



ALBUQUERQUE PUBLIC SCHOOLS

Winston Brooks

SUPERINTENDENT

Procurement Division
Expect Great Things!

Mark Heckart, CPM
EXECUTIVE DIRECTOR/PROCUREMENT OFFICER

February 27, 2014

Bid: 14-047LJ-AM Evaporative Cooler Services

DATE: March 18, 2014

TIME: 10:00 a.m.

LOCATION: Albuquerque Public Schools
(Address for Procurement Department
Hand or Courier 6400 Uptown Blvd NE Suite 500 E
Delivery) Albuquerque, NM 87110

U.S. MAIL Albuquerque Public School
DELIVERY: Procurement Department
P.O. Box 25704
Albuquerque, NM 87125
(Allow appropriate time for delivery to the Procurement
Department location before the deadline time and date.)
PLEASE NOTE OUR NEW ADDRESS CHANGE

CONTACT: Lawrence Jojola, District Buyer
Jojola la@aps.edu (505) 878-6124

SPECIAL INSTRUCTIONS: Complete Bid/RFP documents as required. Your response must be received in the APS Procurement Department prior to the specified date and time regardless of delivery option selected. **Late bids are not accepted and will be returned un-opened.** To ensure proper identification and handling, clearly indicate the Bid/Proposal Number and the Opening Date and Time on the outside of the sealed response envelope.

acm

AN EQUAL OPPORTUNITY EMPLOYER

Bid: Evaporative Cooler Services

INFORMATION FOR BIDDERS

- 1. **Intent:** The Albuquerque Public School (APS) District invites you to bid on a contract for **Evaporative Cooler Services** at various sites throughout the APS District on an as-needed basis utilizing semi-skilled labor. Specifications, terms and conditions to follow.
- 2. **Contract Documents:** The bidding documents included in this packet and listed below constitute the Contract Documents. The bidder's signature signifies full understanding of the terms of the Contract Documents and agreement to perform the work under these terms if awarded the contract. The award shall be made by a price agreement (PA) contract issued by APS to the contractor and shall bind the contractor to the terms of the Contract Documents.

Bid Invitation	Pricing
Information for Bidders	Construction Report Form
General Operating Procedures	Resident/Veterans Preference Certification
Technical Specifications	Subcontractor Listing
General Requirements	Conflict of Interest/Debarment Form
Scope of Work	Terms and Conditions

- 3. **Preparation of Bids:** Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in with ink or typewritten. Corrections shall be initialed in ink by the person signing the bid. Each bid must be submitted in a sealed envelope bearing on the outside the name and address of the bidder and the bid number as listed on the Bid Invitation. Improper identification may result in premature opening of, or failure to open bid. **An authorized representative of the company must sign all required forms and enclose with their bid submittal. Bids not signed will be deemed non-responsive and will be rejected.**
- 4. **Receipt and Opening of Bids:** Bids must be prepared and submitted in accordance with the provisions hereof. The owner reserves the right to reject all bids if all bids exceed the available funds. Any bid may be modified or withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the specified time for the opening of bids shall not be considered.

Procurement law requires sealed bids or proposals. Therefore, APS cannot accept bids which are transmitted using facsimile equipment. This may not apply to amendments or addenda which do not refer to pricing or to the transmittal of supplemental product literature, drawings and the like. Please refer the specific situation to the buyer for clarification before proceeding.

- 5. **Qualification of Bidder:** APS may make such investigations as necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as APS may request. APS reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy APS that such bidder is qualified to carry out the obligations of the contract and to complete the work described therein.

Bidder shall also construe this provision to incorporate any necessary investigation and/or monitoring during the life of the contract to enforce any current policy of the Board of Education such as, but not limited to, no smoking or alcoholic beverages on APS property. As a general rule, any such regulation or law applying to APS personnel shall be deemed to be in force for contractor's work force occupying any work site.

Bid: Evaporative Cooler Services**INFORMATION FOR BIDDERS**

6. **Familiarity With Conditions:** Clarification of bidding procedures for this contract may be made by contacting Lawrence Jojola at the APS Procurement Office, telephone (505) 878-6124; clarification of the technical aspects of this contract may be made by contacting Frank Maes, Mechanical Manager, telephone (505) 765-5950 ext. 278. Bidders must have acquainted themselves with all conditions affecting this contract before submitting a bid. No claim shall be made nor will one be allowed the contractor for negligence, misunderstanding, or error in this regard.

Bidders shall carefully examine the proposed contract documents to obtain first-hand knowledge of all proposed work. Contractors will not be entitled to any additional compensation or any extension of the contract time for conditions which can be determined by examining current work requirements and the proposed contract documents. Submission of a bid constitutes a representation by the bidder that the bidder has made all appropriate examinations, investigations and analysis and has made provision as to the cost thereof in his bid.

7. **Records:** Records shall be maintained by the contractor in compliance with municipal, federal, or state laws, ordinances, codes, and this contract. At any time during normal business hours and as APS may deem necessary, there shall be made available to APS for examination all of contractor's records with respect to all matters covered by this agreement. APS may audit, examine and/or make excerpts or transcripts from such records including but not limited to invoices, materials, payrolls, records of personnel, conditions of employment or any other such data as may be pertinent.
8. **Conditional Bids:** Bids in which acceptance is in some manner restricted or conditioned by the bidder will be reviewed by APS. If the limitations imposed are not in the best interest of APS or are prejudicial to other bidders, bid will be rejected.
9. **Awards:** All factors will be considered in proportion to weighted value for each line item: Award will be made to the overall low bidder for line items as identified in the pricing section of this request for formal bid. APS reserves the right 1) to award bid received on the basis of individual items, or groups of items, or on the entire list of items; 2) to reject any or all bids or any part thereof; 3) to waive any informality in the bids; and 4) to accept the bid that is in the best interest of APS. It is the responsibility of the bidder to inquire as to bid results and the status of any subsequent award(s). Multiple awards may be made to ensure adequate coverage of services
10. **Cancellation:** Documented failure to comply with the terms of the contract documents and/or unsatisfactory performance on the job will constitute grounds for cancellation of the contract. If, after consultation between APS using departments, APS Procurement Department, and the contractor, grounds for cancellation still exist, immediate notification of cancellation will be provided in writing by the Procurement Department. Upon such notification, the contractor shall cease work immediately and shall submit an invoice for work satisfactorily completed to date. No allowance will be made for anticipated profits.

APS may by written notice stating the extent and effective date, cancel the contract for convenience, in whole or in part, at any time. APS shall pay contractor as full compensation for performance until such cancellation (1) the unit or prorated order price for the delivered and accepted portion and (2) a reasonable amount, not otherwise recoverable from other sources by contractor as approved by APS with respect to the undelivered or unaccepted portion of the order; provided compensation shall in no event exceed the total contract price.

