

# THE EDUCATION TRUST BOARD OF NEW MEXICO

## REQUEST FOR PROPOSALS (RFP)

RFP# 20-949-9010-00011

### **Digital Marketing and Advertising, Analytics and Website Update and Ongoing Development**



Release Date

**June 21, 2019**

Due Date

**July 22, 2019**

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**CURRENT SITE ARCHITECTURE, TECHNICAL OVERVIEW AND TECHNICAL SITE**

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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 digital marketing and digital advertising services, analytics, and website update and ongoing development to promote and grow **The Education Plan** – New Mexico’s direct-sold 529 education savings program (the “Plan”). This RFP is for activities that are applicable New Mexico as well as to a subset of the 21 other states that currently either have no tax benefit for contributions to the state’s 529 program or that provide such tax benefits for contributions to any 529 program regardless of the state sponsor.

### **BACKGROUND INFORMATION**

The New Mexico Education Trust Board (“NMETB”) was established pursuant to the Education Trust Act (New Mexico statute: NMSA 1978 § 21-21K-1 through 21-21k-47NMSA (the “Education Trust Act” or the “Act”), which gives the Board the authority to promulgate rules to carry out the Act; contract with one or more financial institutions to manage the education trust fund and the separate trust accounts and do those things necessary or convenient in accordance with the Education Trust Act to carry out the provisions of the Act. The Act also creates the education trust fund (the “Trust”). The NMETB administers the Trust. It does not receive State appropriations.

Effective July 1, 2015, the NMETB retained OFI Private Investments Inc. and Oppenheimer Funds Distributor Inc. (collectively “OFI”) as program manager to provide investment, marketing, administrative and distribution services for the Plan.

In light of the corporate acquisition of OFI, in January, 2019 the NMETB and OFI entered into a Termination Agreement that aligns with the Plan conversion to a new program manager. Under the terms of the new program manager contract, the NMETB will take responsibility for advertising and marketing of the Plan.

During the next several months, there will be a conversion of accounts and assets to the new program manager. A new marketing plan and budget must be created.

As of March 31, 2019 the Plan had a total of 22,964 accounts and \$558 million in assets. Roughly half of these assets and accounts are for the benefit of New Mexico residents.

Useful information about the plan can be found in a Q and A format used for media at: <https://www.nmetb.org/procurement/>.

## **B. SCOPE OF PROCUREMENT**

1. NMETB seeks a well-qualified firm to provide digital marketing and digital advertising services, analytics, and website updating and development for The Education Plan in order to increase awareness of, engagement with and creation of accounts in the Plan. The primary measure of success will be the number of new accounts generated attributable to the services provided by the

firm.

2. This scope includes creative development, production, placement, and ongoing brand enhancement of a digital nature. Please see the Specifications section of this document for detail on these matters.
3. Traditional print, television, radio, billboard display, sponsorship of events, strategic partnerships and initiatives, public relations and other similar efforts within the state of New Mexico are NOT within the scope of this RFP.
4. The current website, [theeducationplan.com](http://theeducationplan.com), is hosted by a third party provider. Web hosting is NOT within the scope of this RFP.
5. The approximate budget for the initial term of the contract is \$700,000. The contract resulting from this RFP will be through June, 2020 with the potential for renewals at the discretion of the NMETB.

### C. PROCUREMENT MANAGER

1. NMETB 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: Vera Lyons, Procurement Manager  
Address: The Education Trust Board of New Mexico  
1516 Paseo de Peralta  
Santa Fe, NM 87501  
Telephone: (505) 982-4099  
Email: [vera.lyons@state.nm.us](mailto:vera.lyons@state.nm.us)

2. **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 the NMETB. **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.

### D. DEFINITION OF TERMINOLOGY

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

“Agency” means the New Mexico Education Trust Board.

“**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 Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“**Close of Business**” means 5:00 PM Mountain Standard or Daylight 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.

“**Determination**” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

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

“**Electronic Version/Copy**” means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (cd) or USB flash drive. The electronic version/copy can NOT be emailed.

“**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.

“**IT**” means Information Technology.

**“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.

**“NMETB”** means the New Mexico Education Trust Board.

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

**“Price Agreement”** means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

**“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.

**“Procuring Agency”** means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.

**“Project”** means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

**“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.

“**State**” means the State of New Mexico.

“**State Agency**” means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the purchasing division of the general services department and the state purchasing agent but does not include local public bodies.

“**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.

## **E. PROCUREMENT LIBRARY**

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document. The library contains information listed below:

RFP and related documents:

<https://www.nmetb.org/procurement/>

## 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	Agency	06/21/2019
2. Acknowledgement of Receipt	Agency	06/27/2019
3. Deadline to submit Questions	Potential Offerors	07/03/2019
4. Response to Written Questions	Procurement Manager	07/08/2019
5. Submission of Proposal	Potential Offerors	07/22/2019
6. Proposal Evaluation	Evaluation Committee	07/22/2019 – 07/29/2019
7. Selection of Finalists	Evaluation Committee	07/29/2019
9. Oral Presentation(s)	Finalist Offerors	08/09/2019
10. Finalize Contractual Agreements	Agency/Finalist Offerors	08/09/2019 – 08/15/2019
11. Contract Awards	Agency/ Finalist Offerors	08/15/2019
12. Protest Deadline	Offerors	08/30/2019

### B. EXPLANATION OF EVENTS

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

#### 1. Issuance of RFP

This RFP is being issued on behalf of the New Mexico Education Trust Board on June 21, 2019.

