

New Mexico Department of Health, Public Health Division  
Population and Community Health Bureau  
Office of Primary Care and Rural Health

Legal Notice of Request for Proposals

The New Mexico Department of Health (DOH), Public Health Division (PHD), Population and Community Health Bureau is issuing a Request for Proposals (RFP) to provide the Administration of Health and Social Services of Development In Southwestern New Mexico. Eligible programs must be a New Mexico non-profit community-based entity, with a minimum of ten years working with rural health workforce development in Southwestern New Mexico. These services must be provided in accordance with applicable federal, state, and local laws.

The proposed contract shall become effective upon approval of the Department of Finance and Administration and shall continue for a one-year period at the discretion of the DOH contingent upon sufficient funding and satisfactory Scope of Work performance.

The RFP can be downloaded from the DOH website at <https://nmhealth.org/publication/rfp>.

Offerors may contact: Crystal Begay, Office of Primary Care & Rural Health, Population and Community Health Bureau, 300 San Mateo Blvd. NE, Ste. 900, Albuquerque, New Mexico 87108. Email communication to [Crystal.Begay@state.nm.us](mailto:Crystal.Begay@state.nm.us) is preferable.

Offerors interested in submitting a proposal must submit the “Acknowledgement of Receipt of RFP/Intent to Submit Form” by **Thursday, September 12, 2019**.

**Proposals must be received for review by 4:00 pm Mountain Time on Friday, September 27, 2019.** The PHD reserves the right to cancel this RFP and/or to reject any proposal in whole or in part. The content of any proposal shall not be disclosed to competing Offerors during the negotiation process.

If you are a person with a disability who is in need of a reader, amplifier, sign language interpreter or any other form of auxiliary aid or service to participate, please contact the New Mexico Relay Network at 1-800-659-8331. Public documents including the RFP can be provided in various accessible forms. Contact the New Mexico Relay Network if a summary or other type of accessible form is needed.

**THE STATE OF NEW MEXICO  
DEPARTMENT OF HEALTH  
PUBLIC HEALTH DIVISION**

**REQUEST FOR PROPOSALS (RFP)**

**ADMINISTRATION OF HEALTH AND  
SOCIAL SERVICES OF DEVELOPMENT  
IN SOUTHWESTERN NEW MEXICO**



Date of Issuance: August 23, 2019

Deadline for Submission: September 27, 2019

TABLE OF CONTENTS

	<u>Page No.</u>
I. INTRODUCTION	
A. Purpose of this Request for Proposals .....	5
B. Background Information .....	5
C. Scope of Procurement .....	5
D. Procurement Manager .....	6
E. Definition of Terminology .....	6-8
II. CONDITIONS GOVERNING THE PROCUREMENT	
A. Sequence of Events .....	8
B. Explanation of Events .....	8
1. Issue of RFP .....	8
2. Acknowledgement of Receipt of RFP/Intent to Submit .....	9
3. Deadline to Submit Written Questions .....	9
4. Response to Written Questions/RFP Amendments .....	9
5. Submission of Proposal .....	9
6. Proposal Evaluation .....	9
7. Selection of Finalists .....	10
8. Contract Awards .....	10
9. Finalize Contracts .....	10
10. Protest Deadline .....	10
C. GENERAL REQUIREMENTS	
1. Acceptance of Conditions Governing the Procurement .....	10
2. Incurring Cost .....	11
3. Prime Contractor Responsibility .....	11
4. Subcontractors/Consent .....	11
5. Amended Proposals .....	11
6. Offeror's Rights to Withdraw Proposal .....	11
7. Proposal Offer Firm .....	11
8. Disclosure of Proposal Contents .....	11-12
9. No Obligation .....	12
10. Termination .....	12
11. Sufficient Appropriation .....	12
12. Legal Review .....	12
13. Governing Law .....	13
14. Basis for Proposal .....	13
15. Contract Terms and Conditions .....	13
16. Offerors' Terms and Conditions .....	13
17. Contract Deviations .....	14
18. Offeror Qualifications .....	14
19. Right to Waive Minor Irregularities .....	14
20. Change in Contractor Representatives .....	14
21. Notice of Penalties .....	14
22. Agency Rights .....	14
23. Right to Publish .....	14-15

