DATE: May 4, 2021

TO: Frances A. Dunaway, Purchasing Officer

FROM: Loni Martinez, Administrative Manager

VIA: Shannon Jones, Public Utilities Dept. Director
      Michael Dozier, Wastewater Management Division Director
      Jesse Roach, Water Division Director

RE: Sole Source : New Mexico One Call

Item and Issue:
Request for Sole Source Procurement from New Mexico One Call System Inc., for notification of intended excavation via internet to the Public Utilities Department/Water and Wastewater Division.

Background and Summary:
NM One Call is the exclusive utility locating clearing house in the State.

The purpose and intent of the One Call System is to prevent injury to persons and damage to property from accidents resulting from damage to pipelines, underground utility lines, cable television lines and related facilities by excavating and blasting.

The Public Utilities Department is a member of New Mexico One Call as required by New Mexico Statutes Annotated 1978, Chapter 62, Article 14.

The specific requirement from Statutes is as follows:

62-14.7.1 Pipeline one-call notification system
A. Every owner or operator of a pipeline facility shall be a member of a one-call notification system. A one-call notification system may be for a region of the state or statewide in scope, unless federal law provides otherwise.

New Mexico One Call System Inc. is the sole source procurement for this service for the State of New Mexico.

Attached is additional information for your use in processing this request.
Action Requested:
The Public Utilities Department requests approval of New Mexico One Call Inc., as sole source procurement and approval of the Purchase Requisitions and Purchase Order for Fiscal Year 2022.

Approved

Disapproved:

Frances A. Dunaway Purchasing Officer

Date: May 14, 2021
SOLE SOURCE REQUEST AND DETERMINATION FORM

This sole source request form must be submitted to the City of Santa, Purchasing Division for authorization, determination and processing by the Chief Procurement Officer (CPO). Please ensure to complete this form in its entirety - (*) must be completed.

<table>
<thead>
<tr>
<th>*Date</th>
<th>05/04/2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Prepared By</td>
<td>Loni Martinez</td>
</tr>
<tr>
<td>*Title</td>
<td>Administrative Manager</td>
</tr>
<tr>
<td>*Vendor Name</td>
<td>New Mexico One Call Inc</td>
</tr>
<tr>
<td>*Address</td>
<td>1021 Eubank Blvd., NE</td>
</tr>
<tr>
<td>*City</td>
<td>Albuquerque</td>
</tr>
<tr>
<td>*State</td>
<td>New Mexico</td>
</tr>
<tr>
<td>*Zip Code</td>
<td>87112</td>
</tr>
</tbody>
</table>

*Description of Goods/Service to be procured:

*Estimated Cost:

$40,000 /yr $160,000

Term of Contract:

Four (4) year from award 6/30/25

*Sole Source Request Justification Questions 1-3.

1. Explain the purpose/need of purchase. Ensure to include a thorough scope of work for the services, construction or items of tangible personal property (if this is an amendment request to an existing contract, attach current contract).

In 1988, the U.S. Government passed the “Pipeline Safety Reauthorization Act of 1988.” This law required all states to establish one-call coverage pipelines, and also required the Department of Transportation and states to establish qualifications and procedures for operating one call centers. To our knowledge, New Mexico One Call Inc. is the only one call coverage in NM and is approved by the New Mexico Public Regulation Commission (PRC).
2. Provide a detailed explanation of the criteria developed and specified by the department as necessary to perform and/or fulfill the contract.

The contractor has affirmed sole source for the services, construction or items of tangible personal property *(Attach memo from vendor)*. Provide documentation of due diligence for other possible vendors/contractors to provide the requested services/goods proved unsuccessful; or

Other: explanation of the reasons, qualifications, proprietary rights or unique capabilities *(unique and how this uniqueness is substantially related to the intended purpose of the contract)* 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.”) *Unique and how this uniqueness is substantially related to the intended purpose of the contract.*

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

As discussed above in paragraph one, New Mexico One Call Inc. is the only company in the state that handles one call coverage for all the participating utilities in the state. The City of Santa Fe is a participating utility.
*Approvals:

Based on the above facts, the City of Santa Fe Purchasing Officer has made the determination that the justification for a Sole Source procurement is in accordance with the State Procurement Code, Section 13-1-126 Sole source procurement, NMSA 1978 and shall be posted for a 30-day period prior to award.

Fran Dunaway, CPO
Purchasing Officer for the City of Santa Fe

May 14, 2021

Pursuant to the State Procurement Code, Section 13-1-126 Sole source procurement, NMSA 1978, the 30-day posting period of the Notice of Intent to Award this Sole Source request was met and no obligation to the award to the above referenced contractor were received. This Sole Source determination will be valid for a period of one (1) year from the date of the award.

