Sole Source Application and Determination Form

A sole source determination is not effective until the sole source application for determination has been posted on the Purchasing website for thirty (30) calendar days without protest and is subsequently approved in writing by the Vice President of Administration and Finance.

1. Name of Department: PRRC
   Contact Name: Jennifer Raney
   Phone: 505-810-3658
   Email: Jennifer.Raney@nmt.edu

2. Name of Prospective Vendor: Gallagher & Kennedy
   Contact Name: Dal Moellenberg
   Phone: 505-989-7278
   Email: DLM@gknet.com
   Estimated Cost: 179,900.00
   Duration (for Services or Professional Services – limited to four years): 06/14/2024 - 06/30/2027

3. Purpose/need for purchase and detailed list of items of tangible property, services, or professional services:

PRRC is requesting approval to add funding to the existing professional services agreement with Gallagher & Kennedy for continued legal guidance related to the development of New Mexico's Class VI regulatory program and submission of the Class VI primacy application to the U.S. Environmental Protection Agency. Gallagher & Kennedy was identified as the legal-services provider in the proposal submitted to NM EMNRD, and the proposal was approved with a total of $179,900 allocated for these services

4. Detailed explanation of criteria developed for this purchase:

Per the RFP from NM EMNRD, the legal firm is to be licensed to practice law in the state of New Mexico and have experience related to Class VI permitting. This is a continuation of their services under the original scope and agreement. This procurement is necessary for continuity of the existing Class VI primacy project and that Gallagher & Kennedy was identified as the legal-services provider in the grant

proposal or project submission to NM EMNRD. Continuing with G&K with prevent loss of project-specific knowledge. NM OCD is actively working and emailing with G&K, and I will forward one of many emails to demonstrate.

5. Provide a detailed, sufficient explanation of the reasons, qualifications or unique capabilities of the prospective vendor that make that prospective vendor the one source for providing the items of tangible property, services, or professional services:

Dal and G&K staff have been working on the Class VI primacy project since we began in August 2024.

Dalva L. ("Dal") Moellenberg is a graduate of the Arizona State University College of Law (magna cum laude 1985) and is admitted to practice before the Supreme Courts of New Mexico (1993) and Arizona (1985), the federal District Courts of New Mexico and Arizona, and the 9th and 10th Circuit Courts of Appeals. His practice focuses on environmental and natural resources matters, and he has practiced in these areas since 1985. In addition to his practice in this area, he serves as the Chair of the New Mexico Mining Association Environment Committee and Vice Chair of the New Mexico Chamber of Commerce Environment, Water and Lands Committee. He is AV rated by Martindale Hubbell and has been recognized and ranked by Chambers USA, Best Lawyers in America and Southwest Super Lawyers. His full bio can be found at: https://gknet.com/attorneys/dalva-l-moellenberg/.

Both Dal and T.J., as well as other G&K attorneys have experience under criteria IV parts 2 and 3. With regard to Safe Drinking Water Act and Underground Injection Control ("UIC") programs specifically, Dal and T.J. have represented clients in proceedings before the Oil Conservation Division concerning Salt Water Disposal ("SWD") well authorizations, which are Class II UIC wells. Dal and T.J. also have participated in rulemaking proceedings before the Water Quality Control Commission concerning updates to its adoption of updates to its UIC rules, 20.6.2.5000 et seq. as well as the Ground Water Discharge Rules and other provisions in 20.6.2 NMAC. This experience includes stakeholder discussions and negotiations regarding development of rule language in advance of formal rulemakings and participation in numerous public hearings concerning proposed rules. Dal and T.J. have guided the development and presentation of expert technical testimony and exhibits to support proposed rules, prehearing procedures, participation in public hearings as well as post-hearing proceedings including preparation of statements of reasons for the adoption of rules. Dal and T.J. are very familiar with all aspects of rulemaking procedures for State of New Mexico agencies, including rulemaking requirements under the State Rules Act and also appellate litigation concerning New Mexico rulemakings.

6. Provide a detailed, sufficient explanation of how the items of tangible property, services, or professional services is/are unique and how this uniqueness is substantially related to the intended purpose of the department/grant:

Gallagher & Kennedy was identified as the legal-services provider in the proposal submitted to NM EMNRD, which was approved with $179,900 allocated for these services. The firm has provided legal guidance since the beginning of the Class VI primacy project and has developed substantial project-specific knowledge regarding the proposed regulatory program, rulemaking process, and EPA primacy application. Continuing with Gallagher & Kennedy is necessary to maintain consistency with the approved proposal and to avoid disruption or loss of project-specific knowledge as the work continues. NMOCD has also encouraged the project team to continue using Gallagher & Kennedy under the approved project arrangement.

7. Please provide a narrative description department's due diligence in determining a basis for the procurement. Include:
    a. method used to research and review other available sources (i.e. list of potential vendors from Purchasing, internet, state pricing agreements, purchasing cooperatives)

Two other legal firms (Holland and Hart and Dana Hardy) were contacted for a bid. Both were unavailable or could not participate due to conflicts of interest.

    b. list of vendors contacted, the date and method of contact (i.e. email, phone call)

Met in person in Santa Fe in spring of 2024. Dr. Robert Balch and I met with Dana Hardy in Santa Fe a few months prior to the RFP deadline. That same trip we visited Holland and Hart in their local Santa Fe office. We had lunch with Dana Hardy at Tomasita's.

    c. documentation explaining why:
        i. those vendors cannot provide the required items of tangible property, services, or professional services

Dana Hardy had concerns about her capacity to fulfill the project tasks, and H&H had concerns of conflicts of interest with their current clients.

        ii. other similar items of tangible property, services, or professional services cannot meet the intended purpose of department/grant:

Continuing wirh G&K with prevent loss of project-specific knowledge. NM OCD is actively working and emailing with G&K, and I will forward one of many emails to demonstrate.

I certify I have performed thorough and diligent research and analysis to determine that Gallagher & Kennedy is the only source capable of providing the required legal support to continue Class VI primacy rulemaking. I understand that violations of the New Mexico Procurement Code (Chapter 13, Article 1 NMSA 1978) can carry severe penalties. I affirm that the information provided in this Sole Source Determination is true and accurate to the best of my knowledge and belief.

Name, Title: AdobeSign/Date

Jennifer Raney, deputy director PRRC Jennifer Raney 8/4/2026

Review: Purchasing Services (Name, Title): AdobeSign/Date

Meradeth Montoya, Associate Director of Purchasing Meradeth Montoya 8.5.2026

Website Posting Date: 08/05/2026

Posting Expiration Date: 09/04/2026

Protested (Yes/No):

Approval: Delilah A. Walsh
Vice President of Administration and Finance

AdobeSign/Date

05-Aug-2026

Version: July 2025