24.	Ownership of Proposals . . . . .	15
25.	Confidentiality.....	15
26.	Electronic Mail Address Required. . . . .	15
27.	Use of Electronic Versions of RFP . . . . .	15
28.	New Mexico Employees Health Coverage . . . . .	15-16
29.	Campaign Contribution Disclosure Form . . . . .	16
30.	Letter of Transmittal.....	16
31.	Pay Equity Reporting Requirements . . . . .	16-17
32.	Disclosure Regarding Responsibility. . . . .	17-19
33.	New Mexico Preferences.....	19
III.	<b>RESPONSE FORMAT AND ORGANIZATION</b>	
A.	Number of Responses . . . . .	19
B.	Number of Copies . . . . .	19
C.	Proposal Format . . . . .	19-21
IV.	<b>SPECIFICATIONS</b>	
A.	Detailed Scope of Work . . . . .	21
B.	Technical Specifications.....	21
	Mandatory Specification.....	22
	1. Offeror Description and Capacity.....	22
	2. Proposed Budget.....	22
	3. Proposal Format/Organization.....	23
C.	Business Specifications.....	23
	1. Financial Stability. . . . .	23
	2. Letter of Transmittal Form. . . . .	23
	3. Campaign Contribution Disclosure Form. . . . .	23
	4. Resident Business or Resident Veterans Preference. . . . .	23
V.	<b>EVALUATION</b>	
A.	Evaluation Point Summary . . . . .	23-24
B.	Evaluation Process . . . . .	24
VI.	<b>APPENDICES</b>	
A.	Acknowledgement of Receipt of RFP and Intent to Submit Form . . . . .	25
B.	Proposal Summary Page . . . . .	26
C.	Sample Contract Terms and Conditions . . . . .	27-41
D.	Campaign Contribution Disclosure Form . . . . .	42-43

## I. INTRODUCTION

### A. **Purpose of this Request for Proposals**

The purpose of this request for proposal (RFP) is to provide the administration of health and social services of development in Southwestern New Mexico. This RFP will result in one Offeror being selected for a one year contract.

### B. **Background Information**

This section provides background on the New Mexico Department of Health (DEPARTMENT), the Public Health Division (Division or PHD), and the operating environment of the Department which may be helpful to the Offeror in preparing the proposal. The information is provided as an overview and is not intended to be a complete and exhaustive description.

### C. **Scope of Procurement**

Professional Services Contracts shall become effective upon approval of the Department of Finance and Administration(DFA) and shall continue for a one-year period at the discretion of the Department of Health (DOH) contingent upon sufficient funding and satisfactory Scope of Work performance.

1. Identify high needs areas where technical assistance is needed and schedule to support and enhance rural health professional workforce development.
2. Develop documents, tools and reports that will be used to support and describe rural healthcare professional workforce development.
3. Identify and conduct technical assistance activities.
4. Work with identified communities to follow rural students through graduate education to encourage rural healthcare professional workforce development.
5. Manage inter-professional rural training experiences for students and residents.
6. Provide evaluation methodology to measure success of technical assistance services.
7. Provide an Invoice and Workplan for all Contract Activities within 20 days of approval of this Contract by DFA.
8. Provide an Invoice and Progress Report, including a written narrative, identifying activities conducted according to the approved Work Plan within 120 days of contract approval.
9. Provide an Invoice and Final Report, including a written narrative, summarizing all activities conducted under the approved Work Plan on or before June 22, 2020.

Appendix C is a sample of the one-year contract.

**D. Procurement Manager**

The Agency has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address and telephone numbers are listed below:

Crystal Begay, Procurement Manager  
New Mexico Department of Health  
Office of Primary Care & Rural Health  
300 San Mateo Blvd. NE Suite 900  
Albuquerque, NM, 87108  
Phone: 505-222-8679  
E-mail: Crystal.Begay@state.nm.us

All deliveries via express carrier (including proposal delivery) should be addressed as follows:

Crystal Begay, Procurement Manager  
New Mexico Department of Health  
Office of Primary Care & Rural Health  
300 San Mateo Blvd. NE Suite 900  
Albuquerque, NM, 87108

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other state employees do not have the authority to respond on behalf of the Agency.

**E. Definition of Terminology**

This section contains definitions and abbreviations that are used throughout this procurement document.

“**Agency**” means the Department of Health.

“**Close of Business**” or “**COB**” means 4:00 pm Mountain Time (MT).

“**Contract**” means a written agreement for the procurement of tangible personal property or services.