Bid: Evaporative Cooler Services

11. **Contract Modification:** No oral statement by any person shall modify or otherwise affect the terms, conditions, specifications, or price agreements stated in this contract. This contract is the final expression of the agreement between parties unless amended in writing by the Procurement Officer.

Submit all questions about the proposed contract specifications including any discrepancies, omissions, or ambiguities noted by any bidder. If appropriate, APS Procurement Division will issue a written addendum which shall thereafter become part of the bid documents and proposed contract documents. No oral interpretations shall be given by APS and, if given, such shall not be binding unless reduced to a written addendum issued prior to bid opening. All bids shall be responsive to and include any addenda issued prior to bid opening.

12. **Protest:** Any bidder, offeror, or contractor who is aggrieved in connection with this procurement may protest to the Procurement Division, Albuquerque Public Schools. The protest shall be submitted in writing within 15 calendar days after the fact or occurrences giving rise thereto. Protests shall be addressed to the Executive Director of Procurement.

13. **The Procurement Code:** The Procurement Code, Sections 13-1-21 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 kick-backs.

14. **Subcontractors:** The district will award to only those contractors who are fully licensed and established to provide the evaporative cooler services represented by this solicitation and who are able in and of themselves to supply all labor and materials in response to the district's needs. (See page 19 for subcontractor listing). APS may approve qualified and licensed subcontractors in certain circumstances where portions of the work are clearly minimal and incidental to the project or in the unlikely event of an occupancy deadline or similar. At the same time, the district assumes that a bona fide contractor will have existing relationships with qualified subcontractors for such incidental work. At all times, the contractor shall be fully responsible for the work of the subcontractor(s) or any supplier at any tier, to the full extent of the requirements of the contract. Subcontractor must be fully established, licensed and otherwise qualified.

Listing threshold is established as \$5,000. Provide the name and location of place of business of each subcontractor who will perform work or labor or render service to the contractor in or about the construction of this project in any amount in excess of \$5,000. State also the nature of the work to be done by each subcontractor. List only one subcontractor for each category as defined by you. Subcontractor listing form follows as an attachment.

Bid: Evaporative Cooler Services

GENERAL REQUIREMENTS

15. **Insurance:** The Contractor shall, at his own expense, carry and maintain during the entire performance period of this Contract at least the kinds and minimum amounts of insurance listed:

A. Workers' Compensation Insurance: As required by the Labor Laws and the New Mexico Statutes.

B. Public Liability Insurance: At the time of the Contractor's execution of the contract, Contractor shall deliver to Owner a certificate(s) of insurance testifying that he has obtained full Workers' Compensation and Employer's Liability insurance coverage for all persons whom he employs or may employ during the course of the project. Such coverage shall be maintained for the duration of the contract and the warranty period and shall meet the most current requirements.

Liability Insurance: The Contractor shall procure and maintain during the life of the contract, an Owner's Protective Liability Insurance Policy written with APS, its officers, agents and employees as named insured with the following limits.

- \$1,000,000 Bodily Injury and Property Damage per occurrence
- \$1,000,000 Bodily Injury and Property Damage aggregate

General Liability Insurance shall be provided with the following limits.

- \$1,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal Injury and Advertising Injury
- \$1,000,000 Each Occurrence
- \$50,000 Fire Damage (any one fire)
- \$5,000 Medical Expense (any one person)

If coverage is provided under Comprehensive General Liability prior to 11/85 ISO policy limits shall be:

- \$1,000,000 Bodily Injury and Property Damage combined per occurrence
- \$1,000,000 Bodily Injury and Property Damage combined aggregate.

This policy must include premises/operations, independent contractors, products and completed operations, contractual liability covering the contract, broad form property damage including completed operations, personal injury and underground coverage if project requires underground operations.

Bid: Evaporative Cooler Services

GENERAL REQUIREMENTS

C. Auto Insurance:

The Contractor shall procure and maintain during the life of the contract, Automobile Liability Insurance with the following limits. Excess insurance or umbrella liability insurance will be acceptable in attaining the required limits.

Coverage must be on an “any Auto” basis or must include owned, hired and non-owned automobile coverage. Contractor shall carry professional liability and automobile liability insurance up to the limits of the Tort Claims Act, to wit: Contractor must submit proof of auto insurance prior to services to the Albuquerque Public Schools. In any action for damages against a government entity or a public employee while acting within the scope of his/her duties as provided in the Tort Claims Act (14-4-1 to 41-4-27 NMSA 1978), the liability shall not exceed:

The Sum of one hundred thousand dollars (\$100,000) for damage to or destruction of property arising out of a single occurrence; and

The sum of three hundred thousand dollars (\$300,000) for all past and future medical and medically-related expenses arising out of a single occurrence; and

The sum of four hundred thousand dollars (\$400,000) to any person for any number of claims arising out of a single occurrence for all damages other than property damage and medical and medically-related expenses as permitted under the Tort Claims; or

The sum of seven hundred fifty thousand dollars (\$750,000) for all claims other than medical or medically related expenses arising out of a single occurrence.

Contractor will provide to APS proof of such insurance prior to the execution of a contract. Contractor also agrees to keep such insurances in force throughout the term of the contract. Contractor also agrees to keep such insurance in force throughout the term of the contract, including any renewals, and to notify APS immediately if such insurance is not in force. Failure to comply with this provision may result in immediate cancellation of the contract. APS recommends that professional liability insurance be maintained at a level of \$1,150,000.00 which exceeds the limit of the Tort Claims Act. In addition, the contractor’s employees shall be insured for Worker’s Compensation if applicable.

15. **Taxes:** APS holds a Class 9 Non-Taxable Transaction Certificate and is exempt from payment of taxes on tangible personal property. A NTTC will be issued on request. This does not apply to services or to materials that become part of a construction project. The contractor is responsible for payment of all New Mexico Gross Receipt taxes and any other taxes due as a result of this work. Tax rates will fluctuate as required by law and will be shown as a separate amount on each billing or request for payment.