Fran Dunaway, CPO
Purchasing Officer for the City of Santa Fe

*Required Attachments:
*Letter from Contractor acknowledging they are the only source (on their business letterhead and signed by the head of business or financial operations),
*Quote from sole source Contractor
*Agenda Item to be presented to City Council if over $60,000 for Professional Services and $60,000 for Goods and Non-Professional Services
City of Santa Fe Water/Waste Water

Re: Sole Source

Dear Sir or Madam:

New Mexico One Call, Inc. DBA New Mexico 811 (NM811) is New Mexico’s only statewide one-call notification center and was formed in 1990. Our mission is to serve as the state’s communication hub promoting safe excavation and damage prevention. All underground facility owners/operators (UFOs) are required by New Mexico state law to be a member of a one-call notification system. This includes all public and private entities who own underground pipelines, gas distribution, cable, telecommunications, water, sewer or electric facilities.

If you have any further questions regarding this matter or if you require any additional information, please do not hesitate to contact me at 505-254-7303.

Sincerely,

Domingo Sanchez III
Executive Director
MEMBERSHIP DUES AND FEES SCHEDULE

The following is a description of the dues and fees and billing methodology approved by the Board of Directors of New Mexico One Call, Inc. dba New Mexico 811.

<table>
<thead>
<tr>
<th>MEMBERSHIP</th>
<th>TYPE</th>
<th>RATE</th>
<th>ANNUAL MEMBER FEE</th>
<th>TRANSMISSION CHARGE*</th>
</tr>
</thead>
</table>
|               | Regular  | REG  | $90               | 1) Pro-rata allocation of annual budget based on 3-year average transmissions
|               |          |      |                   | 2) Charge of $2.40 per transmission until member establishes a 3 years average transmissions. |
|               | Non-jurisdictional | NON  | $150            | NO CHARGE            |

<table>
<thead>
<tr>
<th>ASSOCIATE MEMBERSHIP</th>
<th>TYPE</th>
<th>Yearly Fee</th>
<th>Includes</th>
<th>Additional Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Associate Members</td>
<td>250</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>
REGULAR MEMBERSHIP DUES

Allocation Calculation: For Members with 3 or more years of transmission history

\[
\frac{\text{Member’s rolling 3-year transmission}}{\text{NM811’s total rolling 3-year transmission}} = \text{percentage (\%)}
\]

\[
\text{Annual Membership Dues} = \text{Percentage (\%)} \times \text{total NM811 budget} + \text{Annual membership fee}
\]

Note: Members must have a 3-year (36 months) rolling average as of November 30th to be eligible for calculation of a rolling average for the upcoming new year’s annual billing allocation.

Less than 3 years of Transmission History

Annual Membership Dues = $\text{Member fee} + \text{transmission fee} \times \# \text{ of transmissions}

Billing

Members may choose from one of the following ways to receive their bill:

- Bill sent via email .......... No Charge
- Bill sent via fax ............. $35 annual charge
- Bill sent via USPS .......... $25 annual

Additional Charges

The following additional charges will apply, if applicable:

- Annual Charge per Ticket Destination – where the primary transmission method is via fax; (back-up transmissions – no additional charge for fax)
- $35 Annual Charge – to manually calculate a bill

Terms

Terms of payment are NET 30 Days. Late fees will be charged according to our policy as stated in the Members Manual. A copy of the manual is available on our web site at www.nm811.org or by calling 505-254-7300.

New Applicants

Transmission Charge is defined as every notification sent by NM811 (excluding free-forms, cancellations, corrections, resends & daily audit reports) including multiple subscription notices (i.e., email, phone, FTP, or fax) for the same ticket/Transmission number.

Note: Annual membership fee of $90 is required with the submission of a new application, prior to official online setup.
New Mexico One-Call

Note: This material has been prepared for use in Utility Contractor and Utility Claims Employee Training. For legal interpretations to be used in actual case settings, please consult your attorney or check with the Bar Association, in this state, for an appropriate referral to a qualified attorney.

New Mexico Statutes Annotated 1978

CHAPTER 62. ELECTRIC, GAS AND WATER UTILITIES

ARTICLE 14

EXCAVATION DAMAGE TO PIPELINES AND UNDERGROUND UTILITY LINES

Section
62-14-1. Purpose and intent.
62-14-6. Liability for damage to underground facilities.
62-14-7. Liability for negligence notwithstanding information obtained.
62-14-7.1. Pipeline one-call notification system.

62-14-1. Purpose and intent.