“**Contractor**” means a successful Offeror who enters into a binding contract.

“**Department**” means the Department of Health.

“**Determination**” means the written documentation of a decision by the Procurement Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

“**Desirable**” the terms “may”, “can”, “should”, “preferably”, or “prefers” identify at desirable or discretionary item or factor (as opposed to “mandatory”).

“**Division**” means the Public Health Division of the New Mexico Department of Health.

“**DOH**” means the Department of Health for the State of New Mexico.

“**Evaluation Committee**” means a body appointed by the Agency management to perform the evaluation of Offeror proposals.

“**Evaluation Committee Report**” means a document prepared by the Procurement Manager and the Evaluation Committee for submission to the Public Health Division (PHD) for contract award. It contains all written determinations resulting from the procurement.

“**Finalist**” is defined as 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.

“**Fiscal Year**” means the state fiscal year which runs from July 1 through June 30 (e.g., FY20 is July 1, 2019 through June 30, 2020).

“**Mandatory**” The terms “must”, “shall”, “will”, “is required” or “are required”, identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

“**Non-profit Corporation**” means an organization which can provide satisfactory evidence of exemption from requirements from payment of federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Act.

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

“**Prior Approval**” means written permission provided, in response to written requests, by an authorized official of the Public Health Division in advance of the performance of an act.

"**Procurement Manager**" means the person or designee authorized by the Agency to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

"**Request for Proposals**" or "**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 "**Responsive Proposal**" means an offer or proposal 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.

“**State Procurement Agent**” or “**SPA**” means the purchasing agent for the State of New Mexico or a designated representative.

“**Subcontract**” means an agreement whereby a Contractor transfers money to an organization or individual by a contractual agreement to acquire services from a third party.

“**Subcontractor**” means an organization, which provides services with funds awarded as a result of this RFP under a negotiated agreement with the successful Offeror.

## 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 the following schedule:**

<b>Action</b>	<b>Responsibility</b>	<b>Due Dates</b>
Issuance of RFP	Agency	08/23/2019
Submission of Acknowledgement of Receipt of RFP and Intent to Submit Form	Potential Offerors	09/12/2019
Deadline to Submit Questions	Potential Offerors	09/12/2019
Response to Written Questions/RFP Amendments	Agency	09/20/2019
Submission of Proposal	Offerors	09/27/2019
Proposal Evaluation	Evaluation Committee	10/03/2019
Selection of Finalists	Agency	10/18/2019
Contract Award	Agency	10/28/2019
Finalize Contract	Agency Offeror	11/04/2019
Protest Deadline	Offeror	11/14/2019

### B. Explanation of Events

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

#### 1. Issue of RFP

The New Mexico Department of Health, Office of Primary Care and Rural Health is issuing the RFP on August 23, 2019 by COB.



2. **Acknowledgement of Receipt of RFP / Intent to Submit**

Potential offers must email "Acknowledgement of Receipt of RFP and Intent to Submit Form" that accompanies this document (See Appendix A) to have their organization placed on the procurement distribution list. The form should indicate the authorized representative of the organization, be dated and returned by email, on September 12, 2019 at 4:00pm Mountain Standard Time/Daylight Time to the Procurement Manager. The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

Failure to return the Acknowledgement of Receipt of RFP and Intent to Submit form shall constitute a presumption of receipt and withdrawal from the procurement process. Therefore, the Offeror's organization name shall be deleted from the procurement distribution list.

3. **Deadline to Submit Written Questions**

Potential offers may submit written questions as to the intent or clarity of this RFP by COB September 12, 2019. All written questions must be submitted in writing or via e-mail to the Procurement Manager (See Section I, Paragraph E).

4. **Response to Written Questions/RFP Amendments**

Written responses to written questions and any RFP amendments will be emailed on September 20, 2019 to all potential offers whose organization name appears on the procurement distribution list.

5. **Submission of Proposal**

**ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 4:00 PM MOUNTAIN TIME ON September 27, 2019.** Proposals received after this deadline will not be accepted.

This RFP process will require hard copies one (1) original and three (3) copies. Proposals must be mailed or hand delivered to the address listed in Section I, Paragraph D.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing offers prior to contract award.