Bid: Evaporative Cooler Services

GENERAL REQUIREMENTS

16. **Permits/Licensing/Fees:** It is the contractor's responsibility to secure in a timely manner and pay for all necessary permits required by a particular job. The exact cost only of job permits will be reimbursed by APS, add these job permit costs to invoice as a separate, documentable item. APS does not pay for business licenses, contractor licenses etc. or renewals of same, memberships in professional affiliations and similar costs of doing business which are the contractor's obligation to secure and maintain. **The cost of all bonding will be paid by the contractor and will not be paid by APS.**
17. **State Wage Rate Information:** Should any single repair exceed \$60,000.00 a wage decision from the Department of Workforce Solutions shall be required and should be incorporated in the offerors quote for repairs for that particular project.
18. **Promotional Gifts and Activities:** APS policy prohibits the distribution of jackets, shirts, caps or any clothing items with company or product logo or any other form of advertising to its employees. Furthermore, APS employees are prohibited from entering drawings, contests or other promotional/advertising activities with vendors or potential vendors in connection with a procurement action.
19. **Do not bid unless your firm is authorized to provide evaporative cooler services in the State of New Mexico and are a legitimate supplier of the services requested.**

GENERAL OPERATING PROCEDURES

1. **Contract Time:** The duration of this contract shall be 52 weeks following award of the contract. At the completion of the 52 week period, this contract is subject to review and may be extended for three (3) additional 52 week periods, subject to the approval of both parties and contingent upon funding. Pricing will remain firm during the life of the contract.

Although this contract is being bid on behalf of APS, vendor agrees to extend pricing to all New Mexico Publicly funded entities in the event of requirements that can be adapted to the specified items awarded.

2. **Work Orders:** Work performed under this contract is subject to strict APS internal controls. Execution of any project within the scope of this contract shall be initiated by the in-house submission of a work order to the attention of appropriate authorized APS contact. A decision will then be made to do the work with APS crews or to utilize this contract for all or any portion of the work.

If APS shall elect to use this contract, APS will issue to the contractor the Construction Report Form (see sample attached) or similar acceptable estimate form with plans and/or a description. The estimate shall be completed by the contractor, listing a description of the work to be completed, the item number, unit price, estimated quantity, estimated hours per man hour classification and total estimated cost. Site visits will be conducted as necessary. Contractor shall submit the estimate to APS for review. Based upon APS' calculations, engineer's estimates etc. of the work to be done, estimate will be approved or discrepancies renegotiated with the contractor. Return of the signed estimate shall authorize the contractor to proceed with the work. Change orders will follow the same guidelines. Estimates will be as close as possible.

Bid: Evaporative Cooler Services**GENERAL OPERATING PROCEDURES**

In the event that the contractor may receive requests from any other department or site location, those requests shall be referred to appropriate authorized APS contact. Contractor shall proceed with work only after receiving proper authorization.

The following personnel have been designated as authorized contacts for purposes of this contract.

Frank Maes, Manager, Structural Maintenance , (505) 765-5950, Ext. 278
John Dufay, Director, Maintenance & Operations, (505) 765-5950, Ext. 228

3. **Work Request(s) NOT Defined in Scope of Work:** Contractor shall be held accountable to NOT perform work requests which are clearly beyond the defined scope of work. Contractor has the responsibility of calling such violations to the attention of the APS Procurement Officer. Violations, including proceeding without the prior approval of APS' authorized contact for any project, may become the personal liability of the individual(s) involved.
4. **Work Scheduling - Non-Emergency:** All work shall be, insofar as possible, performed during normal working hours (7:00 A.M. to 5:00 P.M.) Monday through Friday. However, all work shall be coordinated with both the appropriate APS Project Manager and the Site Administrator to avoid interference with any facility schedule.

When work is approved and schedule has been set on a daily basis **all workmen must sign in and out through the administrative office when arriving at the site, and again when leaving.** The site administrator/designee will sign appropriate form verifying that workmen have been on site and when the work has been completed. A list of worker's name(s) and job classifications(s) shall be included on the form. Site workers must wear distinctive clothing identifying the company e.g., shirt with company logo or similar and/or a company badge. Once begun, work shall continue without interruption and total job shall be completed within the number of days specified on the Construction Report Form.

5. **Response Time:** Contractor will respond to requests for estimates within five (5) working days. Contractor will also be expected to respond to the approved work order within five (5) days for routine requests and within 12 hours for emergency requests.
6. **Safety:** The contractor shall take all necessary precautions to protect the site occupants from hazardous conditions. The contractor shall abide by all Occupational Safety and Health Administration (OSHA) regulations and all State of New Mexico Environmental Improvements Board Occupational Health and Safety regulations that apply to this contract. The contractor shall defend, indemnify, and hold the Board of Education and its agents, officers, administrators, and employees free and harmless against all claims, loss, liability, and expense resulting from any alleged violation(s) of said regulation(s) including, but not limited to, fines or penalties, judgments, court costs, and attorneys' fees. The contractor also shall be responsible for damage to persons or property that occurs as a result of his fault or negligence, or that of his employees, agents, and/or Subcontractors, in connection with this contract.

Bid: Evaporative Cooler Services**GENERAL OPERATING PROCEDURES**

7. **Final Acceptance:** The contractor shall notify the appropriate APS contact personnel when each work order/project is complete. Arrangements will then be made for a prompt inspection by appropriate APS personnel or representatives who shall either accept the project as complete and satisfactory or provide a written list of items to be corrected and/or completed.
8. **Invoicing and Purchase Order Procedures:** Upon award, APS will issue a Price Agreement (PA) which will be in effect for the duration of the contract and which will accommodate multiple billings as work is completed. A Price Agreement (PA) issued as a result of this Bid (Or RFP) has no dollar value associated with it and there are no guarantees that APS will require services or goods under the PA. The PA is an agreement on terms and conditions and pricing for possible future releases based on the needs of APS during the contract period.

Itemized invoices, clearly referencing appropriate bid pricing, item number, price agreement number and work order number, shall be submitted in duplicate to Maintenance and Operations. Copies of the completed Construction Report Form or appropriate estimate form shall be attached to the invoice to substantiate charges for auditor tracking purposes. Charges for personnel shall indicate the wage rate, job classification and the name of personnel performing the work with reference to the appropriate time records. Charges for materials, rental equipment and subcontracted services if any, shall indicate the kinds and quantities, unit prices and supported by a copy of the invoices paid by contractor. Materials, Subcontracted Services and rental of specialized equipment shall be provided with no additional markup by the contractor to APS. APS will require documentation of contractor's cost for all line items submitted with the invoice.

APS will strive to meet or exceed prompt payment terms as may be established by statute. Late payment charges may be assessed on any unpaid balance due over 60 days in arrears at the rate of one and one-half percent (1.5%) per month. APS will not automatically include late charges in your payment. Late charges must be properly documented with separate invoice showing invoice numbers, amount, date and computation to verify charges. Typically our payment schedule will be 30-45 days.