The purpose of Chapter 62, Article 14 NMSA 1978 is to prevent injury to persons and damage to property from accidents resulting from damage to pipelines, underground utility lines, cable television lines and related facilities by excavating and blasting.


http://ubsinfo.com/nm.html

7/11/02
For purposes of Chapter 62, Article 14 NMSA 1978:

A. "blasting" means the use of an explosive to excavate;

B. "excavate" means the movement or removal of earth using mechanical excavating equipment or blasting and includes augering, backfilling, digging, ditching, drilling, grading, plowing in, pulling in, ripping, scraping, trenching and tunneling;

C. "mechanical excavating equipment" means all equipment powered by any motor, engine or hydraulic or pneumatic device used for excavating and includes trenchers, bulldozers, backhoes, power shovels, scrapers, craglines, clam shells, augers, drills, cable and pipe plows or other plowing-in or pulling-in equipment;

D. "one-call notification system" means a communication system in which an operation center provides telephone services or other reliable means of communication for the purpose of receiving excavation notice information and distributing that information to owners and operators of pipeline facilities;

E. "pipeline" means a pipeline or system of pipelines and appurtenances for the transportation or movement of any oil or gas, oil or gas products and byproducts, but does not include gathering lines or systems operated exclusively for the gathering of oil or gas, oil and gas products and their byproducts in any field or area, line or systems constituting a part of any tank farm, plant facilities of any processing plant or underground storage projects, unless it is located within a municipality or in the boundaries of an established easement or right of way or within the limits of any unincorporated city, town or village or within any designated residential or commercial area such as a subdivision, business or shopping center or community development;

F. "underground utility line" means an underground conduit or cable, including fiber optics, and related facilities for transportation and delivery of electricity, telephonic or telegraphic communications or water;

G. "cable television lines and related facilities" means the facilities of any cable television system or closed-circuit coaxial cable communications system or other similar transmission service used in connection with any cable television system or other similar closed-circuit coaxial cable communications system;

H. "underground facilities" means any tangible property described in Subsections E through G of this section that is underground and does not include residential sprinklers or low-voltage lighting;

I. "person" means the legal representative of or any individual, partnership, corporation, joint venture, state, subdivision or instrumentality of the state or an association;

J. "means of location" means a mark such as a stake in earthen areas or a paint mark in paved areas that is conspicuous in nature and that is designed to last at least five days if not disturbed;

K. "advance notice" means two working days; and
L. "commission" means the state corporation commission [public regulation commission] or its successor agency.


Every person who prepares engineering plans for excavation or who engages in excavation shall:
A. make reasonable efforts to inform himself of the location of any underground facility in or near the area where the excavation is to be conducted, including a request to the owner or operator of the underground facility to locate the underground facility pursuant to Section 62-14-5 NMSA 1978;

B. plan the excavation to avoid or minimize interference or damage to underground facilities in or near the excavation area;

C. provide reasonable advance notice of the commencement, extent and duration of the excavation work to the owners of any existing underground facility in and near the excavation area in order to allow the owners to locate, and mark the location of the underground facility described in Section 62-14-5 NMSA 1978 prior to the commencement of work in the excavation area;

D. prior to initial exposure of the underground facility, maintain at least an estimated clearance of eighteen inches between existing underground facilities for which the owners or operators have previously identified the location, and the cutting edge or point of any mechanical excavating equipment utilized in the excavation;

E. provide such support for existing underground facilities in or near the excavation area as may be reasonably necessary to prevent damage to them;

F. backfill all excavations in a manner and with materials as may be necessary to prevent damage to and provide reliable support during and following backfilling activities for pre-existing underground facilities in or near the excavation area; and

G. notify as promptly as possible the owner of any underground facilities which may have been damaged or dislocated during the excavation work.


Every person who engages in emergency excavation shall take all necessary and reasonable precautions to avoid or minimize interference with or damage to existing underground facilities in and near the construction area and shall notify as promptly as possible the owners of underground facilities located in and near the emergency excavation area. In the event of any damage to or dislocation of any underground facility caused by the emergency excavation work, the person responsible for the excavation shall immediately notify the owner of the underground facility.


http://ubsinfo.com/nm.html
A. Every person owning or operating an underground facility shall, upon the request of a person intending to commence an excavation and upon reasonable advance notice locate and mark on the surface the actual horizontal location within twelve inches by some means of location the underground facilities in or near the area of the excavation so as to enable the person engaged in excavation work to locate the facilities in advance of and during the excavation work.

B. If the owner or operator fails to correctly mark the underground facility after being given reasonable advance notice and such failure to correctly mark the facility results in additional costs to the person doing the excavating, then the owner or operator shall reimburse the person engaging in the excavation for the reasonable costs incurred.

62-14-6. Liability for damage to underground facilities.

A. If any underground facility is damaged by any person who failed to make reasonable efforts to inform himself as to its location as provided in Chapter 92, Article 14 NMSA 1978, that person shall reimburse the owner of the underground facility for the actual cost of the damage to the underground facility, including the cost of restoration of services. The person engaging in the excavation may also be liable to the owner or operator of the underground facility for the comparative negligence of the person engaging in the excavation which results in damage to the facility for an additional amount not to exceed three hundred thousand dollars ($300,000) for each occurrence.

