9.1 The following is the Association's policy relating to invoice processing. In order to process your invoices in an efficient manner this policy must be implemented by the LAW FIRM.

9.1.1 The annual blanket purchase order number must appear on your invoice. Under no circumstances should services be performed without first obtaining this annual blanket purchase order number from the ASSOCIATION's staff.

9.1.2 Payments will be made on "original" invoices only. The invoice shall reference an invoice number for payment tracking. The invoice number shall be different for each invoice submitted and shall be identified separately from the case number.

9.1.3 All invoices must be delivered to the following address:

Doña Ana MDWCA

P.O. Box 866

Doña Ana, New Mexico 88032

Attention: Executive Director

Invoices sent to an address other than the above address may delay payment.

9.1.4 Invoices for payment processing shall be received by the Association's accounts payable no later than ninety (90) calendar days after the date the services have been rendered. Invoices received after this time has elapsed may be considered null and void.

9.1.5 Invoices shall breakdown the charges as follows: Fees; Actual Expenses; Tax; Payments; and Balance Due.

9.2 Separate Detailed Billing Report

9.2.1 The LAW FIRM shall provide a separate detailed billing report documenting the incremental charges for services provided.

9.2.2 The separate detailed billing report's total charges shall match the total breakdown charges as invoiced.

9.2.3 The separate detailed billing report shall be sent separately from the accounts payable invoice and shall be addressed to the attention of the ASSOCIATION'S Accounts Payable.

ARTICLE 10 REPORTS AND RECORDS

10.1 LAW FIRM shall maintain full and complete financial records kept in accordance with approved and accepted accounting procedure which records shall be available for inspection by the ASSOCIATION at reasonable times and upon reasonable notice.

ARTICLE 11 VERBAL AGREEMENTS OR CONVERSATION

11.1 No verbal agreement or conversation with any officer, agent, or employee of the ASSOCIATION, either before, during, or after the execution of this agreement, shall affect or modify any of the terms or obligations herein contained, nor shall such verbal agreement or conversation entitle the LAW FIRM to any additional payment whatsoever under the terms of this agreement.

ARTICLE 12 INDEPENDENT LAW FIRM

12.1 Neither the LAW FIRM nor the LAW FIRM's employees are considered to be employees of the ASSOCIATION for any purpose whatsoever. LAW FIRM is considered as an independent LAW FIRM at all times in the performance of the Services described in Article 3. LAW FIRM further agrees that neither LAW FIRM nor its employees are entitled to any benefits from the Association under the provisions of the Workers' Compensation Act of the State of New Mexico.

ARTICLE 13 DISCRIMINATION PROHIBITED

13.1 In performing the required Services, LAW FIRM shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age or physical handicap.

ARTICLE 14 APPLICABLE LAW

14.1 This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the ASSOCIATION.

ARTICLE 15 SUCCESSORS AND ASSIGNS

15.1 The ASSOCIATION and the LAW FIRM respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the ASSOCIATION nor the LAW FIRM shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

ARTICLE 16 EXTENT OF AGREEMENT

16.1 This Agreement represents the entire and integrated agreement between the ASSOCIATION and LAW FIRM and supersedes all prior negotiations, representations or agreements, either written or oral.

This Agreement may be amended only by written instrument signed by both ASSOCIATION and LAW FIRM.

ARTICLE 17 PROFESSIONAL LIABILITY INSURANCE

17.1 The LAW FIRM shall procure and maintain Professional Liability Insurance at the LAW FIRM's expense until final payment by the ASSOCIATION for services covered by this agreement. Minimum limits of coverage shall be the greater of (1) minimum limits established by the New Mexico Tort Claims Act as presently enacted or later amended, or (2) \$1,000,000.00.

17.2 If, during the term of the agreement, the ASSOCIATION requires the LAW FIRM to increase the maximum limits of any required insurance beyond those specified above, an appropriate adjustment in compensation will be made.

ARTICLE 18 DESIGNATED REPRESENTATIVE

18.1 The ASSOCIATION designates the President of the Board of Directors or another person designated by him, as its representative in connection with this Agreement. This representative shall be available as often as may be necessary for inspecting and approving the services or authorizing changes, and for approving all records pertinent to this Agreement.

ARTICLE 19 NOTICE & REQUESTS

19.1 All notices and requests in connection with this Agreement shall be given or made upon the respective parties in writing and shall be deemed to be given as of the day such notice or request is deposited in the U.S. mail, postage prepaid, certified or registered, return receipt requested, addressed as follows:

LAW FIRM:

ASSOCIATION:

Doña Ana Mutual Domestic Water Consumers Association
5535 Ledesma Drive, Las Cruces NM, 88007

IN WITNESS WHEREOF, said parties hereto have hereunto set their hands and seals at Doña Ana, New Mexico effective the day and year first above written.

