

HUMAN SERVICES DEPARTMENT

REQUEST FOR PROPOSALS (RFP)

**COMMODITY SUPPLEMENTAL FOOD PROGRAM
(CSFP)**



RFP# 24-630-9000-0002

RFP Release Date: August 11, 2023

Proposal Due Date: September 6, 2023

ELECTRONIC-ONLY PROPOSAL SUBMISSION

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement to administer and operate the Commodity Supplemental Food Program (CSFP) in New Mexico's 33 counties on behalf of the New Mexico Human Services Department (NMHSD or HSD) and the United States Department of Agriculture (USDA or USDA SWRO). Successful respondents must be able to provide all of the following to at least one New Mexico County: certification of clients, maintaining caseload, packing and distribution of USDA CSFP Foods in USDA required quantities and required food categories, receiving and warehousing of USDA CSFP Foods, ongoing inventory control, providing monthly or bi-monthly nutrition education for recipients, providing referral services for other public assistance programs, conducting outreach in the awarded counties as needed to maintain caseload.

B. BACKGROUND INFORMATION

USDA has an agreement with NM HSD to administer CSFP in and for New Mexico. CSFP is a federally funded supplemental nutrition program for persons 60 years and over, whose income is at or below 130% Federal Poverty Level (FPL).

NMHSD, Income Support Division (ISD), Food and Nutrition Services Bureau (FANS Bureau) has administered CSFP since January 1, 2016. The program provides monthly or bi-monthly food boxes that include items from ten (10) USDA food categories. CSFP provides nutrition education to recipients and referrals to other social services programs for applicants and recipients.

Caseload is assigned to New Mexico annually by USDA, Food and Nutrition Services (FNS), Southwest Regional Office (SWRO). The caseload for New Mexico is 12,860 per month. Current annual funding is 1,233,668.00. It is based on available funding and caseload provided to USDA FNS SWRO. SWRO is comprised of the states of Arizona, Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Utah and Tribal organizations located with the region. HSD determines caseload allocation targets for each agency awarded a contract as a result of this RFP. It is based on the current distribution and projected eligible persons in the county or counties served by the agencies. NM HSD has a responsibility to ensure that the State's assigned caseload is fully maximized. Therefore, caseload to contractors may be reassigned during the term of the contract to increase the ability to reach 100% utilization of caseload distribution statewide. A contract amendment may be used to reflect caseload utilization of 95% or higher by the contractor.

HSD determines funding to successful contractors based on the caseload per counties served and distances traveled for distributions in their counties of service. Contract amendments for compensation are based on annual funding received from USDA. Funding for this program is determined by the U.S. Congress.

C. SCOPE OF PROCUREMENT

The initial contract term will be for a 12-month period, beginning October 1, 2023, and ending September 30, 2024. HSD reserves the option of renewing the initial contract on an annual basis for three (3) additional years or a portion thereof. This Contract shall not exceed four (4) years in accordance with NMSA 1978 §13-1-150. An award shall be made to the responsible Offeror(s) whose proposal(s) is (are) most advantageous to the HSD, taking into consideration the evaluation factors set forth in the RFP.

PLEASE NOTE:

This RFP may result in multiple awards.

This procurement will result in a contractual agreement between two parties; the procurement may ONLY be used by those two parties exclusively.

The scope of procurement shall encompass the defined Scope of Work, detailed in the Sample Services Agreement, APPENDIX C of this RFP.

D. PROCUREMENT MANAGER

New Mexico Human Department has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: JulieAnn Wold, Procurement Manager
Address: NM/HSD/ISD/ Food and Nutrition Services Bureau
1425 William SE
Albuquerque, NM 87102-4661
Telephone: (505) 841-2693
Email: julieAnn.Wold@hsd.nm.gov

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of the HSD.
2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.13.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172 NMSA 1978 and 1.4.1.82 NMAC, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

E. PROPOSAL SUBMISSION

Submissions of all proposals must be accomplished via the Human Services Department's electronic procurement portal, Bonfire. Refer to Section III.B.1 for instructions.

F. DEFINITION OF TERMINOLOGY

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

1. “**Agency**” means the State Purchasing Division of the General Services Department or that State Agency sponsoring this Procurement.
2. “**Award**” means the final execution of the contract document.
3. “**Business Hours**” means weekdays (Monday – Friday) 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.
4. “**Close of Business**” means weekdays (Monday – Friday) 5:00 PM MST/MDT, whichever is in effect on the date given.
5. “**Confidential**” means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7 NMSA 1978,. See also NMAC 1.4.1.45. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
6. “**Contract**” means any agreement for the procurement of items of tangible personal property, services or construction.
7. “**Contractor**” means any business having a contract with a state agency or local public body.
8. “**Determination**” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
9. “**Desirable**” – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.

10. “**Electronic Submission**” means a successful submittal of Offeror’s proposal in the HSD Bonfire system.
11. “**Electronic Version/Copy**” means a digital format consisting of text, images or both, readable on computers or other electronic devices, which includes all content that the Original document contains. The electronic version/copy CANNOT be emailed.
12. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
13. “**Evaluation Committee Report**” means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee’s recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.
14. “**Final Award**” means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.
15. “**Finalist**” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee, as explained in Section II.B.8.
16. “**Hourly Rate**” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.
17. “**IT**” means Information Technology.
18. “**Mandatory**” – the terms ”must,” ”shall” ”will,” ”is required,” or ”are required,” identify a mandatory item or factor. Failure to meet a mandatory item or factor may result in the rejection of the Offeror’s proposal.
19. “**Minor Irregularities**” means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
20. “**Multiple Source Award**” means an award of a contract for one or more items of tangible personal property, services or construction to more than one Offeror.
21. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.
22. “**Price Agreement**” means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

23. “**Procurement Manager**” means any person or designee authorized by a state agency or local public body with the responsibility, authority, and resources to conduct the RFP procurement, make written determinations regarding the RFP procurement, and/or enter into or administer contracts as a result of the RFP procurement.
24. “**Procuring Agency**” means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to procure items of tangible personal property, services or construction from the agreement(s) awarded as a result of this RFP.
25. “**Project**” means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.
26. “**Redacted**” means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7 NMSA 1978 and NMAC 1.4.1.45 and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out BUT NOT omitted or removed.
27. “**Request for Proposals (RFP)**” means all documents, including those attached or incorporated by reference, used for soliciting proposals.
28. “**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.
29. “**Responsive Offer**” or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.
30. “**Sealed**” means, in terms of electronic submission, an Offeror’s proposal and all accompanying documents has been completely and successfully uploaded into HSD’S electronic procurement portal bonfire system prior to the submission deadline stated in the RFP.
31. “**Single Source Award**” means an award of contract for items of tangible personal property, services or construction to only one Offeror.
32. “**SPD**” means State Purchasing Division of the New Mexico State General Services Department.
33. “**Staff**” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

34. **“State (the State)”** means the State of New Mexico.
35. **“State Agency”** means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the Purchasing Division of the General Services Department and the State Purchasing Agent but does not include local public bodies.
36. **“State Purchasing Agent”** means the Director of the Purchasing Division of the General Services Department.
37. **“Statement of Concurrence”** means an affirmative statement from the Offeror indicating its response to a required Section IV specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal, pursuant to Section III.C.1. (E.g. “We concur,” “Understands and Complies,” “Comply,” “Will Comply if Applicable,” etc.)
38. **“Unredacted”** means a version/copy of the proposal containing all complete information; including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.
39. **“Written”** means typed in standard 8 ½ x 11-inch document format, by common electronic means (such as Microsoft Word, Adobe PDF, etc.). A larger size document is permissible for charts, spreadsheets, etc.