#### 2. Acknowledgement of Receipt

Although it is not a requirement or a precondition for the submission of a proposal, the Board encourages potential Offerors to register for the procurement distribution list, which will be used for the distribution of written responses to questions or any future amendments to the RFP.

To register, potential Offerors should email a scanned image of the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document in APPENDIX A to:

[vera.lyons@state.nm.us](mailto:vera.lyons@state.nm.us).

The form should be signed by an authorized representative of the potential Offeror, dated, scanned and by emailed by 3:00 pm MST or MDT on June 27, 2019.

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 by email to the Procurement Manager as to the intent or clarity of this RFP until July 3, 2019 at 5:00 PM Mountain Standard Time/Daylight 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 by email as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. The responses to written questions and any RFP amendments will be posted at <https://www.nmetb.org/procurement/>.

An email containing a link to the responses and any RFP amendments will be sent to all potential Offerors that provide Acknowledgement of Receipt Forms described in Part II, Section 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 3:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON July 22, 2019.**

Proposals received after this deadline will not be accepted. On the date proposals have been uploaded to Dropbox, Offerors must send an email notification to the Procurement Manager. The date of the Offerors' email notifications and the date of the email notification from Dropbox will be recorded as of the date of receipt of the proposal. Both the e-mail notification from Offerors and the e-mail notification from Dropbox will be printed and included in the procurement file. On the same date the Offerors have uploaded their proposals to Dropbox, an e-mail notification should be sent directly to the Procurement that their proposals have been uploaded to Dropbox. For additional information, please see III.B.1-3 and III.C.

A public log will be kept of the names of all Offeror organizations that submitted proposals. 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 agency signatures 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. Selection of Finalists**

The Evaluation Committee will select and the Procurement Manager will notify the finalist Offerors as per schedule Section II. A., Sequence of Events or as soon as possible. A schedule for the oral presentation and demonstration will be determined at this time.

## **8. Oral Presentations**

Finalist Offerors may be required to conduct an oral presentation at a location to be determined as per schedule Section II. A., Sequence of Events on or about August 9, 2019.

## **9. 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 Procurement Manager. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

## **10. Contract Awards**

After review of the Evaluation Committee Report and the signed contractual agreement, the Agency Procurement office 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 Procurement Manager.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the State of New Mexico and the New Mexico Education Trust Board taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate Department and State approval.

## **11. 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 Mountain Standard Time/Daylight Time on the 15<sup>th</sup> 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:

Protest Manager  
New Mexico Education Trust Board  
1516 Paseo de Peralta  
Santa Fe, New Mexico 87501

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 a state agency which may derive from this RFP. The state agency 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 agency 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 Agency 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 or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

## **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 Agency 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 State of New Mexico or any of its Agencies 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 the State of New Mexico.

## **11. Sufficient Appropriation**

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

## **12. Legal Review**

The Agency requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror'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 an agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in the Sample Contract Appendix C. However, the contracting agency reserves the right to negotiate provisions in addition to those contained in this RFP (Sample Contract) 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 Agency discourages exceptions from the contract terms and conditions as set forth in the RFP Sample Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Agency (and its evaluation team), 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 Sample Contract (APPENDIX C) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The Agency may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to the Agency and will result in disqualification of the Offeror's proposal.

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

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 Agency 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 the Agency, adequately meeting the needs of the Agency.

#### **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 Agency 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 agency 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 the State of New Mexico.

## **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 the Agency.

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 Agency'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.4, 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 agency, the Offeror acknowledges that the version maintained by the agency shall govern. Please refer to: <https://www.nmetb.org/procurement/>

## **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.insurenewmexico.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 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 State Purchasing Agent 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 State Purchasing Agent 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 State Purchasing Agent or Central Purchasing Officer may terminate the

involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

### **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**

A copy of the certification must accompany your proposal.

#### **B. New Mexico Resident Veterans Business Preference**

A copy of the certification must accompany your proposal.

**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. RESPONSE SUBMISSION

Offerors should deliver a complete electronic proposal to be uploaded to a Dropbox account.

1. Offerors must establish a Dropbox account from which to upload their proposals to the Procurement Manager for use as outlined in Section III.C Proposal Format. For information how to establish a Dropbox account, please refer to: <https://www.dropbox.com/en/help/19>
2. **Response to Technical Specifications** – One (1) electronic upload (Folder 1) must be submitted in the sequence described in Section III. C.1. All information for the technical proposal must be combined into a single pdf file for uploading **but must contain individual sections as specified in Section III.C.1.**
  - a. Proposals containing confidential information **must** be submitted as two separate folders:
    - **Unredacted** version for evaluation purposes.
      - Upload unredacted version in “Unredacted Technical Proposal Folder 1.1”
    - **Redacted** version (confidential information omitted by removing and indicating, in writing, confidential information omitted here) for the public file.
      - Upload redacted version in “Redacted Technical Proposal Folder 1.3”
  - b. Video and/or audio files of creative examples are welcomed and may be uploaded separately to the same Dropbox folder (Folder 1). Additional files must be referenced or linked within the content of the primary pdf document(s).
3. **Response to Business Specifications** – One (1) electronic upload (Folder 2) must be submitted in the sequence described in Section III. C.1.