6. **Proposal Evaluation**

An evaluation committee appointed by the agency management will perform the evaluation of proposals. The evaluation committee meeting(s) will take place around October 03, 2019. The Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but 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 make recommendations to the Public Health Division. Once Public Health Division approval is received, the Procurement

Manager will notify the finalists. Only finalists will be invited to participate in the subsequent steps of the procurement.

**8. Contract Awards**

The contracts shall be awarded to the Offerors whose proposals are most advantageous, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate State approvals.

**9. Finalize Contracts**

The contracts will be finalized with the most advantageous Offerors upon Department of Finance and Administration approval. In the event that mutually agreeable terms cannot be reached within the time specified, the Agency reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process.

**10. Protest Deadline**

Any protest by an Offeror must be timely and in conformance with Section 13-1-172 NMSA 1978 and applicable procurement regulations. The fifteen (15) day protest period for responsive Offerors shall begin on the day following the contract award and will end as of close of business on November 14, 2019. Protests must be written and must include the name and address of the protestor and the request for proposal's name. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the Agency. The protest must be delivered to the Agency's Administrative Services Division. Protests received after the deadline will not be accepted.

Roy McDonald  
Chief Procurement Officer  
Harold Runnels Building  
1190 St. Francis Dr.  
Santa Fe, NM 87505

Mailing Address: P.O. Box 26110  
Santa Fe, New Mexico 87502-6110

**C. General Requirements**

This procurement will be conducted in accordance with the applicable procurement regulations.

**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 Sections IV and V of this RFP. Additional information about the required Letter of Transmittal can be found in Section III-C-2-a).

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.

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. **Offerors' 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. The 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 the material that is proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the 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 State Purchasing Agent 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 the 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 termination 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 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.

Eligible Offerors requesting funding shall:

- a. be a New Mexico nonprofit community-based entity with 501(c)(3) tax exempt status, with a minimum of ten years working with rural health workforce development in Southwestern New Mexico.

**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 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 its needs of the agency.

**21. Notice of Penalties**

The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and 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 an 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 this RFP shall become the 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 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.

**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) 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. 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**

Offer must complete, sign, and return the Campaign Contribution Disclosure Form APPENDIX D, as part of their proposal. This requirement applies regardless whether a covered contribution was 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, 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 may submit one proposal. In no case will more than one proposal from a single Offeror be accepted.

#### **B. Number of Copies**

Offers shall deliver one (1) original and three (3) copies of their proposal to the location specified in Section I, Paragraph E on or before the closing date and time for receipt of proposals.

#### **C. Proposal Format**

1. All proposals must be typewritten, single spaced, no less than size 10 font, standard 8 1/2 x 11-page size using Microsoft Word. Proposals should be placed within a binder with tabs delineating each section.
2. The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated in Section IV, Specifications. Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The proposal summary may be included by offerors to provide the Evaluation Committee with an overview of the technical and business features 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.

Offerors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

**a. Section 1**

**Letter of Transmittal**

Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:

- i. identify the submitting organization;
- ii. identify the name and title of the person authorized by the organization to contractually obligate the organization;
- iii. identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;
- iv. identify the names, titles and telephone numbers of persons to be contacted for clarification;
- v. explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II, Paragraph C.1;
- vi. be signed by the person authorized to contractually obligate the organization; and
- vii. acknowledge receipt of any and all amendments to this RFP.

**The Letter of Transmittal must be signed and the original mailed/delivered separately to meet the September 27, 2019 deadline.**

Mail to: Crystal Begay, Program Manager  
300 San Mateo Blvd. NE, Suite 900  
Albuquerque, NM 87108

**b. Section 2**

**Determination of Eligibility (Narrative) Information Section:** The information provided by the Offeror in this section shall be utilized by the Population and Community Health Bureau to determine whether the Offeror is eligible to be considered for funding. A maximum of 2 pages is allowed for responding to eligibility criteria found on page 14 and referencing supporting attachments. Offerors must also submit, as Attachments, the specific information listed in Section II, C-18-, page 14, with the Determination of Eligibility Narrative.

1. IRS tax exempt determination letter
2. Registration with NM Department of Taxation and Revenue
3. Campaign Contribution Disclosure Form (Appendix D)

**Proposal Summary Page:** Each Offeror is required to submit only **ONE**

Proposal Summary Page, outlining basic information specific to requested funding.