DEFENITIONS SPECIFIC TO THIS RFP

1. **“CSFP”** is the USDA Commodity Supplemental Food Program
2. **“EOM”** means end-of-month.
3. **“FNS or FNS SWRO”** means the Food and Nutrition Services Southwest Regional Office. It is the division and regional office within USDA that is responsible for administering CSFP in the states of Arkansas, Arizona, Louisiana, New Mexico, Oklahoma, Texas, Utah, and Tribal organizations located within the region.
4. **“FANS Bureau”** means the Food and Nutrition Services Bureau within the Income Support Division of the New Mexico Human Services Department that is responsible for administering CSFP in New Mexico.
5. **“ISD” Income Support Division** means the division within the New Mexico Human Services Department that oversees the FANS Bureau.
6. **“ICOS” is Integrated CSFP Operating System** and means the computer operating system for CSFP participation, food distribution and inventory control.

7. “**NM HSD or HSD**” means New Mexico Human Services Department.
8. “**USDA**” means the United States Department of Agriculture.

G. PROCUREMENT LIBRARY

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in this document through your own internet connection. The library contains information listed below:

RFP, Questions & Answers, RFP Amendments, etc.

[New Mexico Human Services Department \(bonfirehub.com\)](https://www.bonfirehub.com)

[Open RFPs | New Mexico Human Services Department \(state.nm.us\)](https://state.nm.us)

<https://www.generalservices.state.nm.us/state-purchasing/>

APPENDIX G ATTACHMENTS

[New Mexico Human Services Department \(bonfirehub.com\)](https://www.bonfirehub.com)

Attachment 1 - CSFP Site List July 2023

Attachment 2 – June 2023 Current Seniors Served by County

Attachment 3 – Current Eligible Seniors and Potential Eligible Seniors Statewide

Attachment 4 – CSFP 2023 Caseload & Funding

Attachment 5 – New Mexico CSFP State Plan

Attachment 6 - New Mexico Senior Food Box Program CSFP Program Standards and Requirements Manual, August 2023

Other relevant links:

CSFP Regulations 7 CFR 247 and 7 CFR 250, Policy and Program Information:

[PART 247—Commodity Supplemental Food Program | Food and Nutrition Service \(usda.gov\)](https://www.fns.usda.gov/csfp/policy)<https://www.fns.usda.gov/csfp/policy>

[PART 250—Donation of Foods for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction | Food and Nutrition Service \(usda.gov\)](https://www.usda.gov)

New Mexico Human Services Department:

[Commodity Supplemental Food Program | New Mexico Human Services Department \(state.nm.us\)](https://state.nm.us)

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1. Issue RFP	HSD	August 11, 2023
2. Acknowledgement of Receipt Form	Potential Offerors	August 16, 2023
3. Pre-Proposal Conference	Agency	August 16, 2023
4. Deadline to submit Written Questions	Potential Offerors	August 21, 2023
5. Response to Written Questions	Procurement Manager	August 25, 2023
6. Submission of Proposal	Potential Offerors	September 6, 2023
7.* Proposal Evaluation	Evaluation Committee	September 7 – September 14, 2023
8.* Selection of Finalists	Evaluation Committee	August 2, 2023
9.* Oral Presentation(s)	Finalist Offerors	N/A
10.* Best and Final Offers	Finalist Offerors	N/A
11.* Finalize Contractual Agreements	Agency/Finalist Offerors	September 20, 2023
12.* Contract Awards	Agency/ Finalist Offerors	October 1, 2023
13.* Protest Deadline	HSD	+15 days after notice of award

*Dates indicated in Events 7 through 13 are estimates only, and may be subject to change without necessitating an amendment to the RFP.

B. EXPLANATION OF EVENTS

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

1. Issue RFP

This RFP is being issued on behalf of the State of New Mexico Human Services Department indicated in Section II.A., Sequence of Events.

2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the procurement manager, julieann.wold@hds.nm.gov, to have their organization placed

on the procurement Distribution List. The form must be returned to the procurement manager by 3:00 pm MDT indicated in Section II.A, Sequence of Events.

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list, and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to the RFP.

3. Pre-Proposal Conference

A pre-proposal conference will be held as indicated in Section II.A, Sequence of Events, beginning at 11:00 am MDT via in person or

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 299 951 150 642

Passcode: SadzRj

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+1 505-312-4308,,539384027#](#) United States, Albuquerque

Phone Conference ID: 539 384 027#

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Procurement Manager (see Section I.D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All questions answered during the Pre-Proposal Conference will be considered **unofficial** until they are posted in writing. All written questions will be addressed in writing on the date listed in Section II.A, Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attended the pre-proposal conference.

Attendance at the pre-proposal conference is highly recommended, but not a prerequisite for submission of a proposal.

4. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 3:00 pm MDT as indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Procurement Manager as declared in Section I.D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

5. Response to Written Questions

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A).

The Questions and Answers will be posted to HSD RFP Website:

[New Mexico Human Services Department \(bonfirehub.com\)](https://bonfirehub.com)

[Open RFPs | New Mexico Human Services Department \(state.nm.us\)](https://state.nm.us)

6. Submission of Proposal

At this time, only **electronic** proposal submission is allowed. **Do not** submit hard copies until further notice.

ALL PROPOSALS MUST BE RECEIVED BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN **3:00 PM MDT ON SEPTEMBER 6, 2023 NO LATE PROPOSAL CAN BE ACCEPTED.** The date and time of receipt will be recorded on each proposal. Proposals will be time-stamped in the system when the Offeror clicks “OK” after “Review and Submit.” Such electronic submissions will be considered sealed in accordance with statute.

*It is the Offeror’s responsibility to ensure all documents are completely uploaded and submitted electronically via the HSD’s bonfire system by the deadline set forth in this RFP. The HSD’s bonfire system will automatically cease uploading data at the date and time of the deadline. Please ensure that you, as the Offeror, allow adequate time for large uploads and to fully complete your submittal by the deadline. A submission that is not both: (1) fully complete; and (2) received, via the bonfire system by the deadline, will be deemed late. Further, a submission that is not fully complete and received via the bonfire system by the deadline because the response was captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any anti-virus or other security software will be deemed late. In accordance with statute and rule, **NO LATE PROPOSAL CAN BE ACCEPTED.***

Proposals must be submitted electronically through HSD’s bonfire electronic procurement system. Refer to Section III.B.1 for instructions. Proposals submitted by facsimile, or other electronic means other than through the HSD’s electronic e-procurement system, will not be accepted.

A log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to §13-1-116 NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals.

Awarded in this context means the final required state agency signature on the contract(s) resulting from the procurement has been obtained.

7. Proposal Evaluation

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in Section II.A, Sequence of Events, depending upon the number of proposals received. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Selection of Finalists

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

9. Oral Presentations

N/A

10. Best and Final Offers

N/A.

11. Finalize Contractual Agreements

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), taking into consideration the evaluation factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

12. Contract Awards

Upon receipt of the signed contractual agreement, the Agency Procurement office will award as per Section II.A., Sequence of Events, or as soon as possible thereafter. The award is subject to appropriate Department and State approval.

13. Protest Deadline

Any protest by an Offeror must be timely submitted and in conformance with §13-1-172 NMSA 1978 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172 NMSA 1978 and 1.4.1.82 NMAC, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with

statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the notice of award of contract(s) and will end at 5:00 pm MST/MDT on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be directed to:

Office of General Counsel
1474 Rodeo Rd.
Santa Fe, New Mexico 87505

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance to be bound by the Conditions Governing the Procurement, Section II.C, and Evaluation, Section V, by completing and signing the Letter of Transmittal form, pursuant to the requirements in Section II.C.30, located in APPENDIX E.

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with a State Agency which may derive from this RFP. The State Agency entering into a contractual agreement with a vendor will make payments to only the prime contractor.

4. Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the agency awarding any resultant contract, before any subcontractor is used during the term of this agreement.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. **Agency personnel will not merge, collate, or assemble proposal materials.**

6. Offeror's Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Procurement Manager and signed by the Offeror's duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations, 1.4.1.5 & 1.4.1.36 NMAC.

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

The contents of all submitted proposals will be kept confidential until the final award has been completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be available for public inspection, *except* for proprietary or confidential material as follows:

- a. ***Proprietary and Confidential information is restricted to:***
 1. confidential financial information concerning the Offeror's organization; and
 2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7 NMSA 1978.
- b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Section III.B.2.a, shall be submitted containing the blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

IMPORTANT: 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 proprietary or confidential materials, the Agency shall examine the 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 proprietary or confidential information.

9. No Obligation

This RFP in no manner obligates the State of New Mexico or any of its Agencies to the use of any Offeror's services until a valid written contract is awarded and approved by appropriate authorities.

10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the Agency determines such action to be in the best interest of the State of New Mexico.

11. Sufficient Appropriation

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

12. Legal Review

The Agency requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror's concerns must be promptly submitted in writing to the attention of the Procurement Manager.

13. Governing Law

This RFP and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied in writing by the Procurement Manager or contained in this RFP shall 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 Draft Contract Appendix C. However, the contracting agency reserves the right to negotiate provisions in addition to those contained in this RFP (Draft 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 Draft Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Agency (and the Evaluation Committee), 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 Draft 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 Draft 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. 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 §13-1-83 and §13-1-85 NMSA 1978.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.F.19. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that **all** of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

The Agency reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of the Agency, adequately meeting the needs of the Agency.

21. Notice of Penalties

The Procurement Code, §§13-1-28 through 13-1-199 NMSA 1978, 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 a potential Offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from the agency written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or agency contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or removal from the contract.

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of the State of New Mexico. If the RFP is cancelled, all responses received shall be destroyed by the Agency or HSD.

25. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the Agency.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring Agency's written permission.

26. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the agency, the Offeror acknowledges that the version maintained by the agency shall govern. Please refer to:

28. New Mexico Employees Health Coverage

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <https://bewellnm.com>.
- D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

29. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form (APPENDIX B) as a part of their proposal. This requirement applies regardless whether a

covered contribution was made or not made for the positions of Governor and Lieutenant Governor or other identified official. **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

30. Letter of Transmittal

Offeror's proposal must be accompanied by a Letter of Transmittal Form (APPENDIX E), which must be **signed** by the individual authorized to contractually obligate the company, identified in #2 below.

Provide the following information:

1. Identify the submitting business entity; Name, Mailing Address, Phone Number, Federal Tax ID Number (TIN), and New Mexico Business Tax ID Number (BTIN, formerly CRS);
2. Identify the Name, Title, Telephone, and E-mail address of the person authorized by the Offeror's organization to (A) contractually obligate the business entity providing the Offer, (B) negotiate a contract on behalf of the organization; and/or (C) provide clarifications or answer questions regarding the Offeror's proposal content (*A response to B and/or C is only necessary if the responses differs from the individual identified in A*);
3. Identify any subcontractor/s that may be utilized in the performance of any resultant contract award;
4. Identify any other entity/-ies (such as State Agency, reseller, etc., that is not a subcontractor identified in #3) that may be used in the performance of this awarded contract; and
5. The individual identified in #2 above, must sign and date the form, attesting to the veracity of the information provided, and acknowledging (a) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (b) the organizations acceptance of the Section V Evaluation Factors, and (c) receipt of any and all amendments to the RFP.

Failure to submit a signed Letter of Transmittal Form (Appendix E) will result in Offeror's disqualification.

31. 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.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP ELECTRONIC SUBMISSION

1. **ONLY ELECTRONIC SUBMISSION VIA (Human Services Procurement Portal, Bonfire Interactive, can be accessed at [New Mexico Human Services Department \(bonfirehub.com\)](http://New Mexico Human Services Department (bonfirehub.com)))**
2. **All vendors must register with the Procurement Portal to log in and submit requested information.**

Proposals in response to this RFP must be submitted through the Human Services Purchasing’s electronic procurement portal ONLY, the Offeror need only submit one single electronic copy of each portion of its proposal (Technical and Cost) as outlined below. Separate the proposals as described below into separate electronic files for submission.

Proposals must be submitted in the manner outlined below. Technical and Cost portions of Offerors proposal **must** be submitted in separate uploads as indicated below in this section, and **must** be prominently identified as “Technical Proposal,” or “Cost Proposal,” on the front page of each upload

1. **Technical Proposals** – One (1) ELECTRONIC upload must be organized in accordance with **Section III.C.1. Proposal Format**. All information for the Technical Proposal **must be combined into a single file/document for uploading**. *EXCEPTION: Single electronic files that exceed 50mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 50mb limit.* The Technical Proposals ***SHALL NOT contain any cost information.***
 - a. **Confidential Information:** If Offeror’s proposal contains confidential information, as defined in Section I.F.6 and detailed in Section II.C.8, Offeror **must** submit **two (2) separate ELECTRONIC technical files:**
 - i. One (1) ELECTRONIC version of the requisite proposals identified in Section III.B.1.a above as **unredacted** (def. Section I.F.38) versions for evaluation purposes; and
 - ii. One (1) **redacted** (def. Section I.F.27) ELECTRONIC for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror’s proposal. Redacted versions **must** be clearly marked as “REDACTED” or “CONFIDENTIAL” on the first page of the electronic file;
2. **Cost Proposals** – One (1) ELECTRONIC upload of the proposal containing **ONLY** the Cost Proposal. All information for the cost proposal **must be combined into a single file/document for uploading**.

For technical support issues go to Support@GoBonfire.com or visit their help desk forum at <https://bonfirehub.zendesk.com/hc>

The ELECTRONIC proposal submission must be fully uploaded in Human Services e-Procurement Portal by the submission deadline in Section II.B.6.

Any proposal that does not adhere to the requirements of this Section and Section III.C.1 **Proposal Content and Organization** may be deemed non-responsive and rejected on that basis.

B. PROPOSAL CONTENT AND ORGANIZATION

All proposals must be submitted as follows:

Organization of files/envelopes for electronic copy proposals:

1. Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material must be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Technical Proposal – DO NOT INCLUDE ANY COST INFORMATION IN THE TECHNICAL PROPOSAL.

1. Signed Letter of Transmittal
2. Signed Campaign Contribution Form
3. Table of Contents
4. Proposal Summary (Optional)
5. Response to Contract Terms and Conditions (from Section II.C.15)
6. Offeror's Additional Terms and Conditions (from Section II.C.16)
7. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal**)
 - a. Organizational Experience
 - b. Organizational References
 - c. Oral Presentation (if applicable)
 - d. Mandatory Specification
 - e. Desirable Specification
 - f. Financial Stability –(Financial information considered confidential, as defined in Section I.F. and detailed in Section II.C.8, should be placed in the **Confidential Information** file, per Section III.B.2.a, as applicable)
8. Other Supporting Material (if applicable)

Cost Proposal:

1. Completed Cost Response Form (APPENDIX D)

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in the Cost Proposal.**

A Proposal Summary may be included in Offeror's Technical Proposal, to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.

2. Letter of Transmittal

Offeror's proposal must be accompanied by the Letter of Transmittal Form located in Appendix E which must be completed and signed by an individual person authorized to obligate the company.

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. Table of Contents

The table of contents must contain a list of all sections of the proposal and the corresponding page numbers.

5. Proposal Summary

The proposal summary must be five (5) pages or less. It shall provide the Evaluation Committee with an overview of the technical and business features of the proposal. This material will not be used in the evaluation process but may be used in public notifications regarding the successful offeror's selection.