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.

**The response submission must be received no later than the time and date indicated in Section II.B.5.**

## **C. PROPOSAL FORMAT**

All proposals must be submitted to the Procurement Manager via Dropbox in PDF format or by choosing the “read only” option. Folder 1 should be titled Technical Specifications and Folder 2 should be titled Business Specifications and should include corresponding subfolders labeled to include lettering and numbering. For example, Folder 2 will be titled Business Specifications. Subfolder A should be titled A. Letter of Transmittal, Subfolder B should be titled B. Financial Stability, continuing until all subfolders have been titled to include each corresponding letter.

### **1. Proposal Content and Organization**

#### **Response to Technical Specifications (Folder 1):**

- A. Table of Contents
- B. Proposal Summary (Optional)
- C. Agency Capabilities and References
  - 1. Statement of Agency Capabilities and References (Appendix E)
  - 2. Additional information to augment Appendix E such as biographies/experience of key team members
  - 3. Examples of work and results achieved
- D. Financial Terms: Cost Response Form (Appendix G)
- E. Response to Mandatory Specifications:
  - 1. Digital Marketing and Advertising
    - a. Marketing Approach and Rationale
    - b. Media Plan Recommendation
    - c. Creative Examples
  - 2. Analytics
    - a. Analytics Capabilities
    - b. Application to The Education Plan
    - c. Client Reporting Examples
  - 3. Website Update and Ongoing Development
    - a. Web Design Capabilities
    - b. Application to The Education Plan
    - c. Creative Examples
  - 4. Branding
    - a. Enhancing Brand Awareness
    - b. Application to the Education Plan
    - c. Creative Examples
- F. Other Supporting Material (If applicable)

#### **Response to Business Specifications (Folder 2):**

- G. Letter of Transmittal (Appendix D)
- H. Financial Stability
- I. Response to Contract Terms and Conditions
- J. Offeror’s Additional Terms and Conditions
- K. Signed Campaign Contribution Disclosure Form (Appendix B)
- L. New Mexico Preference - Resident Vendor
- M. New Mexico Preference - Resident Veteran (Appendix F)

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

NMETB seeks a well-qualified firm to provide digital marketing and digital advertising services, analytics and website updating and ongoing development for The Education Plan in order to increase awareness of, engagement with and creation of accounts in the Plan from within New Mexico and from within a subset of about 6 of the current 21 states where the local 529 plan does not enjoy a state tax preference. Contractor shall identify target states and localities within those states in collaboration with NMETB staff and the new program manager.

Most account formation and contribution activity occur in the first and fourth quarters of the year. The first quarter is associated with tax season and the fourth quarter is associated with the holiday season. Proposals should take account of this seasonal effect.

The primary measure of success will be the number of new accounts generated attributable to the services provided by the firm.

Contractor shall employ digital marketing strategies using new media elements, including but not limited to, digital display, online video, digital native content, paid social media, programmatic advertising, strategic marketing partnerships, podcasts, influencer campaigns, and experiential marketing.

The Contractor shall provide analytics support for The Education Plan. Currently the Plan uses Google Tag Manager and Google Analytics. There are “conversion” pixels across the marketing site and the functional site. Programmatic buying is also done by a third party provider using TradeDesk. Paid search is conducted using Google Ads Platform. It is expected that a dashboard will be available for client viewing and that a monthly written analytics report will be prepared. Optimization is the responsibility of the Offeror after consultation with the client.

Contractor shall provide oversight of The Education Plan website and assist in the enhancement of the Plan brand nationally.

**Please review APPENDIX H entitled “SITE ARCHITECTURE, TECHNICAL OVERVIEW AND TECHNICAL SITE STRUCTURE”. Firms are encouraged to work within the technical environment of the current site. Alternatives to the current technical environment will be considered, but the change of program managers and the conversion of the plan to a new program manager, and the impending issuance of a new web hosting RFP will impose time constraints on implementation of an alternative environment.**

#### 1) Digital Marketing, Advertising and Analytics

- a. Use Google Analytics to create monthly and quarterly reports for presentations to the board and optimize site activity. Optimization will be the responsibility of the Offeror in consultation with NMETB

- b. Utilize Google Tag Manager to manage pixels to fire properly on-site events
- c. Develop and Manage Social Media Advertising – Facebook, Instagram and LinkedIn
- d. Google PPC, Video and Programmatic Display Advertising creation and management
- e. Utilize Heatmap tracking tools to make design and user-experience optimizations to increase conversions
- f. Develop Landing Pages to be utilized alongside digital advertising
- g. Increase organic traffic through search engine optimization, provide keyword analysis, and increase domain and page scores
- h. Monitor and disavow poor backlinks
- i. Develop and A/B test creative of all digital marketing initiatives to provide an optimized experience, high-quality ad score and efficient ad spend
- j. Work closely with our program manager to collect enrollment data to tie back to marketing initiatives
- k. Utilize brand-standards to provide proper messaging, and visual information to target personas that is cohesive with traditional marketing initiatives
- l. Utilize web-master tools to make recommendations to improve health of the website and increase traffic acquisition
- m. Develop and monitor KPIs utilizing Google Data Studio or related tools
- n. Benchmark against competitor websites and YoY data to improve acquisition and conversion metrics