#### **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**

1. Identify high needs areas where technical assistance is needed and schedule to support and enhance rural health professional workforce development.
2. Develop documents, tools and reports that will be used to support and describe rural healthcare professional workforce development.
3. Identify and conduct technical assistance activities.
4. Work with identified communities to follow rural students through graduate education to encourage rural healthcare professional workforce development.
5. Manage inter-professional rural training experiences for students and residents.
6. Provide evaluation methodology to measure success of technical assistance services.
7. Provide an Invoice and Workplan for all Contract Activities within 20 days of approval of this Contract by DFA.
8. Provide an Invoice and Progress Report, including a written narrative, identifying activities conducted according to the approved Work Plan within 120 days of contract approval.
9. Provide an Invoice and Final Report, including a written narrative, summarizing all activities conducted under the approved Work Plan on or before June 22, 2020.

##### **B. Technical Specifications**

Offerors should respond in the form of a thorough narrative to each mandatory specification. The narratives will be evaluated and awarded points accordingly. Proposals submitted must provide information sufficient to describe the activities and expenditures to be supported by this proposal, and to allow for a complete evaluation of the proposal. Performance under prior contracts, including state agency-generated evaluations of prior performance may be considered.

##### **Mandatory Specification**

- 1. Offeror Description and Capacity:**  
(maximum 5 pages)

**Maximum Points -- 70**

Proposals shall be evaluated based upon the degree to which the information provided in the proposal demonstrates the Offeror's ability, both past performance and proposed plans, to deliver and administer effective and appropriate services through adequate organizational capacity, policies and procedures.

Offerors must demonstrate ten (10) years working with rural health workforce development in Southwestern New Mexico and must describe the following:

- 1) Length of time in operation working with rural health workforce development in Southwestern New Mexico;
- 2) Offeror's method of activities pertaining to rural health workforce development;
- 3) Offeror's capability to carry out the proposed activities; and
- 4) Offeror's infrastructure to enhance rural health professional workforce development.

**Evaluation** of the Offeror Description and Capacity will include:

- A demonstration of 10 years working with rural health workforce development in Southwestern New Mexico;
- A narrative description of activities pertaining to rural health workforce development;
- A narrative description the organization's capability to carry out the proposed activities; and
- A narrative description of the infrastructure to enhance rural health professional workforce development.

**2. Proposed Budget:**  
(maximum 4 pages)

**Maximum Points -- 25**

Proposals shall be evaluated upon the degree to which the Offeror presents a detailed budget that reflects specific program activities and demonstrates the need for financial assistance for those activities. The proposed budget will be for a one-year period. The budget narrative shall reflect:

- 1) A description of the total operating budget for all services and activities;
- 2) A description of all other anticipated support of the project, including in-kind materials and services, or direct financial support.

**Evaluation** of the Proposed Budget will include:

- A clear budget justification that fully explains each line item;
- Ability to describe proposed expenditures and revenues, including any surplus of funds or shortfalls; and
- Budget that is appropriate for the proposed activities.

**3. Proposal Format/Organization**

**Maximum Points -- 5**

Evaluation will be based on receipt and completeness of all sections. Proposals shall receive up to 5 points if organized and formatted according to RFP instructions.

## C. Business Specifications

### 1. 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.

### 2. Letter of Transmittal Form

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

### 3. 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)

### 4. 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.

## V. EVALUATION

### A. Evaluation Point Summary

The following is a summary of evaluation factors with point value assigned to each. These, along with the general requirements, will be used in the evaluation of Offeror proposals.

<b>Factors – correspond to section IV.B.1 and IV.C.</b>	<b>Points Available</b>
<b>B. Technical Specifications</b>	
B.1 Offeror Description and Capacity	70
B.2 Proposed Budget	25
B.3 Proposal Format/Organization	5
<b>C. Business Specifications</b>	
C.1 Financial Stability	Pass/Fail
C.2 Letter of Transmittal	Pass/Fail
C.3 Signed Campaign Contribution Disclosure Form	Pass/Fail
<b>TOTAL</b>	<b>100 points</b>
C.4 New Mexico Preference – Resident Vendor Points	
C.4 New Mexico Preference – Resident Veterans Points	

**B. Evaluation Process**

The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the mandatory requirements 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 I, Paragraph D.
3. The Evaluation Committee may use other sources of information to perform the evaluation.
4. Responsive proposals will be evaluated on the factors in Section IV that have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors based upon the proposals submitted. The Offerors whose proposals are the most advantageous to DOH, taking into consideration the evaluation factors in Section IV, will be recommended for contract award as specified in Section II, Paragraph B.7. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.
5. The Evaluation Committee may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any Offeror who is not a responsible Offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.
6. 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 a copy of 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 a copy of their Preference Certificate the Preference Point is 10%.