6. Response to Department's Terms and Conditions

The offeror shall explicitly indicate acceptance of the General Requirements (Section II.C) and the Contract Terms and Conditions (Appendix C). As provided in Section II.C.15, should the offeror object to any of the Agency's terms and conditions, as contained in Appendix C, the offeror must propose specific alternate language. The offeror must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

7. Offeror's Additional Terms and Conditions

Offerors must submit with the proposal a complete set in writing of any additional terms and conditions they request to have included in a contract negotiated with the Department.

8. Response to Mandatory Specifications

The Mandatory Specifications may be found in Section IV of the RFP. This section contains information required in the submission of proposals. Offerors must respond in the form of a thorough narrative to each numbered requirement in the order in which they appear in this section. The offeror must identify, in full, the question being answered and its response to that question.

9. Suspension and Debarment Requirement Form

The offeror must complete the certification form in Appendix G to certify compliance with federal regulations relating to suspension and debarment.

10. Lobbying

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 agency, 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 contract, 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 contract, 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

IV. SPECIFICATIONS

A. DETAILED SCOPE OF WORK

COMMODITY SUPPLEMENTAL FOOD PROGRAM (CSFP)

1. AGREEMENTS – ATTACHMENT 1, 7 CFR 247.4

The Contractor:

A. Must administer and operate the Commodity Supplemental Food Program (CSFP) in their county or counties of operation in accordance with:

1) 7 CFR 247 found at <https://www.fns.usda.gov/part-247%E2%80%94commodity-supplemental-food-program>

AND

2) 7 CFR 250 found at <https://www.fns.usda.gov/part-250%E2%80%94donation-foods-use-united-states-its-territories-and-possessions>

B. Must comply with USDA FNS (United States Department of Agriculture, Food and Nutrition Service), USDA FNS SWRO (Southwest Regional Office) and HSD (New Mexico Human Services Department regulations, memorandums, directives, and instructions, found on the following website and in the following attachments.

1) USDA FNS CSFP information is available at

<https://www.fns.usda.gov/csfp/commodity-supplemental-food-program-csfp>

2) The New Mexico HSD State Plan and approved 2023 Caseload and Funding ATTACHMENT 2-A, 2-B, and 2-C.

3) The New Mexico HSD CSFP Program Standards and Requirements Manual, November 2022 ATTACHMENT 3.

C. **APPROPRIATIONS:** The terms of this Agreement are contingent upon sufficient appropriations and authorization made by the United States Congress or the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by United States Congress, this Agreement shall terminate by written notice from HSD to the Contractor, and the required advance notice is a minimum of 30 days. The HSD's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the HSD 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.

- D.** Must get approval from FANS before entering into written agreements with another organization or person to provide CSFP services as a sub-contractor.
 - 1) Tailgate and Drop-Off Site Agreements *ATTACHMENTS 4-A, 4-B*.
 - 2) Agreements between the contractor and their sites must follow 7 CFR 247.4.

- E.** Either party may terminate the agreement by written notice to the other, and the required advance notice is a minimum of 30 days.

- F.** Must agree that caseloads are determined by FANS Bureau at the county level. Caseload is adjusted between contractors to meet the USDA goal of serving 95% or better of the average yearly and current monthly eligible participants in New Mexico.
 - 1) This is based on an annual and monthly average participation determined by USDA FNS.
 - 2) Caseloads by county and or contractor may be adjusted higher or lower by FANS Bureau based on contractor utilization of assigned caseload.
 - 3) Caseloads by county and or contractor may be adjusted higher or lower by FANS Bureau as necessary to accommodate the utilization of waitlists.
 - 4) Must ensure that the annual caseload participation for their organization does not exceed their allowed annual participation.

- G.** Funding to individual contractors is based on a cost per case basis with consideration of cost of the route round trip to tailgate and drop off sites including employee hours to complete the routes.

2. REQUIRED ACTIVITIES

- H.** Must provide Nutrition Education to participants in accordance with 7 CFR 247.18 Nutrition Education
 - 1) Work with NMSU ICAN (New Mexico State University Ideas for Cooking And Nutrition) for providing Nutrition Education services. The services include:
 - a. Placing monthly recipes in packages if ICAN isn't present at warehouse distributions, tailgates, drop-offs.
 - b. Notifying recipients of the availability of electronic and in person classes led by ICAN educators.
 - c. Providing space for in person demonstrations as allowable
 - d. Providing monthly or quarterly reports of the Nutrition Education services provided or services that will be provided. See Reports
 - 2) The following are resources for the contractor for providing Nutrition Education.

- a. CSFP Nutrition Education [CSFP Sharing Gallery | Food and Nutrition Service \(usda.gov\)](#)
 - b. USDA SNAP Education [Supplemental Nutrition Assistance Program Education \(SNAP-Ed\) | Food and Nutrition Service \(usda.gov\)](#)
 - c. USDA Foods Available List for the CSFP [USDA Foods Available List for CSFP | Food and Nutrition Service](#)
- I.** Must provide written information on the following programs, and make referrals as appropriate per 7 CFR 247.14 (b)(c) Other Public Assistance Programs
ATTACHMENTS 5-A, 5-B.
- 1) Supplemental Security Income (SSI) benefits provided under Title XVI of the Social Security Act (42 U.S.C. 1381 et seq.)
 - 2) Medical Assistance provided under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).
 - 3) Supplemental Nutrition Assistance Program (SNAP) (7 CFR parts 271-285 or 7 U.S.C. 2011 et seq.)
- J.** The contractor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), Section 504 of the Rehabilitation Act of 1972 (29 U.S.C. §794), The Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.); all provisions required by implementing regulation of the Department of Agriculture, Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.
- K.** Must determine eligibility of applicants in accordance with eligibility criteria established by USDA 7 CFR 247.9 Eligibility Requirements and HSD ISD FANS Bureau.
- L.** Must understand the fair hearing process and comply with the applicant, recipients, or their proxies right to appeal an adverse action and request a fair hearing. The

contractor must train staff and volunteers in the fair hearing process. The process is described in *ATTACHMENTS 6-A, 6-B*.

- M.** Must distribute one (1) package of USDA CSFP Food to participants each month or two (2) USDA CSFP Food packages to participants every other month in accordance with the food package guide rates established by FNS in 7 CFR 247.10 Distribution and Use of CSFP Commodities and *ATTACHMENT 7, USDA Revised Maximum Monthly Distribution Rates to Return to Full Vegetable Issuance*.

- N.** Must attend required training and meetings as mandated by USDA or by HSD ISD FANS Bureau.

- O.** Must develop a plan to provide training for their staff and volunteers involved with the administration of CSFP including:
 - 1) Civil Rights Training available from FANS *ATTACHMENT 8*
 - a. How to file a Civil Rights Complaint
 - b. Requirement to display the And Justice For All (AJFA) Poster
 - 2) ICOS (Integrated CSFP Operating System – Client & Inventory Software Program). Each contractor should develop their own ICOS training.
 - a. Application Procedures and Eligibility determination for CSFP
 - b. Emphasizing the importance of applicants understanding the following section on the application:

Certification — This application is being completed in connection with the receipt of Federal assistance. Program officials may verify information on this form. I am aware that deliberate misrepresentation may subject me to prosecution under applicable State and Federal statutes. I am also aware that I may not receive both CSFP and WIC benefits simultaneously, and I may not receive CSFP benefits at more than one CSFP site at the same time. Furthermore, I am aware that the information provided may be shared with other organizations to detect and prevent dual participation. Improper receipt of CSFP benefits as a result of dual participation or other program violations may lead to a claim against the individual to recover the value of the benefits and may lead to disqualification from CSFP. I have been advised of my rights and obligations under the Program. I certify that the information I have provided for my eligibility determination is correct to the best of my knowledge. I authorize the release of information provided on this application form to other organizations administering assistance programs for use in determining my eligibility for participation in other public assistance programs and for program outreach purposes. (Please indicate your decision by placing a checkmark in the appropriate box.)