9. **Licensing and Personnel Qualifications:** Contractor shall be properly licensed, under the New Mexico Construction Industries Regulations, for all aspects of work requirements. Actual work shall be performed by workmen properly licensed and appropriately skilled in the applicable trade(s). **Bidders must submit a current MM-98 license as required by the New Mexico Construction Industries Division. A copy of current licensure must be included with bid submittal.**
11. **Codes and Permits:** All work shall be executed in accordance with local, federal, and state ordinances, and regulations governing the particular class of work involved. The contractor shall be responsible for the final execution of the work to suit these requirements. In the event of a conflict between the various codes and standards, the more stringent shall govern. The contractor shall hold and save the Board of Education free and harmless from liability of any kind arising from any failure to comply with codes and ordinances. Contractor shall secure all permits and licenses for the required work and shall pay all fees in connection with such permits and licenses.

Bid: Evaporative Cooler Services**GENERAL OPERATING PROCEDURES**

12. **Supervision:** The work shall be performed under the direction of qualified personnel experienced in the trade who shall be thoroughly familiar with the complete requirements and details of the work and shall normally be present on the site during the execution of the work.
13. **Standards:** All work and materials shall comply with the recommendations and standards as set forth in the latest edition(s) of pertinent City, State, and County Codes and Ordinances.
14. **Inspections:** The appropriately authorized APS personnel may inspect projects at any time with or without prior notification to the contractor. APS designee will inspect work performed and materials used under this contract. APS shall have the right to interrupt work for spot checks or inspection purposes. Should any work be contrary to specifications or to any requirement of the contract documents, the APS designee may order it corrected. The contractor shall correct all such work at his own expense. Any work or materials installed contrary to the requirements of the contract documents or rejected as defective by APS shall promptly be removed, replaced or corrected as may be applicable. Any cost involved will be borne by the contractor.
15. **Guarantee:** The contractor shall guarantee all materials, equipment and workmanship furnished and installed under this contract to be free from all defects and shall agree to replace at their expense, without expense to APS, any and all defective equipment, parts, etc., within a period of 12 months from the date of final acceptance of the project and shall promptly repair any defects at no cost to Albuquerque Public Schools.
16. **Protection of Adjacent Surfaces:** The contractor shall take all measures necessary during the course of work to protect existing property including adjacent surfaces, equipment, bleachers, goals, electrical systems, piping, furnishings, and landscaping from damage during the course of the work and shall repair promptly any such damage at his own expense and to the satisfaction of Albuquerque Public Schools.
17. **Protection of the Work:** The contractor is responsible for the protection and security of all materials, tools, equipment, and installed work until the final acceptance of the work by APS designee. Contractor shall barricade, post signage and/or otherwise separate the worksite from students. Workers will not leave hand or power tools unattended. The site administrator or designee has the authority to stop any unsafe job and to require safety precautions such as evacuation from the area to protect students.
18. **Clean Up:** The contractor shall keep the site reasonably clean and neat during the execution of the work, shall remove accumulations of debris at the end of each day, and shall leave all surfaces and areas completely clean at final completion.
19. **Specifications Deviation:** General Specifications are binding. However, in instances where there is a deviation between the General Specifications and the Job Specifications, the Job Specifications rule. On any job where there is doubt as to the process of application to be used, the final decision will be made by the appropriate APS Manager, or his designee.

Bid: Evaporative Cooler Services**GENERAL OPERATING PROCEDURES**

20. **Method of Award:** APS prefers to award this contract to one Primary Contractor. However, multiple awards are anticipated to avoid overloading the Primary Contractor, and for complete coverage depending upon the capabilities of each firm. During peak seasons, it may be necessary to have several crews operating, from one or more firms. Contract award will be based upon the low bid(s) for all levels of service as identified. In order to assure timely service to all sites, APS does, however, reserve the right to make multiple awards.

If the low bid is not readily apparent, APS will compare bid results for each class of work. If pricing varies considerably, APS will use a typical project(s) and will compute the prices based on bids received and arrive at an extended total for all items for each bidder. The same project(s) will be used across the board for all bidders.

The prices as quoted by any bidder will be considered to be the maximum price for any job no matter how small. APS reserves the right to negotiate with the contractor for better pricing in the event of a large project where certain economies of scale could reasonably be expected. The low responsible bid will be awarded the primary contract. If that contractor is not able to perform within the required time period, the work will be offered to secondary low bids.

21. **Post Award Conference:** After bid award, the contractor shall meet with APS' designated contact personnel, or their designees, to outline procedures such as scheduling, paper flow, and inspections.

TECHNICAL SPECIFICATIONS**1. GENERAL REQUIREMENTS**

- 1.0 **Scope of Work:** APS wishes to establish contract(s) for servicing of evaporative coolers utilizing semi-skilled labor. This contract does not require a NMDWS Wage Rate. The APS District is large, with more than 140 sites covering more than 1200 square miles, including locations in Corrales, KAFB, Cedar Crest, the West side and far South Valley. Contractor must be able to mobilize crews and operate anywhere within this geographical area. APS maintains at least 13,000 evaporative coolers of all makes and models, ranging in size from 2,000 – 20,000 CFM.

1.1 Peak periods for this particular service are March/April through October/November in preparation for seasonal changes. The need to make the work environments comfortable for classes and various events or work activities in the buildings is essential. The contractor's response time and thoroughness in performing the work are critical.

1.2 APS will determine which site(s) need service. Contractor shall physically visit the area with an authorized APS representative and prepare a job estimate to be submitted within 48 hours of visit. (See attached sample of an APS Construction Estimate Form.) The estimate shall be completed by the Contractor, itemizing the applicable bid pricing and proper extensions. APS will review the estimate and either approve it or request clarification/negotiate discrepancies as necessary.

Bid: Evaporative Cooler Services**TECHNICAL SPECIFICATIONS**

1.3 Work must be within one working day 24 hours after final approval, or by the next regular workday if approved immediately prior to a weekend. Contractor agrees to have emergency service available for after hours or weekends (which may be billed at the applicable Emergency/After Hours Rate). Mechanical Manager or his designee(s) may also, at their discretion, authorize such work if regular service hours will disrupt activities or for some reason a site must be serviced to meet a particular need. Note that APS does not pay for time to develop estimates. Contractor must include those costs in his overhead calculations. With or without prior notification, APS designee may inspect all maintenance and repair work.

1.4 Primary user of the contract will be Mechanical Maintenance Manager at APS Maintenance and Operations, or his designee(s). APS will coordinate any required access to any site(s) and may visit any job in progress at its own discretion.

1.5 Contractor will provide all manpower, tools and equipment to effectively hook up and shut down of main and branch waterlines to evaporative coolers. After hook up of water lines, Contractor shall inspect and repair any broken or leaking water pipes and fittings. After shut down and draining of water lines, Contractor will be required to reattach lines so that the water may be turned on at the beginning of the next season without freeze damage or overflowing pumps. Contractor will be required to replace Aspen pads or CEL-dek media as necessary at the time of service. Aspen pads and CEL-dek media piping will be furnished by APS.