**APPENDIX A**

**ACKNOWLEDGEMENT OF RECEIPT OF RFP  
and  
INTENT TO SUBMIT FORM**

**ACKNOWLEDGEMENT OF RECEIPT OF RFP:**

In acknowledgement of receipt of this Request for Proposal the named individual agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix D.

The acknowledgement of receipt should be **emailed to the Procurement Manager no later than close of business on 9/12/2019**. Only potential Offerors who elect to return by email this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the Agency written responses to those questions as well as RFP amendments, if any are issued.

CONTACT PERSON NAME: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ **(REQUIRED)**

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

This above stated name and email address will be used for all correspondence related to the Request for Proposal.

**INTENT TO SUBMIT:**

\_\_\_\_\_ (enter organization name) does \_\_\_/does not \_\_\_ **(mark one)**  
intend to respond to this Request for Proposals.

Crystal Begay, Procurement Manager  
Department of Health  
Office of Primary Care & Rural Health  
Population and Community Health Bureau  
**E-mail: Crystal.Begay@state.nm.us**

**APPENDIX B**  
**PROPOSAL SUMMARY PAGE**

<b>Offeror Name</b> (must be consistent with Fed. Tax ID)			
<b>Street Address</b>			
<b>Mailing Address</b>			
<b>City, State, Zip</b>			
<b>Contact Person</b>		<b>Title</b>	
<b>Phone #</b>			
<b>Federal Tax ID #</b>		<b>NM CRS Tax ID #</b>	

## APPENDIX C

# SAMPLE CONTRACT TEMPLATE

### Contract Terms and Conditions

#### STATE OF NEW MEXICO

#### NEW MEXICO DEPARTMENT OF HEALTH

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

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **DEPARTMENT OF HEALTH**, 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:

**A. Scope of Work.**

The Contractor shall perform the following work:

1. Identify high needs areas where technical assistance is needed and schedule to support and enhance rural health professional workforce development.
2. Develop documents, tools and reports that will be used to support and describe rural healthcare professional workforce development.
3. Identify and conduct technical assistance activities.
4. Work with identified communities to follow rural students through graduate education to encourage rural healthcare professional workforce development.
5. Manage inter-professional rural training experiences for students and residents.
6. Provide evaluation methodology to measure success of technical assistance services.
7. Provide an Invoice and Workplan for all Contract Activities within 20 days of approval of this Contract by DFA.
8. Provide an Invoice and Progress Report, including a written narrative, identifying activities conducted according to the approved Work Plan within 120 days of contract approval.

9. Provide an Invoice and Final Report, including a written narrative, summarizing all activities conducted under the approved Work Plan on or before June 22, 2020.

**BUDGET**

<b>Deliverables</b>	<b>Budget</b>
<b>Work Plan:</b> Provide an Invoice and Workplan for all Contract Activities within 20 days of approval of this Contract by DFA.	
<b>Progress Report:</b> Provide an Invoice and Progress Report, including a written narrative, identifying activities conducted according to the approved Work Plan within 120 days of contract approval	
<b>Final Report:</b> Provide an Invoice and Final Report, including a written narrative, summarizing all activities conducted under the approved Work Plan on or before June 22, 2020.	
<b>TOTAL FY20 BUDGET</b>	

**2. Compensation.**

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed based on deliverables, such compensation not to exceed (AMOUNT), including gross receipts tax if applicable. **The total amount payable to the Contractor under this agreement shall not exceed (AMOUNT).**

The Agency shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of (AMOUNT) in FY20, such compensation not to exceed (AMOUNT), including gross receipts tax if applicable.

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 in FY20 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 or within fifteen (15) days after the last day of the month in which services

were performed; or, for deliverable based agreements, unless submitted within fifteen (15) days after the last day of the month during which a deliverable was completed. Invoices received after such date WILL NOT BE PAID. Invoices shall be submitted monthly. For deliverable based agreements, payment shall be made upon acceptance of each completed deliverable and upon the receipt and acceptance of a detailed, certified payment Invoice. The Contractor shall submit to the Agency at the close of each month a signed invoice reflecting the total allowable costs incurred during the preceding month; or for deliverable based agreements, at the close of each month during which a deliverable was completed a signed invoice reflecting the total allowable costs incurred during completion of the deliverable.