Yes No

- 3) Complying with CSFP Rights and Responsibilities *ATTACHMENTS 9-A, 9-B.*
- 4) Requirement to provide written information for SSI, Medical Assistance to Qualified Medicare Beneficiaries (QMB), SNAP, and other Public Assistance Programs. *ATTACHMENTS 5-A, 5-B.*
- 5) Receipt, storage, distribution of CSFP Foods
 - a. Receipt of USDA trucks Instruction FNS 709, Rev. 3 *ATTACHMENT 10.*
 - b. Storage of USDA Foods Policy FD-10, *ATTACHMENT 11-A* and Storage of USDA Cheese *ATTACHMENT 11-B.*
 - c. Must provide warehouse services for CSFP with enough space to store a three-month supply of inventory for their eligible recipient base for the county or counties they plan to serve. The storage must consist of dry and cooler space.
 - d. Must provide space at warehouse distributions, distribution sites, and drop off sites to maintain privacy for eligibility determinations and distribution of CSFP USDA Foods to eligible recipients per 7 CFR 247.36 Confidentiality of Applicants or Participants.
 - i. Maintain confidentiality forms for staff and volunteers. *ATTACHMENTS 12-A, 12-B.*
 - e. Must ensure that space used for the distribution of food can accommodate the number of recipients expected. Must ensure the space is safe for distribution for recipients, staff, and volunteers.
 - f. Agrees that CSFP USDA Foods are ordered by HSD ISD FANS, a USDA approved CSFP Agency designated by USDA SWRO or HSD ISD FANS or by the individual contractor if required by USDA.
- 6) Must fully cooperate with and participate in program reviews conducted by HSD ISD FANS (New Mexico Human Services Department, Income Support Division, Food and Nutrition Services Bureau) also identified as the SA (State Agency), and/or USDA to achieve full compliance.
- 7) Must annually monitor all distribution site operations for drop-offs under the authority of the contractor using the approved Distribution Site Review Forms *ATTACHMENT 13-A, 13-B*
- 8) Must request permission to distribute Retractive Food Packages. *ATTACHMENTS 14-A, 14-B.*
- 9) Must provide a plan for missed distributions within the same month.
 - a. Inclement Weather
 - b. Equipment Breakdowns

c. Staff/Volunteer Shortages

3. REQUIRED REPORTING

P. End – Of – Month (EOM) Reports are Due by the 10th of the following month. The reports should be emailed to the CSFP Manager

- 1) ICOS Participation by Site Form – electronically signed.
- 2) ICOS Distribution Product Report – Used to submit Manual Participation
 - a. USDA requires reporting the participation of recipients in the months of the intended received packages.

3) FNS 153: The ICOS Form

4) FNS 153: Manual Form *ATTACHMENT 15 -A*, No Signature Required

- a. Requested Sections must be in Units.
- b. WBSCM CSFP Item # use the USDA/ICOS Description *ATTACHMENT 15-B, FY 2023 CSFP Foods Available*
- c. Starting Inventory
- d. Received Inventory
- e. Inventory distributed that month. This includes inventory distributed for the following month.
- f. Inventory used for Nutrition Education
- g. Inventory Lost or Damaged
- h. Inventory Adjustments – Positive and/or Negative
- i. Remaining Inventory

5) End – Of – Month (EOM) Physical Inventory *ATTACHMENT 16*. No Signature Required. Due by the 10th of the following month.

- a. Must Perform Physical inventory monthly, and at the request of HSD ISD FANS and/or USDA SWRO.
- b. Physical inventory sheets may be compiled into one report, but the unedited count sheets must be submitted with a compiled report.

6) End – Of – Month (EOM) Inventory Adjustment Form. Due by the 10th of the following month.

- a. ICOS adjustments should be made after the physical inventory is completed and prior to the first day of the following month.
- b. Explanations for adjustments are available in ICOS. If additional explanations are needed those can be added on the ICOS Inventory Adjustment Form, submitted on an additional sheet, or noted on the Manual FNS 153 submitted.

7) FNS 191 report from ICOS is due annually by May 31.

- 8) Must annually provide FANS with the site name, address, contact name, contact phone number of each distribution site.
 - a. The report is due July 30.
 - b. Must provide updates to FANS for change of site name, address, contact name, contact phone within 30 days of a permanent change.
 - c. For Tailgates provide the time of distribution, regular week, and day (ex. 3rd Wednesday), for Drop-Offs include delivery day, estimated time of drop-off, day, or days of distribution.
 - d. The following changes should be reported via email and made in ICOS (if applicable) when they occur:
 - i. Change in the day of distribution if not due to a holiday.
 - ii. Change in the time of distribution.
 - iii. Change in contact person.
 - iv. Change in contact phone number.

- 9) Must maintain current WBSCM (Web Based Supply Chain Management) access for appropriate staff per *ATTACHMENT 10*, FNS 709-5, Rev. 3
 - a. Receipt orders in WBSCM within two (2) calendar days as required by USDA.
 - b. Maintain and understand Multi Food delivery dates from the National Warehouse.

4. REQUIRED RECORDKEEPING

- 10) All records must be retained for a period of three (3) years from the end of the Federal Fiscal year to which they pertain, or if they are relate to unresolved claims actions, audits, or investigations, until those activities have been resolved in accordance with 7 CFR 247.29 Reports and Recordkeeping.
 - a. The Federal Fiscal Year is October 1 – September 30.

- 11) All records must be available during normal business hours for use in management reviews, audits, investigations, or reports of the General Accounting Office in accordance with 7 CFR 247.29 Reports and Recordkeeping.

- 12) Must maintain accurate and complete records relating to the receipt, disposal, and inventory of CSFP USDA Foods, the receipt and disbursement of administrative funds, eligibility determinations, fair hearings, nutrition education and other program activities in accordance with 7 CFR 247.29 Reports and Recordkeeping.

B. TECHNICAL SPECIFICATIONS

1. Approach/Scope of Activities

Offer must:

- a. Describe the process used for the Certification of Applicants and Recipients
- b. Describe how the Offeror plans to effectively manage client caseload.
 - 1) The plan must include a description of the Offerors CSFP Outreach plans for the proposed county or counties of service.
 - 2) Provide the plan for Waitlist procedures, if necessary to implement
 - 3) Provide a plan for reducing participation as needed reduce caseload if required.
 - 4) Provide a plan for increasing participation.
- c. Description of Warehouse Space, Delivery Vehicles and Equipment
 - 1) Dry Space
 - 2) Cooler Space
 - 3) Office or Administrative Space
 - 4) Floorplan of the Warehouse. A non-professional rendering is acceptable.
 - 5) Delivery Vehicles
 - 6) Forklifts/Pallet Jacks
- d. Description of the Nutrition Education services that will be provided in the proposed county or counties of service.
- e. Acknowledgement that Offeror will utilize HSD FANS CSFP document(s) or material(s) for and make referrals to other Public Assistance Programs

2. Community Collaboration

Offeror must:

- a. Identify current and potential community partners for distribution sites, tailgate sites and drop off sites for the proposed county or counties of service.
- b. Identify current and potential community partners that are willing to provide distribution to homebound recipients in the proposed county or counties of service.
- c. Identify current and potential community partners that are willing to provide volunteers to assist the Offeror in their operation of preparation and/or distribution of CSFP food packages.
- d. Identify the number of current and potential volunteers with the Offeror's organization that are not affiliated with the Offeror's CSFP community partners.