1.6 Contractor shall notify the Mechanical Manager or his designee if repairs to motors, bearings, shafts or ducting are needed. Similarly, any obvious damage, worn parts, vandalism, or other unusual problems as well as equipment obsolescence, costly repair situations, and/or relocations needs must be immediately reported to the Mechanical Manager or his designee. Replacement, if deemed necessary will become the responsibility of APS. The scope of this contract does not include installation of new coolers.

1.7 Contractor shall warrant workmanship to be free from defects and rectify any faulty repairs for a twelve (12) month period after final acceptance by APS, at Contractor's expense.

1.8 APS M&O will provide most of the materials needed for this scope of work, including pads, filters, floats, valves, galvanized pipe, copper tubing, poly tubing and fittings (copper, galvanized, poly and brass). Contractor should consider M&O their first source of supplies. However, contractor must also be prepared to supply any and all materials required to complete each job, whether or not provided by APS M&O. It is assumed that the Contractor will carry ferrules, small fittings, angle valves, and similar small parts to the job site as part of a basic tool kit.

Parts may be furnished for the job by the Contractor only if to do so is more commercially sensible than having APS issue them. Parts which cost over \$1.00 will require documentation attached to an invoice clearly indicating Contractor's actual cost plus the standard fixed fee reimbursement amount. NOTE: Incidentals will not be paid for by APS. Incidentals include but not limited to nuts, bolts, screws, rags, duct tape, etc.

Bid: Evaporative Cooler Services**TECHNICAL SPECIFICATIONS**

Due to the variety of parts price lists available for this commodity and the need for auditor track able charges, APS pricing for parts etc. are to be furnished by the contractor, the pricing will be based on a *fixed-fee reimbursement* amount above the contractor's invoice for the particular piece of equipment, part, or component. Note that the basic hourly labor wage is to include, through the general overhead category, incidental items for performing labor (such as tools, tape, wiring, small fittings, etc.). All parts similar items shall be itemized and priced separately. The contractor shall submit with this bid the *fixed-fee reimbursement* amount that shall be added to the cost of materials, that he will offer to APS for all parts, devices, components, or equipment units that may be furnished under this contract. The contractor may not list separate *fixed-fee reimbursement* amounts for different categories of parts, controls, or component devices as the spend benchmark for fixed fee reimbursement amount is for each one-hundred dollar spent on materials (see example below).

Parts will be provided at contractor's cost, plus quoted fixed fee. Parts over \$1.00 will require documentation attached to invoices clearly indicating contractor's actual cost plus fixed fee. Contractor shall also be prepared to substantiate charges of items under \$1.00 should audit require verification.

You may not offer a cost (i.e. invoice) plus percentage (mark-up) arrangement as it is prohibited by the State of New Mexico Procurement Code (Article 13-1-149). However, for billable supplies and equipment, not provided by APS, required to provide repair and related services for Evaporative Cooler Services, *contractor may offer a cost (of invoice) plus a fixed-fee reimbursement amount arrangement.*

For this contract, a spend benchmark range of \$0.01 to \$10.00 has been established for contractor to derive to such fixed-fee. APS understands that prices of parts/materials may fluctuate, but this fixed-fee reimbursement amount will remain firm for the duration of the contract.

The fixed-fee reimbursement amount established will be applied to invoices in fixed, incremental, one-hundred dollar ranges. As required, this fixed-fee amount is to be listed on a separate line item of the final invoice to APS (see example on page 13).

*** The minimum threshold amount set to apply the fixed-fee reimbursement amount is \$1.01. Material invoices totaling \$1.00 and under will be billed to APS as a “pass-through” charge with no fixed-fee reimbursement amount added.** A copy of the original invoice, reflecting all discounts, proof of contractor's cost, etc. (no MSRPs, TRA-SER, et al – only contractor's proof of purchase will be accepted for reimbursement) for parts / materials will be required and must be attached to the final contractor's invoice to APS for compliance and payment. Parts over \$1.00 will require documentation attached to invoices clearly indicating manufacturer's list price. Contractor shall also be prepared to substantiate charges of items under \$1.00 should audit require verification.

Although this contract is being bid on behalf of APS, vendor agrees to extend pricing to all New Mexico publicly funded entities in the event of requirements that can be adapted to the specified items awarded.

Ancillary Materials: Ancillary materials shall include cement, duct tape, mater cans and similar. Ancillary materials should be quoted as “invoice cost plus fixed fee.” Unless the invoice cost is under \$1.00 then the cost must be a pass-through.

Bid: Evaporative Cooler Services

“COST PLUS FIXED FEE” – DESCRIPTION AND EXAMPLE

You may not offer a cost (i.e. invoice) plus percentage (mark-up) arrangement as it is prohibited by the State of New Mexico Procurement Code (Article 13-1-149).

All equipment and/or items (not labor) furnished under this contract shall be sold to APS at the cost of the invoice total plus a pre-determined, agreed by both parties, *fixed-fee reimbursement* amount which will allow contractor to cover overhead and G&A expenses plus fee / profit costs. Applicable local taxes also apply. For this Water Wells, Pumps and Chlorinators Services on Demand contract, a spend benchmark range of \$0.01 to \$100.00 has been established for contractor to derive to such fixed-fee. APS understands that prices of parts / materials may fluctuate, but this fixed-fee reimbursement amount will remain firm for the duration of the contract.

State, in dollars, your fixed-fee reimbursement amount requested for every (increment of) \$100.00 spent in purchases of parts / materials: **i.e. \$ 9.00 (for purposes of this example only)**

The *fixed-fee reimbursement* amount requested above will be applied to invoices in fixed, incremental, one-hundred dollar ranges. As required, this fixed-fee amount is to be listed on a separate line item of the final invoice to APS. A copy of the original invoice for parts / materials will be required and must be attached to the final contractor’s invoice to APS for compliance (see “General Operating Procedures - Invoicing”, section 11, page 10 - 11). *** The minimum threshold amount set to apply the fixed-fee reimbursement amount is \$50.01. Materials totaling \$50.00 and under will be billed to APS as a “pass-through” charge with no fixed-fee reimbursement amount added.**

For example, a contractor requests a *fixed fee reimbursement* amount of \$9 for the first, and every subsequent, \$100.00 spent on parts / materials. The total cost of an invoice for (parts / materials) purchases made for a particular project is \$362.95. The resulting *fixed-fee reimbursement* amount would be \$36.00 (listed on a separate line item of the final invoice to be submitted to APS), applicable tax (7%) \$27.93; the final invoiced amount to APS = \$426.88

Parts / Materials	\$362.95
<i>Fixed Fee Reimbursement</i>	\$ 36.00 (1 st \$9.00 for \$0.01 to \$100.00; 2 nd \$9.00 for \$100.01 to \$200.00, 3 rd \$9.00 for \$200.01 to \$300.00, 4 th \$9.00 for \$300.01 to \$400.00)
<u>NMGRT (at 7%)</u>	<u>\$ 27.93</u>
Invoice Total	\$426.88

Bid: Evaporative Cooler Services**TECHNICAL SPECIFICATIONS**

1.9 Contractor is responsible for furnishing all needed tools such as pipe wrenches, vices, dies, etc., and must be able to cut and thread pipe on site.