## 2) Website Update and Ongoing Website Development

- a. The current website, [theeducationplan.com](http://theeducationplan.com) must be updated to accommodate the introduction of a new program manager for the 529 program including redesign of the Investments section of the website for a completely new set of investment options. Contractor, working with NMETB staff and the new provider, must complete the update and redesign prior to conversion of the plan to the new provider during the late-fall or early winter of 2019.
- b. The current website is a marketing “front end” website that is designed to engage and inform users about The Education Plan and to encourage account enrollment in the Plan. If the decision to enroll is made or if an existing account owner wishes to access an account there will be a handoff to the functional website maintained by the new provider. The site is responsive and it should remain so.
- c. The front end website must be updated daily (currently through an API feed from the provider) for investment information, including pricing and performance. The Literature and Forms section of the website is also maintained through the same feed.
- d. Contractor shall be required to regularly monitor developments in the 529 industry and refresh the website content as needed to maintain the website’s freshness and relevance to its visitors.

3) Agency Collaboration

- a. Contractor shall be available upon reasonable notice to plan and review work in progress under the terms of this Agreement. Contractor will participate in regularly scheduled biweekly calls with NMETB, the new program manager and other contractors for the 529 program.
- b. Contractor shall collaborate with NMETB, the new program manager and other contractors, as requested or required, in the development of strategic plans, and will integrate its digital advertising activities and digital marketing activities with the activities of the traditional marketing and advertising firm within the state of New Mexico.
- c. Contractor will assist in the preparation of the annual marketing plan and budget for the 529 program, and will attend regular quarterly meetings of the NMETB as well as any special meetings upon request.

4) Budget Tracking

Contractor shall submit to NMETB a budget tracker showing a detailed breakdown of all production and media budgets, including amounts committed to date and amounts billed to date, no later than the tenth (10<sup>th</sup>) day of each month. Failure to provide an updated budget tracker each month may result in the delay of future payments. Contractor shall provide NMETB with a production expense estimate, which must be submitted and approved prior to invoicing. Invoices should include line item detail with any variance versus actuals, explained in detail.

5) Creative Production Requirements

Contractor shall develop, design, and produce advertising, video, and other projects suitable for deployment online. Contractor shall deliver such material timely to NMETB for approval, and then deploy or work with the web hosting provider to deploy as required.

Before releasing any material, including all forms of advertisement, to the media, Contractor must obtain approval from NMETB. Final material shall be submitted to NMETB for approval at least 24 hours in advance of release date.

6) Advertising Buy Requirements

Contractor shall arrange for all advertising buys. Such bills shall be paid from funds designated for such buys. Contractor is responsible for placing written orders for and maintaining the records of all invoices, and all other billing information for a minimum of three (3) years. Contractor will provide proof of placement for all executed placements.

## **B. TECHNICAL SPECIFICATIONS**

### **1. Agency Capabilities and Organizational References**

Describe agency capabilities; provide client roster, and creative examples. Offerors should provide a minimum of three (3) references from advertising clients including private, state or large local government clients within the last three years. **Offerors are required to submit Appendix E Statement of Capabilities and References.**

Agency Capabilities and Organizational References must be included as part of the Offeror's proposal. Failure to include this information will result in elimination from consideration. The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the NMETB reserves the right to consider any and all information available to it (outside of the Business Reference information required herein), in its evaluation of Offeror responsibility per Section II, Para C.18.;

### **2. Financial Terms**

Complete "Cost Response Form" (Appendix G). The most advantageous financial terms will maximize investment in working media.

### **3. Mandatory Specifications**

#### **I. Creative Development**

Offerors must develop a Creative Brief that details a digital marketing and digital advertising campaign designed to raise awareness of, engagement in and conversion to The Education Plan based on the following information:

##### **a. Seasonal Activity**

Most account formation and contribution activity occur in the first and fourth quarters of the year. The first quarter is associated with tax season and the fourth quarter is associated with the holiday season.

##### **b. Current Landscape**

- 529 plans continue to grow in popularity and assets since their creation in 1996
- Students with school saving accounts are significantly more likely to attend and graduate from college than those without, even low-income
- Today, 49 states have their own 529 plans
- New Mexico is one of only a few states that offers an exclusive tax break for residents contributing to the New Mexico 529 plan
- Today, the minority of accounts (~45%) in The Education Plan are for the benefit of New Mexicans

- New Mexico is one of the most challenged states when it comes to poverty and education levels
- Lack of skilled and educated workforce continues to hinder New Mexico’s economic progress
- States with higher 529 plan participation

For detailed information on the current situation, please refer to:

- [OFI Program Manager Report for Quarter 1 2019](#)
- College Savings Plans Basics and Trends:
  - [College Savings Plan Network](#)
  - [Savingforcollege.com](#)
  - “How America Pays for College 2018” [https://www.salliemae.com/assets/research/HAP/HAP18\\_Infographic.pdf](https://www.salliemae.com/assets/research/HAP/HAP18_Infographic.pdf)
  - Study: [“Small-Dollar Children’s Savings Accounts, Income, and College Outcomes”](#)
  - Report: [“Improving College Affordability to Support New Mexico’s Education, Workforce, and Economic Goals”](#)

### **c. The Education Plan Brand**

- Current Tag Lines:
  - “A little today goes a long way”
  - “New Mexico’s Best-Kept Secret”
- Previous tag lines:
  - “Save today for your child’s tomorrow”
  - “When they’re 5 to 9, it’s time for a 529”
- A “direct-sold” 529 plan—anyone can go to the website or call customer service and open an account themselves
- Today, in top 25% of lowest-cost plans