3. Organizational Experience

Offeror **must**:

- a) Provide a description of relevant corporate experience with state government and private sector. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise, and knowledge as a provider of USDA or other public or private food distribution, program management, and or food storage services for low-income individuals or households. All food distribution, program management, and or food storage services for low-income individuals or households provided to private sector will also be considered.
- b) Additional consideration will be given to responses that include low-income seniors.
- c) Provide a description of one (1) project challenge positive or negative of a food distribution program or aspect of a food distribution program that includes:
 - i. a description of the challenge
 - ii. a description of how you or the organization responded to the challenge.
 - iii. your or the organizations assessment that the response to the challenge was a success or failure and what factors were used to make the assessment that the response was a success or failure
- d) Describe how the experience in c) impacted or improved the Offeror's services or plan to provide this service if awarded a contract.

4. Organizational References

Offeror must provide a list of a minimum of two (2) external references from similar projects/programs performed for private, state or large local government clients within the last three (3) years.

Offeror shall include the following Business Reference information as part of its proposals:

- a) Client name;
- b) Project description;
- c) Project dates (starting and ending);
- d) Staff assigned to reference engagement that will be designated for work per this RFP; and
- e) Client project manager name, telephone number, and e-mail address.

Offeror is required to submit APPENDIX F, Organizational Reference Questionnaire ("Questionnaire"), to the business references it lists. **The business references must submit the Questionnaire directly to the designee identified in APPENDIX F. The business references must not return the completed Questionnaire to the Offeror.** It is

the Offeror's responsibility to ensure the completed forms are submitted on or before the date indicated in Section II.A, Sequence of Events, for inclusion in the evaluation process.

Organizational References that are not received or are not complete, may adversely affect the Offeror's score in the evaluation process. Offerors are encouraged to specifically request that their Organizational References provide detailed comments.

5. Mandatory Specification

Proposed Service Area

- f. Provide a Projected Outcome Statement that includes the New Mexico County or counties to be served under the proposal.
- g. Provide the location of the communities that the Offeror proposes to serve, the senior population (age 60 and over)
- h. Provide a description of the Offeror's ability to provide services to the proposed county or counties of service.
- i. Provide a plan for maintaining or expanding distribution in the proposed county or counties of service. Expanding distribution means adding sites and/or number of clients served.
- j. Description of how the Offeror proposes to serve the Homebound eligible recipients.
- k. Description of members generally recognized minority groups to be served in the county or counties of service.
- l. Provide a number of the current or proposed electronic devices and a description of the Internet Service and or phone service that will be used to access ICOS for eligibility determinations, inventory management and food distributions. Electronic devices include but are not limited to desktop computers, laptop computers, tablets, and mobile phones.
- m. Provide the mileage and employee hours for the proposed routes of transportation for food distributions.

6. Performance Monitoring and Program Evaluation

- n. Provide a plan for the required annual site monitoring of all sites including client eligibility determinations, food distribution and Civil Rights.
- o. Describe the plan or procedure to provide the required training to staff and volunteers of Offeror and staff and volunteers of agencies used for distribution.
- p. Provide the procedure or description for providing updates of requirements,

procedure changes and other information provided by USDA or FANS in the operation of CSFP to Offeror staff and volunteers and staff and volunteers of agencies used for distribution.

7. Staffing

- q. Provide a description of paid staff assigned to manage the program. It should include:
 - 1) Name
 - 2) Title if Applicable or NA for Not Applicable
 - 3) The anticipated percent (%) of time that this person will perform duties associated with CSFP.

- r. Staff Determination for Pay and Salary Expenses
 - 1) Cost Allocation **or**
 - 2) Average Weekly Hours **or**
 - 3) Average Monthly Hours

8. Budget – Budget/Cost Proposal Form Submitted

C. BUSINESS SPECIFICATIONS

1. Financial Stability

Offerors must submit copies of the last two years or their independently audited financial statements as well as financial statements for the preceding two 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. **Failure to submit a signed form will result in Offeror's disqualification.**

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). **Failure to complete and return the signed, unaltered form will result in Offeror’s disqualification.**

4. Oral Presentation

If oral presentations are held, finalist Offeror(s) may be required to explain, demonstrate, detail, and/or clarify any aspect of its submitted proposal, to which the Evaluation Committee may ask questions and/or seek clarifications. Pursuant to Section II.B.9, Oral Presentations may held at the sole discretion of the Evaluation Committee.

5. Cost

Offerors must complete the Cost Response Form in Appendix D.

This Offeror’s Points Awarded on the Cost Response - Budget Proposal Form

Highest Points Awarded on all Cost Response – Budget Proposal Forms

X 230 Total Points Available

Successful bidders will receive awarded funds based on the counties they bid on and the projected availability of caseload for those counties. Additional financial consideration may be awarded to successful bidders based on the cost of distances traveled to distributions considered remote from their warehouse location. Additional financial consideration may be awarded to successful bidders based on costs for home bound deliveries.

- s. All charges listed on APPENDIX D must be justified and evidence of need documented in the proposal.
- t. Offeror’s should submit the Cost Proposal – Budget Response Form based on a monthly dollar amount for each category specified on the Cost Proposal – Budget Response Form.
- u. Offeror’s are expected to provide estimated monthly costs based on annual expenditures, when necessary.
- v. Offeror’s are expected to submit their proposals for a monthly specific dollar amount.
- w. Provide a budget proposal of Allowable Costs based on a proposed caseload for each of the counties to be served. The Budget Proposal must reflect monthly distributions to clients. Please use the Current Eligible Participants Served and Estimations Provided for Potential Eligible Participants (APPENDIX G) to estimate the average number of clients served monthly.

$$\frac{\text{Total Caseload Proposed} \times \$7.20 \text{ per each client case}}{\text{Total Budget Available}} =$$

- 6. Employee Health Coverage Form
- 7. Pay Equity Reporting
- 8. Governmental Conduct Concurrence
- 9. Verification of 501(c) 3 status or Educational Institution

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category.

Factors – correspond to section IV. B and IV. C	Points Available
B. 1. a. Process for Certification of Applicants and Recipients	20
B. 1. b. Management of Client Caseload	100
B. 1. b. i. Description of CSFP Outreach plans for proposed county or counties of service	25
B. 1. b. ii. Description of Waitlist procedures	25
B. 1. b. iii. Plan for reducing participation as needed and to reduce caseload if required	25
B. 1. b. iv. Plan for increasing participation	25
B. 1. c. Description of Warehouse Space, Delivery Vehicles and Equipment	60
B. 1. c. i. Dry Space	10
B. 1. c. ii. Cooler Space	10
B. 1. c. iii. Office or Administrative Space	10
B. 1. c. iv. Floorplan of Warehouse	10
B. 1. c. v. Delivery Vehicles	10

B. 1. c. vi. Forklifts/Pallet Jacks	10
B. 1. d. Description of the Nutrition Education services that will be provided in the proposed county or counties of service	40
B. 1. e. Acknowledgement that Offeror will utilize HSD FANS CSFP document(s) or material(s) for and to make referrals to other Public Assistance Programs	10
B. 2. Community Collaboration	80
B. 2. a. Identified current and potential community partners for distribution sites- tailgates and drop offs	20
B. 2. b. Identified current and potential community partners for distribution to homebound recipients	20
B. 2. c. Identified current and potential community partners that are willing to provide volunteers to assist the Offeror	20
B. 2. d. Identified the number of current or potential volunteers not affiliated with a community partner	20
B. 3. Organizational Experience	120
B. 3. a. Description provided of how the Offeror supplied expertise for similar contracts including extent of their experience, expertise and knowledge as a provider of USDA or other public or private food distribution, program management and or food storage services for low-income individuals or households.	30
B. 3. b. Organizational Experience response includes providing services to low- income seniors	10
B. 3. c. Provided a description of one (1) project challenge positive or negative of a food distribution program or aspect of a food distribution program that includes: i. a description of the challenge ii. a description of how you or the organization responded to the challenge. iii. Your or the organizations assessment that the response to the challenge was a success or failure and what factors were used to make that assessment	20 20 20
B. 3. e. Provided a description of how the experiences in c. impacted or improved the Offeror's services or plan to provide this service if awarded a contract	20
B. 4. Organizational References	20
B. 5. Mandatory Specifications	210
B. 5. a. Provided a Projected Outcome Statement that includes the New Mexico County or counties to be served under this proposal	30
B. 5. b Provided the proposed county or counties of service	10
B. 5. c. Provided the locations of communities that the Offeror proposes to serve, the senior population (age 60 and Over)	20
B. 5. d. Provided a description of the Offeror's ability to provide services to the proposed county or counties of service	30