2.0 Although APS will make every attempt to group jobs in order to minimize travel time, transportation to and from the site(s) for all needed servicemen must be included in your quoted pricing. Whenever school is in session, Contractor must check in with school administration upon arrival to alert the campus that workers and equipment are in the area.

2.1 Hazardous materials are not normally encountered on APS cooler servicing projects. However, should workers encounter unknown or potentially dangerous substances, (e.g. chemicals, asbestos materials) an APS representative must be contacted immediately. Workers may only continue work in areas not in danger of possible contamination and may resume in the suspect areas only after cleared by APS Environmental Hazards Division.

Problems incurred during the execution of any project should be immediately brought to the attention of the Project Manager.

NOTE: At any stage of the work, should contractor suspect/detect asbestos or lead based paint containing materials, contractor is not to disturb or remove it. Contractor shall immediately stop work and contact APS' designee. APS' designee will then notify APS Environmental Hazard Response personnel. APS will instruct contractor when to proceed with project.

2.2 APS reserves the right to negotiate the addition of item(s) to the contract from time to time and establish pricing as mutually agreeable for the reason that such items may have been omitted in error or as it may be a prudent method to deal with unforeseen circumstances. In the event that unusual circumstances may occur which necessitate extra expenditure or rental of specialized equipment and the like, APS reserves the right to negotiate with the contractor for a fair and equitable price in order to complete the project. Such negotiations will apply to items which would otherwise have naturally fallen under the scope of this agreement could they have been anticipated and are not intended to circumvent normal bidding procedures.

2.3 Bidders should note that APS is a large school district which encompasses approximately 1300 square miles. Manpower, materials and equipment must be transported on request to APS sites in not only the general Albuquerque metro area, but also the extreme South Valley, Corrales, and east mountain locations. Submission of a bid implies that the bidder is aware of this commitment.

2.4 Contractor is to provide supervision for all jobs. Quote a complete price including all transportation, supervision, tools and manpower. Do not add tax in bid pricing. Tax will be added to individual invoices as a separate item.

Do **not** bid unless your firm is authorized to provide evaporative cooler services in the State of New Mexico and are a legitimate supplier of the services requested.

Bid: Evaporative Cooler Services

BID PRICING:

Item 1: Unit Price Per Cooler \$ _____

Service I – Servicing any size cooler, *including* changing pads/CEL-dek: clean cooler, oil bearings, check floats, repair pipe, hookup water, startup system, walk through upon completion, and service calls utilizing Semi-Skilled Labor.

Item 2: Unit Price Per Cooler \$ _____

Service II – Servicing any size cooler, *excluding* changing pads/CEL-dek: clean cooler, oil bearings, check floats repair pipe, hookup water, startup system, walk through upon completion, and service calls utilizing Semi-Skilled Labor.

Item 3: Hourly Rate \$ _____

Emergency Service Rate – For weekend or after hours repair and service utilizing Semi- Skilled Labor.

Item 4: **Fixed-fee reimbursement amount** (See page(s) 11 thru 13 for explanation/example.) - \$ _____

The above pricing must reflect all necessary personnel, supervision, small parts, tools, plus transportation to and from the site. It must also include hook up and shut down of main and branch water lines to evaporative coolers. Upon shut down and draining, lines must be reattached so that water may be turned on next season without freeze damage or overflowing pumps. Damaged floats must be replaced as well as Aspen pads/CEL-dek media as directed. You will not be responsible for service to motors, bearings, shafts or ducting. Likewise, removal or installation of coolers is not part of this contract. Contractor will be responsible for leaving the work site clean and ready to use, and disposing of debris, old pads etc. in an acceptable manner. Contractor is to provide supervision for all jobs. Quote a complete price including all transportation, supervision, tools and manpower. Do not add tax in bid pricing. Tax will be added to individual invoices as a separate item.

Submittals checklist

Vendor: _____

- | | | | |
|----|---|-------|--------|
| 1. | Copy of MM98 License | _____ | |
| 2. | Insurance certificate | _____ | |
| 3. | Subcontractors Listing (if applicable) | _____ | |
| 4. | Bid Pricing | _____ | |
| 5. | Resident/Veterans Preference Certification
(if applicable) | _____ | Yes/No |
| 6. | Conflict of Interest | _____ | |
| 7. | Terms & Conditions | _____ | |

Bid: Evaporative Cooler Services

Page ___ of ___

CONSTRUCTION REPORT FORM

Location _____ Contractor _____ WO # _____ Bid # _____ PO # _____
 Location # _____ Cost Acct. _____ Cost Code _____ Exp. Date _____

APPLICATION FOR PAYMENT
 App. No. _____ App. Date _____ Amt. This App. _____
 CONTRACTOR _____ APS APPROVAL _____

WORK ORDERS/SCHEDULE OF VALUES
 Est. Cost \$ _____ Est. Date _____ Act. Cost _____
 CONTRACTOR _____ APS AUTHORIZATION _____ DATE _____

ITEM NO.	DESCRIPTION OF WORK	EST. QTY.	EST. COST	UNIT PRICE	ACTUAL QTY.	ACTUAL COST	COST CHANGE	ACTUAL COST	PREVIOUS APPLICATION	THIS APPLICATION	TOTAL COMPLETE	\$ COMP.
TOTALS												

Bid: Evaporative Cooler Services

GENERAL REQUIREMENTS

New Mexico Resident Bidding Preferences: There are two preferences that New Mexico companies can use for bidding advantage for this contract. Please note that these 2 preferences are not cumulative.

VETERANS PREFERENCE

Policy effective July 1, 2012.

In accordance with Sections 13-1-21 and 13-1-22 NMSA 1978 resident veterans businesses are to receive the following preferences:

1. Resident veterans businesses with annual revenues of \$1M or less are to receive a 10% preference discount on their bids and proposals.
2. Resident veterans businesses with annual revenues of more than \$1M but less than \$5M are to receive an 8% preference discount on their bids and proposals.
3. Resident veterans businesses with annual revenues of more than \$5M are to receive a 7% preference discount on their bids and proposals.

This preference is separate from the current in-state preference and is not cumulative with that preference. However, veteran businesses will still receive the in-state preference once the veteran's preference cap is exceeded.

All public solicitations must contain the attached "Resident Veterans Preference Certification", (page 10).