#### **Challenges:**

- Stigma with 529 plans that they are just for higher-income families (sometimes referred to as a “tax-dodge for the rich”)
- Stigma associated with “college” and “higher education” that it is unnecessary, cost-prohibitive, and/or a rigged system
- New Mexico ranks consistently high for poverty and truancy rates and lack of higher education
- The Plan is an investment vehicle with inherent risks of market fluctuations and losing account value from time to time—scary for most people who are not familiar with investing
- Has reputation among some that the Plan has high fees (outdated perception)
- OppenheimerFunds had legal troubles in past, which tainted some opinions
- Transition to Invesco-Oppenheimer May 24, 2019, then new plan provider (TBA) taking over November 2019, which could cause concern/fear among existing

account owners and lead to plan leakage

**Opportunities:**

- The national economy has improved (unemployment rate down, average income up)
- There is no minimum amount required to open account, and no required minimum amount for ongoing contributions.
- The Education Plan is one of only four state 529 plans to offer unlimited state income tax deduction on contributions
- In New Mexico The Education Plan offers a unique double-tax advantage—the unlimited state income tax deduction on contributions, plus tax-free, compounding growth and tax-free distributions for qualified expenses
- Employer 529 plans (some with matching contributions) are growing trend nationally – could help scale plan participation significantly and make “529” a household concept like “401k”
- Focus on student loan debt relief
- Promote the flexibility of Plan (range of who can use it, qualifying schools and expenses)
- Promote idea of professionals using the Plan for themselves (not just for kids)
- Promote concept of “crowdfunding” the Plan (anyone can make gift contributions into an account for someone else)
- The new plan provider could offer improved features that may be worthy of promoting

**d. Audience:**

**Individual 529 investors**

- Parents, grandparents, aunts/uncles and godparents – anyone with a young person in their life about whom they care deeply
- Working professionals looking to further their education or who need skills training to stay competitive or who may want to change career paths and go back to school
- Busy, active and community-involved people
- Families who value higher education any may worry about tuition inflation and the student loan debt crisis
- Some awareness of the value of 529 plans, but with many misconceptions
- Limited experience with investing/investing terminology
- Internet-savvy (use the internet to research college saving options)
- New Mexico taxpayers who are interested in state income tax savings
- Investors who may have assets in another 529 plan who could and maybe should rollover into The Education Plan

**e. Frame of Reference:**

### Common misconceptions

- 529 plans are just for parents with kids
- 529 plans can only be used for undergraduate 4-year college
- 529 plans just cover college tuition
- Once a student graduates from college they can no longer use a 529 plan
- New Mexico's 529 plan can only be used for schools in NM
- College is free in New Mexico for residents
- Scholarships and financial aid will cover all expenses
- 529 plans are only for higher-income families
- If a child is in high school or college, it is too late to start a 529 plan
- If a child is planning to go into the military, they don't need a 529 plan
- A child savings account at the bank is good enough
- If a child already has a 529 plan, they can't have another one
- It doesn't matter which 529 plan you use
- 529 plan funds are a waste if the beneficiary doesn't need it or use all of it
- A Roth IRA is a better college savings strategy than a 529 plan
- Investing in a 529 plan is too risky
- 529 plan/The Education Plan's fees are too high
- The Education Plan is Oppenheimer's product and is not affiliated with the State of New Mexico

### f. The Education Plan Value Proposition

- **Flexible:** Anyone can open an account for anyone. Relatives and friends can also make gift contributions and accounts can be transferred between family members as needed or desired
- **Affordable:** No minimum contribution required. Contributions can be made at any time in any amount. The Education Plan also features very low fees, helping investors save more for less
- **Inclusive:** The Education Plan can help any New Mexican achieve their education goals, regardless of age, career path or economic circumstances; the Plan also covers over 200 qualified education expenses besides tuition, including housing, books, computers, supplies and fees at any accredited institution of study that accepts federal financial aid, including community colleges, trade schools and online universities, anywhere in the country and even internationally
- **Empowering:** Saving through The Education Plan can enable more New Mexicans to pursue higher education, which would likely result in better employment opportunities, higher incomes and better health, and reduce poverty, illness and crime
- **Strategic:** Investing in The Education Plan is a smart strategy for saving on taxes, estate and legacy planning, and making higher education more affordable
- **Critical:** With the ballooning student loan debt crisis in the U.S., likelihood of continuing tuition inflation and unlikelihood of drastic changes to education policies (such as free college tuition) in the short term, saving through The Education Plan is imperative for New Mexican families

## **C. BUSINESS SPECIFICATIONS**

### **1. Letter of Transmittal Form**

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

### **2. Financial Stability**

Offerors must submit copies of the most recent years independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D & B report) to enable the Evaluation Committee to assess the financial stability of the Offeror. This information should be included in the redacted Dropbox Folder as defined in Section III.B.s

### **3. Response to Contract Terms and Conditions**

Offeror 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 NMETB. Please see Section II.C.15 for requirements.

### **4. Offeror's Additional Terms and Conditions**

Offeror must submit any additional terms and conditions that deviate from the Sample Contract (Appendix C), which may be the subject of negotiation. Offeror must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording, as directed in Section II.C.15.