B. If any underground facility is damaged by any person who has made reasonable efforts to inform himself as to its location and such damaged underground facility was correctly located by the owner or operator of the underground facility as provided in Section 62-14-5 NMSA 1978, then that person causing the damage shall be liable to the owner or operator of the underground facility for only the actual cost of damage to the underground facility, including the cost of restoration of service.

C. If any underground facility is damaged by any person who has made reasonable efforts to inform himself as to its location and damage to the underground facility is caused by the failure of the owner or operator to correctly locate that underground facility as provided in Section 62-14-5 NMSA 1978, then the person engaging in the excavation shall have no liability for the damage to that facility.

D. It is not the intent of Chapter 62, Article 14 NMSA 1978 to impose civil liability to any person beyond that provided in this section.

62-14-7. Liability for negligence notwithstanding information obtained.

The act of obtaining or making reasonable efforts to obtain information as required by Chapter 62, Article 14 NMSA 1978 shall not excuse any person making any excavation from doing so in a careful and prudent manner, nor shall it excuse such person from liability for any damage or injury resulting from his negligence as limited in Section 62-14-6 NMSA 1978.
62-14-7.1. Pipeline one-call notification system.

A. Every owner or operator of a pipeline facility shall be a member of a one-call notification system. A one-call notification system may be for a region of the state or statewide in scope unless federal law provides otherwise.

B. Each one-call notification system shall be operated by:

(1) an owner or operator of pipeline facilities;

(2) a private contractor;

(3) a state or local government agency; or

(4) a person who is otherwise eligible under state law to operate a one-call notification system.

C. If the one-call notification system is operated by owners or operators of pipeline facilities, it shall be established as a nonprofit entity governed by a board of directors that shall establish the operating processes, procedures and technology needed for a one-call notification system. The board shall further establish a procedure or formula to determine the equitable share of each member for the costs of the one-call notification system. The board may include representatives of excavators or other persons deemed eligible to participate in the system who are not owners or operators.

D. Excavators shall give advance notice to the one-call notification system operating in the intended excavation area and provide information established by rule and regulation of the commission, except when excavations are by or for a person that:

(1) owns or leases or owns a mineral leasehold interest in the real property on which the excavation occurs; and

(2) operates all underground facilities located in the intended excavation area.

E. The one-call notification system shall promptly transmit excavation notice information to owners or operators of pipeline facilities in the intended excavation area.

F. After receiving advance notice, owners and operators of pipeline facilities shall locate and mark their pipeline facilities in the intended excavation area.

G. The one-call notification system shall provide a toll-free telephone number or another comparable and reliable means of communication to receive advance notice of excavation. Means of communication to distribute excavation notice to owners or operators of pipeline facilities shall be reliable and capable of coordination with one-call notification systems operating in other regions of the state.

H. Operators of one-call notification systems shall notify the commission of its members and the name and telephone number of the contact person for each member.
1. One-call notification systems and owners and operators of pipeline facilities shall promote public awareness of the availability and operation of one-call notification systems and work with state and local governmental agencies charged with issuing excavation permits to provide information concerning and promote awareness by excavators of one-call notification systems.


In addition to any other liability imposed by law, any person who willfully fails to comply with Chapter 62, Article 14 NMSA 1978 and whose failure proximately contributes to the damage of any pipeline or underground utility line shall be subject to a civil penalty not to exceed five hundred dollars ($500) for each offense. All actions to recover the penalties provided for in this section shall be brought by either the attorney general or the appropriate district attorney upon complaint of the commission, the New Mexico Public Utility Commission or the construction industries division of the regulation and licensing department. All such actions shall be brought in the district court in and for the county in which the cause, or some part of the cause, arose or in which the person complained of has his principal place of business or residence. All penalties recovered in any such action shall be paid into the state general fund.


If any person excavates or intends to excavate in violation of Chapter 62, Article 14 NMSA 1978, the commission or any interested or affected owner or operator of an underground facility may file, in the district court of the county in which the excavation is occurring or intended, an action seeking to enjoin the excavation.


The commission shall promulgate rules and regulations to implement the provisions of Chapter 62, Article 14 NMSA 1978.
"NM One Call Signed SoleSource" History

 pena Document created by Lailah Herrera (lrherrera@ci.santa-fe.nm.us)
 2021-05-10 - 2:59:23 PM GMT- IP address: 63.232.20.2

 Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature
 2021-05-10 - 3:00:22 PM GMT

 Email viewed by Fran Dunaway (fadunaway@santafenm.gov)
 2021-05-10 - 10:42:06 PM GMT- IP address: 104.47.65.254

 Document declined by Fran Dunaway (fadunaway@santafenm.gov)
 2021-05-10 - 10:44:55 PM GMT- IP address: 63.232.20.2