Also, please attach vendor preference certificate to your bid response.

Complete SPD Policy attached with bid packet.

RESIDENTIAL PREFERENCE

Policy effective January 1, 2012

GOVERNOR MARTINEZ SIGNS SB1 – IN-STATE PREFERENCES

As of October 5, 2011, applications for in-state preference will no longer be processed through the State Purchasing Division. Per Senate Bill 1, signed by Governor Martinez on October 5, 2011, all New Mexico resident businesses and contractors that wish to obtain a five percent bidding advantage on all state contracts are required to obtain a valid resident business certificate or resident contractor certificate issued by the NM Department of Taxation & Revenue. This policy is effective January 1, 2012. For additional information please call 505-827-0951. Please attach resident certificate to bid response.

Bid: Evaporative Cooler Services

Resident Veterans Preference Certification

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

Please check one box only

Not Applicable. I declare under penalty of perjury that I am not a Veteran. 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 less than \$1M allowing me the 10% preference discount 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 discount on this proposal. 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 discount on this proposal. 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 Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or 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 the statement is true to the best of my knowledge. I understand that by 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 un-award of the procurement involved if the statements are proven to be incorrect.

Bid: Evaporative Cooler Services

**SUBCONTRACTOR LISTING
EVAPORATIVE COOLER SERVICES**

Pursuant to Section 13-4-34 of the New Mexico Procurement Code, the listing threshold for this Public Works Project is established at \$5,000.00. Any person submitting a bid shall set forth:

1. The name and location of the place of business of each subcontractor under subcontract to the contractor who will perform work or render service to the contractor in or about the construction of the Public Works Construction Project in an amount in excess of the listing threshold; and
2. The nature of the work which will be done by each subcontractor. List only one subcontractor for each category as defined in your bid.

If my bid is accepted, the following subcontractors may perform work under this contract. (If you do not plan to utilize subcontractors, write "none".)

<u>COMPANY NAME</u>	<u>ADDRESS</u>	<u>NATURE OF WORK</u>

APS must be notified of and must approve of any changes of proposed subcontractors which may occur during the life of the contract. The general contractor shall be fully responsible for the work of the subcontractor(s), at any tier, to the full extent of the requirements of this contract. **Refer to page 3, section 14 for subcontractor guidelines.**

Bid: Evaporative Cooler Services

**CONFLICT OF INTEREST AND
DEBARMENT/SUSPENSION CERTIFICATION FORM**

CONFLICT OF INTEREST

As utilized herein, the term "Vendor" shall mean that entity submitting a proposal to Albuquerque Public Schools in response to the above referenced bids/request for proposals.

The authorized Person, Firm and/or Corporation states that to the best of his/her belief and knowledge: No employee or board member of Albuquerque Public Schools (or close relative), with the exception of the person(s) identified below, has a direct or indirect financial interest in the Vendor or in the proposed transaction. Vendor neither employs, nor is negotiating to employ, any Albuquerque Public Schools employee, board member or close relative, with the exception of the person(s) identified below. Vendor did not participate, directly or indirectly, in the preparation of specifications upon which the quote or offer is made. If the Vendor is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in Vendor, please identify the legislator: _____ List below the name(s) of any Albuquerque Public Schools employee, board member or close relative who now or within the preceding 12 months (1) works for the Vendor; (2) has an ownership interest in the Vendor (other than as an owner of less than 1% of Vendor's stock, if Vendor is a publicly traded corporation); (3) is a partner, officer, director, trustee or consultant to the Vendor; (4) has received grant, travel, honoraria or other similar support from Vendor; or (5) has a right to receive royalties from the vendor.

DEBARMENT/SUSPENSION STATUS

The Vendor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Federal Government, or any State agency or local public body, or in receipt of a notice or proposed debarment from any Federal or State agency or local public body. The vendor agrees to provide immediate notice to Albuquerque Public School's Purchasing Department in the event of being suspended, debarred or declared ineligible by any department or agency of the Federal government, or any agency of local public body of the State of New Mexico, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or offer but prior to the award of the purchase order or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST and DEBARMENT/SUSPENSION Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the vendor named and that the information contained in this document is true and accurate to the best of their knowledge.

Signature: _____ Date: _____

Name of Person Signing (typed or printed): _____

Title: _____

Name of Company (typed or printed): _____

Address: _____

City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

Bid: Evaporative Cooler Services**ALBUQUERQUE PUBLIC SCHOOLS - BOARD OF EDUCATION - TERMS AND CONDITIONS****Preparation of Bids**

Bidders are to comply with all instructions and provide the information requested in the appropriate spaces. Bid prices must be entered in ink or typewritten. Mistakes may be corrected prior to bid opening, but shall be initialed by the person signing the bid. Corrections and/or modifications received after the bid opening time will not be accepted. Bids must be submitted by the date and at, or prior to, the time specified for consideration. Late bids will not be accepted. All bids must be signed by an authorized representative of the company. Improper identification may result in premature opening of or failure to consider the bid. Bids must be submitted in a sealed envelope. Procurement law requires sealed bids. Therefore, APS cannot accept bids which are transmitted using facsimile equipment.

Albuquerque Public Schools holds a Class 9 Tax Exemption Certificate and is exempt from paying sales tax on tangible personal property. A non-taxable transaction certificate (NTTC) will be provided upon request. Services (including construction or materials that become part of a construction project) are not exempt. The Contractor shall comply with all requirements of the State of New Mexico Gross Receipts Law and shall require all subcontractors to comply with same Do not include tax in your bid price. Tax must be shown as a separate item on all invoices.

General

Brand Names: It is intended that bid specifications admit maximum competition. Brand names or model numbers, where used, are for reference as to standard of character, quality and/or operation and are not indicative of preference on the part of APS. Equal item(s) will be considered, provided the bid clearly describes the item by brand, model number, level of quality or any other appropriate criteria. Descriptive literature must be included for bid evaluation purposes. Include sample(s) if specifically requested. Failure to provide this information may disqualify your bid. Determination by APS as to what item(s) are equal shall be final and conclusive. When brand, model or other identification is not stated, it shall be understood that the bidder is quoting as specified.

Qualifications of Bidders: APS may make such investigations as necessary to determine the ability of the bidder to perform the work required. Bidder shall furnish all necessary information and data as may be requested. APS reserves the right to reject any bid if the evidence submitted or the investigation of a bidder fails to satisfy APS that the bidder is qualified to perform the obligation of the contract.

Award

Award(s) will be made to the low responsible and responsive bid(s) taking into consideration prior qualifications and capabilities of the bidder, availability of funds and any other relevant factors. APS reserves the right: (1) to award bids received on the basis of individual item(s), or groups of items, or on the entire list of items; (2) to reject any or all bids, or any part thereof; (3) to waive any informality in the bid(s) and (4) to accept the bid(s) that is in the best interest of APS. APS will take advantage of prompt payment discounts whenever possible; however, these will not be used as award criteria.