### **5. 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)

### **6. 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 F) 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. Finalist Offerors will be determined by this initial evaluation process.

<b>Factors – correspond to section IV.B and IV C</b>		<b>Points Available</b>
<b>B. Technical Specifications</b>		
B. 1.	Agency Capabilities & References	200
B. 2.	Financial Terms	100
B. 3	Mandatory Specifications	700
<b>C. Business Specifications</b>		
C.1.	Letter of Transmittal	Pass/Fail
C.2.	Financial Stability	Pass/Fail
C.3	Signed Campaign Contribution Disclosure Form	Pass/Fail
C.4.	New Mexico Preference - Resident Vendor Points per Section IV	
A		
C.4.B	New Mexico Preference - Resident Veterans Points per Section IV	
<b>D</b>	Oral Presentation (if any)	
Total Available Points		<b>1,000</b>

Table 1: Evaluation Point Summary

### B. EVALUATION FACTORS

#### 1. B.1 Agency Capabilities and References (200 points)

Points will be awarded based on the thoroughness and clarity of the response of the engagements cited and the perceived validity of the responses included in Statement of Capabilities and References (Appendix E).

#### 2. B.2 Financial Terms (100 points)

Points will be awarded based on submission of Cost Response Form (Appendix G) with evaluation criteria based on Section IV. B.

#### 3. B.3 Mandatory Specifications (700 points)

Points will be awarded based on the quality of the Offeror’s integrated creative campaign to deliver on the Creative Brief and the recommended Media Strategy/Plans to deliver on the Media Brief outlined in Section IV.B.3.

**4. C.1 Letter of Transmittal**

Pass/Fail only. No points assigned.

**5. C.2 Financial Stability**

Pass/Fail only. No points assigned.

**6. C.3 Campaign Contribution Disclosure Form**

Pass/Fail only. No points assigned.

**7. C.4 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)

**8. D. Oral Presentation**

Finalist Offerors may be invited to make oral presentations. Finalist Offerors will present their proposed Agency team, analytic and website design capabilities, creative campaign and strategy.

**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 IV, 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. 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**

**Digital Marketing and Advertising, Analytics and Website  
Update and Ongoing Development  
RFP# 20-949-9010-00011  
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 H.

The acknowledgement of receipt should be signed, scanned and emailed to the Procurement Manager **no later than June 27, 2019 by 5:00 PM MST/MDT** 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.

Vera Lyons, Procurement  
Manager  
The Education Trust Board of  
New Mexico  
E-mail: [vera.lyons@state.nm.us](mailto:vera.lyons@state.nm.us)

**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**

**SAMPLE CONTRACT FOR PROFESSIONAL SERVICES**

APPENDIX C

SAMPLE CONTRACT FOR PROFESSIONAL SERVICES  
STATE OF NEW MEXICO

PROFESSIONAL SERVICES CONTRACT # \_\_\_\_\_

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **NAME OF AGENCY**, hereinafter referred to as the "Agency," and **NAME OF CONTRACTOR**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Department of Finance and Administration (DFA).

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall perform the following work:

2. **Compensation.**

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed at the rate of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) per hour (OR BASED UPON DELIVERABLES, MILESTONES, BUDGET, ETC.), such compensation not to exceed (AMOUNT), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling (AMOUNT) shall be paid by the Agency to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the DFA. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

(—OR—)

**(CHOICE – MULTI-YEAR)**

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in FYXX (USE FISCAL YEAR NUMBER TO DESCRIBE YEAR; DO NOT USE FY1, FY2, ETC.). The New Mexico gross receipts tax levied on the amounts payable under this Agreement in FYXX totaling

(AMOUNT) shall be paid by the Agency to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FYXX.**

(REPEAT LANGUAGE FOR EACH FISCAL YEAR COVERED BY THE AGREEMENT -- USE FISCAL YEAR NUMBER TO DESCRIBE EACH YEAR; DO NOT USE FY1, FY2, ETC.).

B. Payment in FYXX, FYXX, FYXX, and FYXX is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the DFA. All invoices **MUST BE** received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date **WILL NOT BE PAID.**

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

**3. Term.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE DFA. This Agreement shall terminate on **(DATE)** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150.

**4. Termination.**

A. Grounds. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. Notice; Agency Opportunity to Cure.

1. Except as otherwise provided in Paragraph (4)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted

for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

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

**5. Appropriations.**

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

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

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

**8. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

**9. Release.**

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

**10. Confidentiality.**

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

**11. Product of Service -- Copyright.**

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

**12. Conflict of Interest: Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;

2) this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within

the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;

4) this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

5) in accordance with NMSA 1978, § 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

6) in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Agency.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

### **13. Amendment.**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

### **14. Merger.**

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

**15. Penalties for violation of law.**

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

**16. Equal Opportunity Compliance.**

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

**17. Applicable Law.**

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

**18. Workers Compensation.**

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

**19. Records and Financial Audit.**

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

**20. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any

officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

**21. New Mexico Employees Health Coverage.**

A. If Contractor 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, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to 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. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees 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://insurenwmxico.state.nm.us/>.

**22. Invalid Term or Condition.**

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

**23. Enforcement of Agreement.**

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

**24. Notices.**

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

To the Agency:

[insert name, address and email].

To the Contractor:

[insert name, address and email].