B. 5. e. Provided a plan for maintaining or expanding distribution in the proposed county or counties of service. Expanding distribution means adding sites and or number of clients served.	30
B. 5. f. Provided a description of how the Offeror proposes to serve the Homebound eligible recipients	30
B. 5. g. Provided a description of members generally recognized as members of minority groups to be served in the county or counties of service	20
B. 5. h. Provided a number of the current or proposed electronic devices and description of Internet Service and or phone services that will be used to access ICOS for eligibility determinations, inventory management and food distributions. Electronic devices include but are not limited to desktop computers, laptop computers, tablets and mobile phones.	20
B. 5. i. Provided mileage and employee hours for proposed routes of transportation for food distributions.	20
B. 6 Performance Monitoring and Program Evaluation	60
B. 6. a. Provided a plan for annual site monitoring including client eligibility determinations, food distribution and Civil Rights.	20
B. 6. b. Provided a description or plan to provide required training to staff and volunteers	20
B. 6. c. Provided the procedure or description for providing USDA and FANS changes or updates in information or requirements as necessary	20
B. 7. Staffing	50
B. 7. a. Name (s) Provided	10
B. 7. b. Titles Provided if applicable or NA for Not Applicable	10
B. 7. c. The anticipated percent (%) of time that the person(s) listed in B. 7. a. will perform duties associated with CSFP using one of the following measures: 1. Cost Allocation or 2. Average Weekly Hours or 3. Average Monthly Hours	30
B. 8. Budget – Budget/Cost Proposal Form Submitted	Pass/Fail
C. Business Specifications	Pass/Fail
C. 1. Financial Stability	Pass/Fail
C. 2. Letter Of Transmittal	Pass/Fail
C. 3. Signed Campaign Contribution Disclosure Form	Pass/Fail
C. 4. Oral Presentation	N/A
C. 5 Cost	230
C. 6. Employee Health Coverage Form	Pass/Fail
C. 7. Pay Equity Reporting	Pass/Fail
C. 8. Governmental Conduct Concurrence	Pass/Fail
C. 9. Verification of 501(c) 3 status or Educational Institution	Pass/Fail
TOTAL	1,000 points

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

Points will be awarded based on the thoroughness and clarity of the Offeror's response in this Section. The Evaluation Committee will weigh the relevancy and extent of the Offeror's experience, expertise and knowledge; and knowledge of staffing and volunteer requirements for the continued success of the program, and of personnel education, experience and certifications/licenses. In addition, points will be awarded based on the Offeror's candid and well-thought-out response to success or failures, and the ability of the Offeror to convey how and why their distribution plan will work for the proposed county or counties of service.

1000 Total Points will be awarded:

1. B.1 Approach/Scope of Activities (See Table 1, pages 37, 38 & 39)

230 points

- (20 points) B.1.a. Process for Certification of Applicants & Recipients**
- (100 points) B.1.b. Management of Client Caseload**
- (60 points) B.1.c. Description of Warehouse Space, Delivery Vehicles, and Equipment**
- (40 points) B.1.d. Description of Nutrition Education Services**
- (10 points) B.1.e. Acknowledgement that the Offeror will utilize HSD FANS CSFP document(s) or material(s) for and to make referrals to other Public Assistance Programs.**

2. B.2 Community Collaboration (See Table 1, page 38)

80 points

- (20 points) B.2.a. Identify current and potential community partners for distribution sites, tailgates, and drop offs.**
- (20 points) B.2.b. Identify current and potential community partners for distribution to homebound recipients**
- (20 points) B.2.c. Identify current and potential community partners that are willing to provide volunteers to assist the Offeror**
- (20 points) B.2.d. Identify the number of current or potential volunteers not affiliated with a community partner.**

3. B.3 Organizational Experience (See Table 1, page 38)

120 points

- (30 points) B.3.a. Describe how the Offeror supplied expertise for similar contracts as a provider of USDA or other public or private food distribution, program management, and or food storage services for low-income individuals or households.**
- (10 points) B.3.b. Describe any experience providing services to low-income seniors.**

- (60 points) B.3.c. Describe one (1) project challenge, positive or negative of a food distribution program or aspect of a food distribution program that includes a description of the challenge, how you or your organization responded to the challenge, and your or your organizations assessment to the challenge was a success or failure. Include the factors that were used to determine that the challenge was a success or failure.**
- (20 points) B.3.d. Provide a description of how the experiences in c. impacted or improved the Offeror’s services or plan to provide this service if awarded a contract.**

4. B.4 Organizational References (See Table 1, page 38)

20 Points

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix F). Offeror will be evaluated on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/2 of the total points for this category. Lack of a response will receive zero (0) points.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the Agency reserves the right to consider any and all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

5. B.5 Mandatory Specifications (See Table 1, pages 38 & 39)

210 Points

Points will be awarded based on the thoroughness and clarity of the Offeror’s response in this Section. The Evaluation Committee will also weigh the relevancy and extent of the Offeror’s knowledge of the physical proposed service areas, knowledge of the potential eligible recipients, knowledge of available technology to provide services, and knowledge of staffing and equipment needs to provide services in the proposed counties of service.

- (30 points) B.5.a. Provide a Projected Outcome statement that includes the New Mexico County or counties to be served under this proposal**
- (10 points) B.5.b. Provide a list of the proposed counties of service**
- (20 points) B.5.c. Provide a list of the locations of communities that the Offeror proposes to serve that includes the Name, County, Address, serving Monthly or**

Advance Issuance, Month of Advance Issuance, Contact Person and Contact Number for the Site.

- (30 points) B.5.d. Provide a description of the Offeror’s ability to provide services to the proposed county or counties of service.**
- (30 points) B.5.e. Provide a plan for maintaining and expanding distribution in the proposed county or counties of service. Expanding distribution means adding sites and/or number of clients served.**
- (30 points) B.5.f. Provide a description of how the Offeror proposes to serve the Homebound eligible recipients.**
- (20 points) B.5.g. Provide a description of members generally recognized as members of minority groups to be served in the county or counties of service.**
- (20 points) B.5.h. Provide the number of the current or proposed electronic devices and a description of Internet Service and or phone services that will be used to access ICOS for eligibility determinations, inventory management and food distributions. Electronic devices include but are not limited to desktop computers, laptop computers, tablets, and mobile phones.**
- (20 points) B.5.i. Provide routes of transportation to offsite locations. Include mileage and employee hours required to complete the food distributions.**

6. B.6 Performance Monitoring and Program Evaluation (See Table 1, pages 38 & 39)

60 Points

- (20 points) B.6.a. Provide a plan for annual site monitoring including review of client eligibility determinations, food distributions, and Civil Rights.**
- (20 points) B.6.b. Provide a description or plan for providing required annual and new hire training to staff and volunteers.**
- (20 points) B.6.c. Provide the procedure, plan, or description for delivering USDA and FANS changes in procedures, or updates on information, and program requirements.**

7. B.7. Staffing (See Table 1, page 39)

50 Points

- (10 points) B.7.a. Name of Staff Persons**
- (10 points) B.7.b. Title for Staff Persons, if applicable**
- (30 points) B.7.c. The percentage of time that the person listed in B.7.a. will perform duties associated with CSFP using one of the following measures: Cost Allocation, Average Weekly Hours, or Average Monthly Hours.**

8. B.8. Budget – Cost Proposal Form Submitted (See Table 2 8.C.5., page 44)

C. BUSINESS SPECIFICATIONS

C.1 Financial Stability (See Table 1, page 39)

Pass/Fail only. No points assigned.