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 **June 30, 2020** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no agreement term for a professional services agreement, 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. If this agreement is terminated pursuant to its provisions, or if the parties mutually agree to discontinue their contractual relationship, or upon expiration of the term of the AGREEMENT, immediately upon expiration or 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, except as provided in part (4) of this paragraph, below; 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, and 4) if providing health services or client support as part of the scope of work of this agreement, continue to provide essential services and supports to ensure the health and safety of individual clients as directed by the Agency during the period of termination management. This requirement is not avoided by an inadvertent expiration of term for the agreement. In this event the Agency may temporarily extend the term, enter into a new short-term agreement or otherwise enter into an agreement, consistent with the New Mexico Procurement Code until all transition of services are completed. As of the date of termination of this agreement, the Contractor shall furnish to the Agency: (a) a complete detailed inventory of nonexpendable Agency property or equipment provided to or purchased by the Contractor with agreement funds as defined in Article 31 (Property) of this agreement, and (b) a final closing of the financial records and books of accounts which were required to be kept by the Contractor under the provisions of this agreement regarding financial records. Any non-expendable personal property or equipment provided to or purchased by the Contractor with agreement 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 funds appropriated, allocated, and authorized by the Legislature of the State of New Mexico and/or by the federal government for the performance of this agreement. If sufficient appropriations, allocations and authorizations are not made by the Legislature of the State of New Mexico and/or if the federal government makes insufficient allocations, necessitating a decrease in the amount of agreement funds available for

expenditure by the Agency, this agreement may be terminated or amended to a lower amount of funds 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 and binding on the Contractor. 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 Agency. The Contractor and its agents and employees shall not be deemed employees for any purpose within the meaning or application of any federal or state unemployment or insurance laws or workers compensation laws or otherwise. Contractor, its agents and employees shall not be entitled to any of the benefits afforded employees of the Agency including but not limited to accruing leave, retirement, insurance, bonding, use of state property or state vehicles, or any other consideration not specified in this agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes as self-employment or business income and are reportable for self-employment 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 and records 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, or the express written authorization of the client when the record is a client record.

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

A. 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.

B. Client information developed under this agreement may not be used by the Contractor or be transferred to a third party in any form, including aggregate data, without the express written permission of the Agency, except to fulfill the provisions of the Scope of Work under this agreement.

**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 agreement, 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. From time to time and in accordance with changes in state and Agency policy, this agreement shall be amended to comport with current policy, rules, regulations, and law.

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.**

A. 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.

- B. The Contractor receiving state or federal funds from the Agency shall comply, if applicable, with auditing requirements under the Single Audit Act (31 U.S.C. §7501, et seq.) and the New Mexico State Auditor's rules and regulations. If the Contractor is determined to be a sub recipient and not a vendor under the federal Single Audit Act, the Contractor shall comply with the audit requirements of the Single Audit Act. This includes the Contractor retaining its financial records for a period five years after the time the audit was released.
- C. If the Contractor receives more than \$750,000 in federal funding, or more than \$750,000 from the Agency, in any single fiscal year, the Contractor shall prepare annual financial statements and obtain an audit of, or an opinion on, the financial statements from an external Certified Public Accountant.
- D. The Contractor shall maintain the financial statements for a period of no less than six years and shall make the financial statements and the CPA's audit or opinion available to the Agency upon request.
- E. Applicable annual financial reports shall be submitted to the Agency no later than six months following the close of the Contractor's fiscal year.
- F. To ensure proper delivery and receipt, the Contractor shall submit their annual audit report or financial reports (if no audit was required to):

Department of Health  
Financial Accounting Bureau Chief Suite N-3150  
P.O. Box 26110  
Santa Fe, New Mexico 87502-6110

- G. The Agency may take corrective action as deemed necessary for Contractor's failure to comply with 19-A through 19-F above. Corrective action may include, but is not limited to, termination of agreement and preclusion from engaging Contractor in the future.

**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 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) 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. 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.

**22. Employee Pay Equity Reporting.**

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this agreement, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for agreements up to one (1) year in duration. If contractor has two hundred fifty (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for agreements up to one (1) year in duration. For agreements that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual agreement anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the agreement, whichever comes first. Should contractor not meet the size requirement for reporting at agreement award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this agreement if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the agreement. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at agreement award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal.

Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this agreement was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this agreement.

**23. 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.

**24. 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.

**25. 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:

New Mexico Department of Health  
P.O. Box 26110  
1190 St. Francis Drive,  
Santa Fe, NM 87502-6110

To the Contractor:

[insert name, address and email].

**26. 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 agreement.

**27. Licensure.**

The Contractor agrees to retain professional licensure, accreditation, credentialing or continuing education required to perform the scope of professional services provided for the Agency. The Contractor agrees to make evidence of licensure or other regulatory requirements for the scope of professional services available to the Agency if requested in writing.

**28. Liability Insurance.**

The Contractor shall maintain professional or general liability insurance, as applicable, for all services provided under this agreement and Contractor shall supply evidence of such coverage upon the Agency's request.

**29. Federal Grant or Other Federally Funded Agreements.**

A. Lobbying. The Contractor shall not use any funds provided under this agreement, either directly or indirectly, for the purpose of conducting lobbying activities or hiring a lobbyist or lobbyists on its behalf at the federal, state, or local government level, as defined in the Lobbyist Regulation Act, NMSA 1978, Sections 2-11-1, *et. seq.*, and applicable federal law. No federal appropriated funds can be paid or will be paid, by or on behalf of the Contractor, or any person for influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreement, or the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal agreement, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of any applicable federal agreement, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. Suspension and Debarment. For agreements that involve the expenditure of federal funds, each party represents that neither it, nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under this agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that it, its employees, and independent contractors are not otherwise ineligible for participation in federal healthcare or education programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against it or its employees or independent contractors. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.

C. Political Activity. No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

D. Grantor and Contractor Information.

1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:

- i. CFDA Number – N/A
- ii. Program Title – N/A
- iii. AGENCY/OFFICE – N/A
- iv. GRANT NUMBER – N/A

2. CONTRACTOR’S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) is N/A

E. Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013) [Federal Grant funded projects only].

1. This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

2. The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

3. The Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.

F. For agreements and subgrants that involve the expenditure of federal funds for amounts in excess of \$150,000, requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

G. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — For agreements that involve the expenditure of federal funds, Contractors that apply or bid for an agreement exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

H. For agreements that involve the expenditure of federal funds, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the

highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**30. Governing Bodies.**

The parties agree that if the Contractor has one or more Governing Bodies, the Governing Bodies of the Contractor shall have the right and responsibility to establish policy for the Contractor and shall be elected to ensure that such policy is established by the Governing Bodies in an impartial and independent manner. Nothing herein shall in any way restrict the authority of the Governing Bodies from appropriately delegating day-to-day management responsibilities to its employees, agent, or agents. By such delegation, employees and/or agents of the Contractor must conduct the operation of the Contractor consistent with the policies and procedures approved by the Governing Bodies.

**31. Property.**

A. Title to all property furnished by the Agency shall remain in the Agency. Title to all property acquired by the Contractor, including acquisition through lease-purchase agreement, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this agreement shall immediately vest in the Agency upon delivery of such property to the Contractor. Title to other property, the costs of which is to be reimbursed to the Contractor under this agreement, shall immediately vest in the Agency upon 1) issuance for use of such property in the performance of this agreement or 2) use of such property in the performance of this agreement or 3) reimbursement of the cost thereof by the Agency, whichever first occurs.

B. Title to the Agency property shall not be affected or lose its identity by reason of affixation to any realty or attachment at law.

C. The Contractor shall maintain a property inventory and administer a program of maintenance, repair, and protection of Agency property so as to assure its full availability and usefulness for performance under this agreement. In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of, or damage to Agency property during the period of this agreement, it shall use the proceeds to repair or replace the Agency property.



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

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

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

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

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

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: \_\_\_\_\_ Date: \_\_\_\_\_  
Taxation and Revenue Department

This Agreement has been approved by the DFA Contracts Review Bureau and is effective on the date shown:

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

## APPENDIX D

### 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 HE/SHE/IT, HIS/HER/ITS FAMILY MEMBER, OR 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

\_\_\_\_\_  
Title (Position)

\_\_\_\_\_  
Date

**—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

\_\_\_\_\_  
Title (Position)

\_\_\_\_\_  
Date