**25. Authority.**

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

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the DFA Contracts Review Bureau below.**

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

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

By: \_\_\_\_\_  
Agency's Legal Counsel – Certifying legal sufficiency

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

By: \_\_\_\_\_  
Agency's Chief Financial Officer

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

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

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

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

ID Number: **00-000000-00-0**

By: \_\_\_\_\_  
Taxation and Revenue Department

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

This Agreement has been approved by the DFA Contracts Review Bureau:

By: \_\_\_\_\_  
DFA Contracts Review Bureau

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

**APPENDIX D**

**LETTER OF TRANSMITTAL FORM**

# APPENDIX D

## 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.

\_\_\_\_\_, 2019  
Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

## **APPENDIX E**

### **STATEMENT OF CAPABILITIES AND REFERENCES**

The State of New Mexico, 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: [vera.lyons@state.nm.us](mailto:vera.lyons@state.nm.us) by July 22, 2019 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.

## APPENDIX E

### STATEMENT OF CAPABILITIES AND REFERENCES FOR:

Agency Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

Names and Title of Principals:

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

Date agency was organized \_\_\_\_\_

Principals' prior experience: \_\_\_\_\_

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

Is your agency organized as a joint venture or association? Yes \_\_\_\_\_ No \_\_\_\_\_

Current gross annual billing \_\_\_\_\_

Client list (may include present and past) with dates acquired, names of contact persons and telephone numbers: (Add additional pages if necessary)

Client	Client Contact	Dollar Amount	Dates
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Please indicate all cities in which agency has offices; indicate which office is main headquarters; number of full time staff at each:

Total number of employees \_\_\_\_\_

How many in each of the following categories

Primary Office Location/Headquarters \_\_\_\_\_

<b>Position</b>	<b>Full Time</b>	<b>Part Time</b>
Creative		
Copywriters		
Production		
Technical		
Traffic		
Account Work		
Media buyers: Digital and Alternative		
Research		
Administrative		
<b>TOTALS</b>		

Additional Office Location/s \_\_\_\_\_

<b>Position</b>	<b>Full Time</b>	<b>Part Time</b>
Creative		
Copywriters		
Production		
Technical		
Traffic		
Account Work		
Media buyers: Digital and Alternative		
Research		
Administrative		
<b>TOTALS</b>		

Would the addition of this account require your firm to hire more personnel? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please indicate number and positions to be filled:

Creative \_\_\_\_\_ Account Work \_\_\_\_\_ Media Buyer \_\_\_\_\_

Production \_\_\_\_\_ Technical \_\_\_\_\_ Administrative \_\_\_\_\_

This Offeror is willing to pay all advertising, media fees, and production fees and will submit detailed monthly invoices to the NMETB.

I certify that I am authorized by my organization to submit this proposal and to negotiate and sign a final agreement. I further certify that the information contained in this proposal is true and accurate:

Signed:

\_\_\_\_\_  
Offeror's Firm/Agency Name

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Signature

Date\_\_\_\_\_

**RFP # RFP# 20-949-9010-00011**  
**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 the New Mexico Education Trust Board by e-mail at:

Name: Vera Lyons, Procurement Manager  
Address: New Mexico Education Trust Board  
1516 Paseo de Peralta  
Sante Fe, NM 87506  
Telephone: (505) 982-4099 ext. 2  
Email: [vera.lyons@state.nm.us](mailto:vera.lyons@state.nm.us)

no later than July 22, 2019 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.

<b>Company providing reference:</b>	
<b>Contact name and title/position</b>	
<b>Contact telephone number</b>	
<b>Contact e-mail address</b>	
<b>Project description;</b>	
<b>Project dates (starting and ending);</b>	
<b>Technical environment, if any, for the project your providing a reference (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);</b>	

**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 vendor'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 vendor?  
\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)  
COMMENTS:

5. How would you rate the dynamics/interaction between the vendor and your staff?  
\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)  
COMMENTS:

6. Who were the vendor's principal representatives involved in your project 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 products developed by the vendor?  
\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)  
COMMENTS:

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

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

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

**APPENDIX F**

**RESIDENT VETERANS CERTIFICATION**

# APPENDIX F

## 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.

**APPENDIX G**  
**COST RESPONSE FORM**

## APPENDIX G

### COST RESPONSE FORM

<b>Description</b>	<b>Cost per Item</b>
Agency Management & Strategy	
Creative Production	
Digital Advertising Management (Paid Search, Display, & Social Media Ads)	
Search Engine Optimization	
Website Updating & Development	
Website Hosting, Security and Maintenance	
Reporting & Analysis	
<b>TOTAL</b>	

## **APPENDIX H**

### **CURRENT SITE ARCHITECTURE, TECHNICAL OVERVIEW AND TECHNICAL SITE STRUCTURE**

## APPENDIX H

### CURRENT SITE ARCHITECTURE, TECHNICAL OVERVIEW AND TECHNICAL SITE STRUCTURE

#### **theeducationplan.com**

Theeducationplan.com is an informational, responsive website that contains 20 pages. The purpose of this website is to provide education to those wanting to enroll in a 529 college savings plan. The website does this by offering rich content to users and forwards these users to complete an enrollment form on our partner's website.