New Mexico procurement law provides for a five percent (5 %) residential preference. A bidder who meets state requirements shall be awarded a contract in preference to a non-resident bidder whenever the resident contractor, whose bid is nearest to the low bid of the non-residential contractor, is made lower when multiplied by a factor of .95. This does not apply when federal funds are being used. Any New Mexico firm claiming preference will insert its residential reference number as issued by the State Purchasing Department in the appropriate space. Provision of the number will be the responsibility of the contractor.

Any bidder, offeror or contractor who is aggrieved in connection with a procurement action may protest to the Albuquerque Public Schools Procurement Department. The protest shall be submitted in writing within fifteen (15) calendar days after the facts or occurrences giving rise thereto.

Bidders are informed that initial orders must be furnished at prices submitted. Albuquerque Public Schools reserves the right to make award(s) within (90) days after the date of bid opening unless bidder distinctly specifies that acceptance must be within a shorter time. Time of delivery may be a consideration in bid award(s) and shall be defined as the number of calendar days following receipt of the order, either verbally or in writing until receipt of materials, supplies or services by APS.

Packing, Shipping and Invoicing

Bidder agrees to deliver all item(s) inclusive of all cost, insurance, freight, drayage, express or other charges. Title to materials or supplies shall pass directly from bidder to APS at the F.O.B. point shown, subject to the right of APS to reject upon inspection. All bids must be F.O.B. destination.

The purchase order number, vendor's name and user's name and location shall be shown on each packing and delivery ticket, pack-age, bill of lading and any other correspondence in connection with any shipment. The user's count will be accepted by the Seller as final and conclusive on all shipments not accompanied by a packing list. All invoices shall reference the order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices are required for each shipment. Bidder shall be paid upon submission of acceptable invoices for materials, supplies or services delivered and accepted. Invoices must be accompanied by transportation receipts or facsimiles, if transportation is payable and charged as a separate item.

Patent Indemnity

Seller shall pay all royalty and license fee(s) relating to the item(s) covered hereby. In the event any third party shall claim the manufacture, use and sale of goods covered hereby to be infringement of any copyright, trademark or patent, Seller shall indemnify and hold APS harmless from any cost, expense, damage or loss incurred in any manner by APS because of any such alleges infringement.

Warranties

Materials, supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar materials, supplies or services. The rights and remedies provided herein shall extend to APS and are in addition to and do not limit any rights afforded to APS by any other clause of this order. Seller agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

Inspection

Materials, supplies or services shall be furnished exactly as specified, free from all defects in workmanship, materials, and design. Final inspection and acceptance will be made at the destination. If, prior to final acceptance, any item(s) or service(s) are found to be defective or not as specified, APS may reject them, require the Seller to correct without charge or require delivery at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such item(s) within a time deemed reasonable by APS, APS may terminate the order in whole or in part. Seller shall bear all risks as to rejected materials, supplies or services and, in addition to any other costs for which the Seller may become liable to APS under other provisions in these terms and conditions, shall reimburse APS for all transportation costs, other related costs incurred, or payments to Seller for unaccepted materials, supplies and services. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud. Any test programs and procedures required by the specifications are in addition to, and do not limit, APS rights provided in this section.

Bid: Evaporative Cooler Services

Assignment

Neither the order nor any interest therein, nor claim thereunder shall be assigned or transferred by the Seller except as authorized in writing by APS. No assignment or transfer shall relieve the Seller from its obligations and liabilities.

Non-discrimination

Sellers doing business with APS must be in compliance with Federal Civil Rights Act of 1964 and Title VII of the Act. Rev. 1979.

Changes

APS may make changes within the general scope of this order by giving notice to the Seller and subsequently confirming such changes in writing. If such changes affect the cost and/or the time required for performance of this order, an equitable adjustment in the price or delivery or both shall be made. No change by the Seller shall be recognized without written approval of APS. Any claim of Seller for any adjustment must be made in writing within thirty (30) days from date of receipt by Seller of notification of such change unless APS shall waive this condition. Nothing in this section shall excuse Seller from proceeding with performance of the order as changed hereunder.

Kickback Statement

The Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for this violation. In addition, New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kick-backs.

Termination

APS may, by written notice stating the extent and effective date, terminate this order for convenience in whole or in part, at any time. APS shall pay Seller as full compensation for performance until such termination (1) the unit or prorata order price for the delivered and accepted portion; and (2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by APS with respect to the undelivered or unaccepted portion of the order; provided compensation shall in no event exceed the total order price.

APS may by written notice terminate this order for Seller's default in whole or in part, at anytime, if Seller refuses or fails to comply, with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to make deliveries of the item(s) or service(s) or to perform the service(s) within the time specified or any written extension thereof. In such event, APS may purchase or otherwise secure item(s) or service(s) and except as may be otherwise provided, Seller shall be liable to APS for any excess costs occasioned thereby.

If after notice of termination for default, APS determines that the Seller was not in default or that the failure to perform was due to causes beyond the control and without the fault or negligence of the Seller, termination shall be deemed for the convenience of APS, unless APS shall determine that the item(s) or service(s) were obtainable from other sources in sufficient time to meet required delivery schedule.

If APS determines that Seller has been delayed due to causes beyond the control and without the fault and negligence of the Seller, APS may extend the time for completion when promptly applied for in writing by the Seller. If such delay is due to failure of APS, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of order shall be subject to change under the Changes section. Sole remedy of Seller in event of delay by failure of APS to perform shall be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of delay. No allowance will be made for anticipated profits. 'Seller' is defined as the Seller and his sub-suppliers at any tier.

Contingency

Seller warrants that no person or selling agency has been employed or retained to solicit or secure this order upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona-fide employees or bona-fide established commercial or selling agencies maintained or utilized by Seller for the purpose of securing business. For violation or breach of this warranty, APS shall have the right to annul this order without liability or, at its discretion, to deduct from this order price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

Other Applicable Laws

Any provisions required to be included in a contract of this type by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

Non-Collusion

The undersigned certifies that he or she has not either directly or indirectly entered into any action in restraint of free competitive bidding in connection with this solicitation and agrees to furnish the materials, supplies or services as required within the time specified under the conditions imposed and at the price indicated.

Authorized Representative _____
Signature

Contractor's License No. _____
(If Applicable)

Type or print name of above _____

Resident Certification No. _____
(If Applicable)

Name of Firm _____

Address _____

Fax No: _____

Web/Email Address _____

Area Code and Telephone No. _____

Federal ID No.: _____