ASSOCIATION: DOÑA ANA MDWCA

(SEAL)

By: _____
James Melton, Board President

Attest: _____
Kurt Anderson, Secretary/Treasurer

LAW FIRM: _____

By: _____

(SEAL)

Title: _____

Telephone Number: _____

APPENDIX D

COST RESPONSE FORM

APPENDIX D

COST RESPONSE FORM

Description	Type	Quantity	Cost per Item

Base Period: (xx/xx/xxxx thru xx/xx/xxxx) Price: \$

(includes all labor, materials, equipment, transportation, fees and taxes to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

Option Year 1: (xx/xx/xxxx thru xx/xx/xxxx) Price:\$_____

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

Option Year 2: (xx/xx/xxxx thru xx/xx/xxxx) Price:\$_____

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

Option Year 3: (xx/xx/xxxx thru xx/xx/xxxx) Price:\$_____

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

Option Year 4: (xx/xx/xxxx thru xx/xx/xxxx) Price:\$_____

(includes all labor, materials, equipment, transportation, fees and taxes to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

APPENDIX E

LETTER OF TRANSMITTAL FORM

APPENDIX E
Letter of Transmittal Form

RFP#: _____

Offeror Name: _____ **FED ID#** _____

Items #1 to #7 EACH MUST BE COMPLETED IN FULL Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

1. **Identity (Name) and Mailing Address** of the submitting organization:

2. For the person authorized by the organization to contractually obligate on behalf of this Offer:

Name _____

Title _____

E-Mail Address _____

Telephone Number _____

3. For the person authorized by the organization to negotiate on behalf of this Offer:

Name _____

Title _____

E-Mail Address _____

Telephone Number _____

4. For the person authorized by the organization to clarify/respond to queries regarding this Offer:

Name _____

Title _____

E-Mail Address _____

Telephone Number _____

5. Use of Sub-Contractors (Select one)

____ No sub-contractors will be used in the performance of any resultant contract OR

____ The following sub-contractors will be used in the performance of any resultant contract:

(Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.

(Attach extra sheets, as needed)

7. ____ On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II. C.1.

____ I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

____ I acknowledge receipt of any and all amendments to this RFP.

_____, 2021
Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

APPENDIX F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

Doña Ana Mutual Domestic Water Consumers Association, as a part of the RFP process, **requires** Offerors to submit a minimum of **three (3)** business references as required within this document. The purpose of these references is to document Offeror's experience relevant to the scope of work in an effort to establish Offeror's responsibility.

Offeror is required to send the following reference form to each business reference listed. The business reference, in turn, is requested to submit the Reference Form directly to: Margo Lopez, Procurement Manager, PO Box 866 Dona Ana, NM 88032 or 5535 Ledesma Drive, Las Cruces, NM 88007 by 5:00 p.m. January 27, 2021 for inclusion in the evaluation process. The form and information provided will become a part of the submitted proposal. Business references provided may be contacted for validation of content provided therein.

RFP # 2021 – 01
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

(Name of Offeror)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to Doña Ana Mutual Domestic Water Consumers Association via mail or e-mail at:

Name: Margo Lopez, Procurement Manager
Address: PO Box 866, Dona Ana, NM 88032 **OR**
5535 Ledesma Drive, Las Cruces, NM 88007

Telephone: (575) 526-3491
Email: margo@dawater.org

No later than **5:00 p.m. January 27, 2021** and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the State of New Mexico Procurement Manager listed above. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

Company providing reference:	
Contact name and title/position	
Contact telephone number	
Contact e-mail address	
Service description;	
Service dates (starting and ending);	
Type Legal Services Provided (Personnel, Water Rights, Contracts, etc)	

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?

COMMENTS:

2. How would you rate this firm's knowledge and expertise?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

3. How would you rate the firm's flexibility relative to changes in the project scope and timelines?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the firm?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

5. How would you rate the dynamics/interaction between the firm and your staff?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

6. Who were the firm's principal representatives involved with your company and how would you rate them individually? Would you comment on the skills, knowledge, behaviors or other factors on which you based the rating?
(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: _____ Rating: _____

Name: _____ Rating: _____

Name: _____ Rating: _____

Name: _____ Rating: _____

COMMENTS:

7. How satisfied are you with the results by the firm?
_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

8. With which aspect(s) of this firm's services are you most satisfied?
COMMENTS:

9. With which aspect(s) of this firm's services are you least satisfied?
COMMENTS:

10. Would you recommend this firm's services to your organization again?
COMMENTS:

APPENDIX G
RESIDENT VETERANS CERTIFICATION

New Mexico Preference Resident Veterans Certification

Reminder, a copy of Resident Veterans Preference Certificate must be submitted with the proposal in order to ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended).

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

Please check one box only

- ☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- ☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- ☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

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

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

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

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

(Signature of Business Representative) * (Date)

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