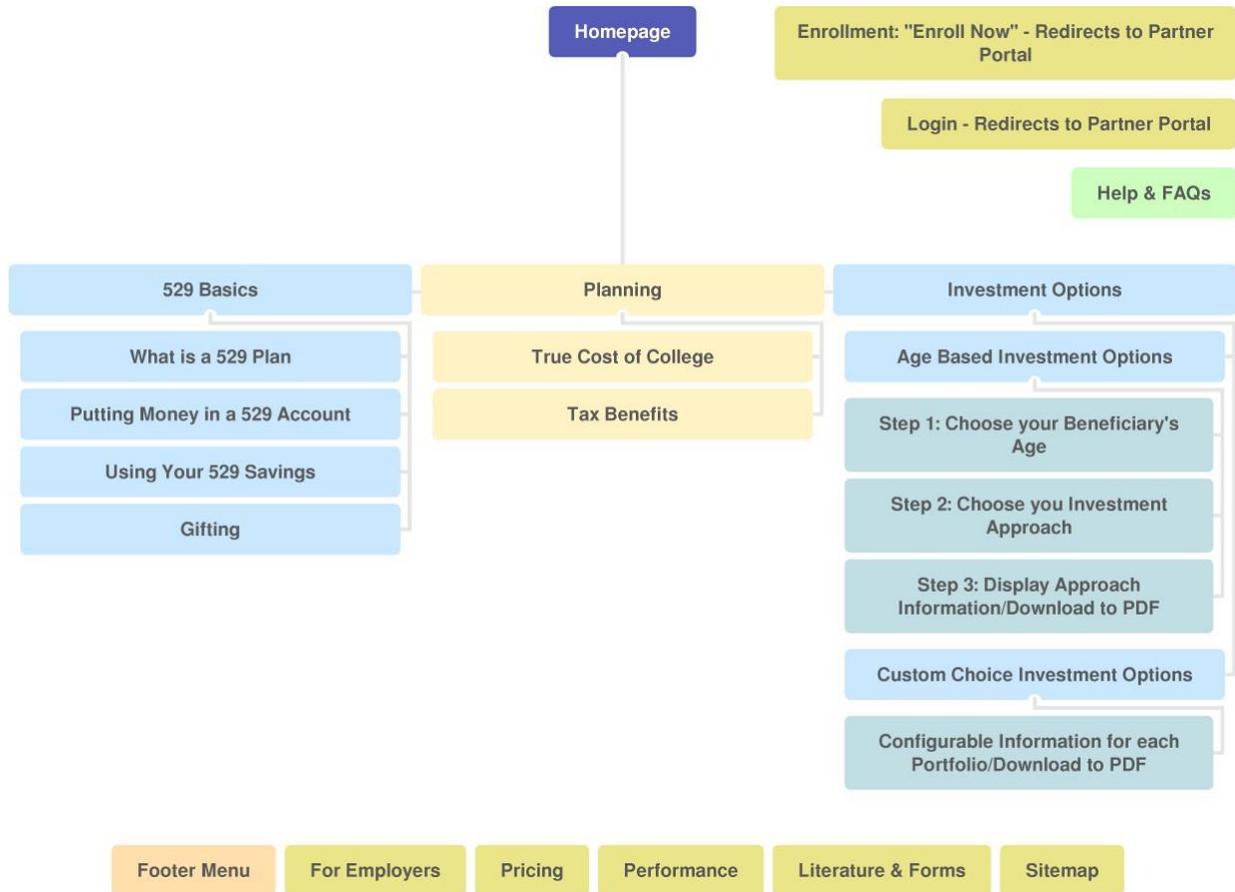
#### **Site Architecture**

1. **Homepage** – represents the brand effectively, drives engagement and enrollment, and provides paths to a user-friendly site experience
2. **“529” Informational Pages (x10)** – offers content to educate users on 529 college savings plans
3. **“Employers” Lead-gen Page** – offers a single contact form that sends a notification to our team that an employer is interested in learning more about offering The Education Plan as a benefit to employees
4. **Help & FAQ Page** – offers question and answer content in an easy-to-consume manner as well as overall contact information for the organization
5. **Pricing & Performance Pages (x2)** – provides responsive charts that display historic data, with the ability to search by date
6. **Investment Options Pages (x2)** – each “track” contains multi-step processes that guide users through the selecting investments while providing underlying fund information, fees and expenses, and other specific information required for each portfolio. These pages utilize custom ASP.NET/C# coding and jQuery to display data in an easy-to-use manner with the ability to download selections.
7. **Forms & Literature Page** – utilizes a RESTful state API from our partner to display relevant PDFs in real-time
8. **Enrollment Page** – offers a user-friendly preparation page and a “Call to Action” button for users to be sent to our partner portal (sub-domain accounts.theeducationplan.com) for enrollment

#### **Other Notable Site Features**

1. “Custom Choice” and “Age-Based” Investment Options – display data in “modal” pop-ups to keep users on-page
2. API is currently called every 12-15 minutes and cached to improve performance
3. API is monitored closely and managed effectively to ensure information is up-to-date and remains in compliance

## Sitemap/Page Structure



## Technical Overview

1. Kentico v.11
2. ASP.NET Framework/C# programming experience
3. jQuery framework
4. RESTful state API
5. Windows Server
6. SQL Server 2008
7. AWS – load-balanced server (x2 for redundancy/fail-over)
8. Development Lifecycle – utilizes Dev-QA-Staging-Production environments
9. Version Control: GitHub
10. Bootstrap 4.2.1
11. Google Tag Manager – pixel maintenance for digital marketing purposes

# Technical Site Structure

