

Southwest Secondary Learning Center
SOLE SOURCE REQUEST AND DETERMINATION FORM

A sole source determination is not effective until the sole source request for determination has been posted for thirty (30) calendar days without challenge, and subsequently approved in writing. The foregoing requirement is regardless of whether the sole source request for determination has been signed b_y the Agency and/or the Contractor.

- I. Name of Agency: Southwest Secondary Learning Center (Client)
Agency Chief Procurement Officer: Heather Riley
Telephone Number: 505-296-7677 Ext. 108

- II. Name of Prospective Contractor: German Burnette & Associates LLC (Attorney)
Address of Prospective Contractor: 11728 Linn Ave NE. Albuquerque, NM. 87123
Amount of Prospective Contract by year:
 - Objective: \$60,000
 - Threshold: \$75,000Term of Prospective Contract:
 - 1-year base (May 16, 2019 to June 30, 2019)
 - Option year 1 (July 1, 2019 to June 30, 2020)
 - Option year 2 (July 1, 2020 to June 30, 2021)

- III. Please thoroughly list the services (Scope of Work) of the contract in reference to Case No. D-202-CV-2014-06924: The Attorney Shall:
 - Provide legal services to, and act to protect, the interests of the Client.
 - Defend the Client in the on-going Fraud Against Taxpayers Act (FATA)/Qui tam lawsuit of a former employee.
 - Utilize all ethical and legal procedures to advance the Client's interests in any matter undertaken on behalf of Client, subject to Client's instructions regarding the extent of efforts to be made on behalf of Client.
 - Make reasonable efforts to respond to Client promptly to all communication from Client and, absent of extenuating circumstances, no later than three (3) business days.

- IV. Provide an explanation of the criteria developed and specified by the agency as necessary to perform and/or fulfill the contract and upon which the state agency reviewed available sources. (Do not use "technical jargon;" use plain English. Do not tailor the criteria simply to exclude other contractors if it is not rationally related to the purpose of the contract.)

Southwest Secondary Learning Center researched other available legal services in New Mexico and was unable to identify an alternative legal service that offered the comprehensive and specific legal services, e.g. Fraud Against Taxpayer Act (FATA)/Qui tam, required to represent Southwest Secondary Learning Center in the on-going litigation in support of Case No. D-202-CV-2014-06924.

- V. Provide a detailed, sufficient explanation of the reasons, qualifications, proprietary rights or unique capabilities of the prospective contractor that makes the prospective contractor the one

source capable of providing the required professional service, service, construction or item(s) of tangible personal property. (Please do not state the source is the "best" source or the "least costly" source. Those factors do not justify a sole source.)

Southwest Secondary Learning Center administration chose German and Associates legal representation to provide specific and recurring legal representation in support of Case No. D-202-CV-2014-06924, which remains in litigation. In 2019, Southwest Secondary Learning Center completed a cost comparison in regards to the incumbent (German and Associates) versus a non-incumbent. Based on those findings, the cost associated with contracting new legal services, unfamiliar with the on-going litigation, would drastically increase the cost to Southwest Secondary Learning Center's continued need for legal representation. Maintaining German and Associates is in the best interest of Southwest Secondary Learning Center.

- VI. Provide a detailed, sufficient explanation of how the professional service, service, construction or item(s) of tangible personal property is/are unique and how this uniqueness is substantially related to the intended purpose of the contract.

German and Associates has represented Southwest Learning Center for multiple years in support of Case No. D-202-CV-2014-06924. There is no other legal representation in the State of New Mexico with the comprehensive and specific experience required to further represent Southwest Secondary Learning Center in the on-going litigation; contracting new legal representation would be detrimental to Southwest Secondary Learning Center.

- VII. Explain why other similar professional services, services, construction or item(s) of tangible personal property cannot meet the intended purpose of the contract.

Contracting new legal representation after multiple years of on-going litigation is not a practical option considering the vast familiarity and experience the incumbent has acquired throughout the on-going litigation of Case No. D-205-CV-2014-06924. The cost associated with new legal representation simply familiarizing themselves with the case would be excessive. Therefore, sole sourcing German and Associates in the best interest of the State of New Mexico and Southwest Secondary Learning Center.

- VIII. Provide a narrative description of the agency's due diligence in determining the basis for the procurement, including procedures used by the agency to conduct a review of available sources such as researching trade publications, industry newsletters and the internet; reviewing telephone books and other advertisements; contacting similar service providers; and reviewing the State Purchasing Agent's vendor list. Include a list of businesses contacted (do not state that no other businesses were contacted), date of contact, method of contact (telephone, mail, email, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

Southwest Secondary conducted internet and telephone research to determine if any additional legal services existed that had the ability and capacity to have an immediate impact on Case No. D-205-CV-2014-06924. Due to the complexity and complications of the on-going litigation, it was determined that no other legal services in the State of New Mexico had the ability and

capacity to immediately represent Southwest Secondary Learning Center in a precise, proficient, and meaningful manner in support of Case No. D-202-CV-2014-06924.

Certified by:

Heather Riley
SSLC-Heather Riley (CPO)

5/17/19
Date