Offerors must submit copies of the last two years of their audited financial statements and the most current, as well as financial statements for the preceding two 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, the 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.

C.2 Letter of Transmittal (See Table 1, page 39)

Pass/Fail only. No points assigned.

C.3 Campaign Contribution Disclosure Form (See Table 1, page 39)

Pass/Fail only. No points assigned.

C.4 Oral Presentation (See Table 1)

N/A

C.5 Cost (See Table Below, page 44)

The offeror will be evaluated based on the points awarded for the response provided on the Budget Proposal Form. The evaluation of each Offeror’s cost proposal will be conducted using the following formula:

This Offeror’s Points Awarded on the Cost Response - Budget Proposal Form

Highest Points Awarded on all Cost Responses Received – Budget Proposal Forms

X 230 Total Points Available

Successful bidders will receive awarded funds based on the counties they bid on and the projected availability of caseload for those counties. Additional financial consideration may be awarded to successful bidders based on the anticipated cost of distances traveled to distributions or for home bound deliveries.

Cost Response - Budget Proposal – Table 2		
Line Item		\$ 230 POINTS TOTAL
1.	Salary/Benefits	\$ 25 points
2.	Equipment and Vehicle Cost Include Rental	\$ 25 points
3.	Fuel	\$ 25 points
4.	Equipment Maintenance	\$ 20 points
5.	Providing Nutrition Education	\$ 20 points
6.	Providing Program Outreach	\$ 20 points
7.	Non-Capital Equipment/Supplies	\$ 20 points
8.	Building/Space	\$ 20 points
9.	Building/Space Maintenance	\$ 10 points
10	Utilities	\$ 10 points
11	Sub-Contract Cost	\$ 10 points
12	Other: Please Specify	\$ 10 points
	Distance Calculation	15 points (13,14,15 combined)
13	Salary/Benefits	5 points
14	Equipment and Vehicle Cost Include Rental	5 points
15	Fuel	5 points
16		\$ 230 POINTS TOTAL

Additional information may be added at Offeror’s discretion.

C.6 Employee Health Coverage Form

Pass/Fail only. No points assigned.

C.7. Pay Equity Reporting

Pass/Fail only. No points assigned.

C.8. Governmental Conduct Concurrence

Pass/Fail only. No points assigned.

C.9. Verification of 501(c) 3 status or Educational Institution

Pass/Fail only. No points assigned.

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. The Evaluation Committee may use other sources of to perform the evaluation as specified in Section II. C.18.
4. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores may be selected as finalist Offerors, based upon the proposals submitted. In accordance with §13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the State taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.12). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

APPENDIX A

REQUEST FOR PROPOSAL

COMMODITY SUPPLEMENTAL FOOD PROGRAM (CSFP)
RFP#24-630-9000-0002

ACKNOWLEDGEMENT OF RECEIPT FORM

This optional Acknowledgement of Receipt Form establishes a distribution list to be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list, and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to the RFP.

The information below will be used for all correspondence related to the Request for Proposal. Only one contact per Offeror is permitted.

ORGANIZATION:

CONTACT NAME:

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:

To: JulieAnn Wold

E-mail: julieann.wold@hsd.nm.gov

Subject Line: Commodity Supplemental Food Program (CSFP) 24-630-9000-0002

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq. NMSA 1978 and § 13-1-191.1 NMSA 1978 (2006), as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give 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 during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section [13-1-181](#) NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section [13-1-182](#) NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or 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.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who

has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to 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 a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

“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.

“Prospective contractor” means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code [Sections [13-1-28](#) through [13-1-199](#) NMSA 1978] or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or 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.

Name(s) of Applicable Public Official(s) if any: _____
(This field must be completed by the issuing State Agency. In most cases, the official identified will be the current Governor of New Mexico and Lieutenant Governor. If a local public body is using this template for their RFPs, it must complete this field with the applicable elected official(s).)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature

Date

Title (Position)

APPENDIX C
DRAFT CONTRACT

STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT
PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement” or “Contract”) is made by and between the State of New Mexico, **Human Services Department**, hereinafter referred to as the “**HSD**,” and **Contractor**, hereinafter referred to as the “Contractor”, and is effective as of the date set forth below upon which it is executed by the General Services Department/State Purchasing Division (GSD/SPD Contracts Review Bureau).

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform all services detailed in Exhibit A, Scope of Work, attached to this Agreement and incorporated herein by reference.

2. Compensation.

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

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

(—OR— CHOICE – MULTI-YEAR)

A. The HSD shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of _____ dollars (\$_____) in FYXX

(USE FISCAL YEAR NUMBER TO DESCRIBE YEAR; DO NOT USE FY1, FY2, ETC.). The New Mexico gross receipts tax levied on the amounts payable under this Agreement in FYXX totaling (AMOUNT) shall be paid by the HSD to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FYXX.**

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

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

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the HSD 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 HSD 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 HSD 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 GSD/SPD Contracts Review Bureau. This Agreement shall terminate on (Date), unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150.

4. **Termination.**

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

B. **Notice; HSD Opportunity to Cure.**

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

2. Contractor shall give HSD written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the HSD's material breaches of this Agreement upon which the termination is based and (ii) state what they must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the HSD 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 HSD 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 HSD; (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 HSD'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 HSD'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

D. Termination Management. Immediately upon receipt by either the HSD 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 HSD; 2) comply with all directives issued by the HSD in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the HSD shall direct for the protection, preservation, retention or transfer of all property titled to the HSD and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the HSD upon termination and shall be submitted to the HSD as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the HSD to the Contractor. The HSD's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the HSD 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 HSD and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the

Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

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 HSD. 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 HSD.

9. Release.

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

10. Confidentiality.

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

11. Product of Service - Copyright.

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

12. Conflict of Interest; Governmental Conduct Act.

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

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

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

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

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the HSD relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the HSD 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 HSD and notwithstanding anything in the Agreement to the contrary, the HSD may immediately terminate the Agreement.

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

13. Amendment.

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

B. If the HSD 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, including any and all attachments, exhibits and/or appendices, 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 HSD.

19. Records and Financial Audit.

A. The Contractor shall maintain detailed records that indicate the nature and price of Services rendered during this Agreement's term and effect and retain them for a period of five (5) years from the date of final payment under this Agreement.

B. Contract for an independent audit in accordance with 2 CFR 200 at the Contractor's expense, as applicable or upon HSD request, submit its most recent 2 CFR 200 audit. The Contractor shall ensure that the auditor is licensed to perform audits in the State of New Mexico and shall be selected by a competitive bid process. The Contractor shall enter into a written contract with the auditor specifying the scope of the audit, the auditor's responsibility, the date by which the audit is to be completed and the fee to be paid to the auditor for this service. Single audits shall comply with procedures specified by the HSD. The audit of the contract shall cover compliance with Federal Regulations and all financial transactions hereunder for the entire term of the Agreement in accordance with procedures promulgated by 2 CFR 200 or by Federal program officials for the conduct and report of such audits. An official copy of the independent auditor's report shall be available to the HSD and any other authorized entity as required by law within (fifteen) 15 days of receipt of the final audit report. The Contractor may request an extension to the deadline for submission of the audit report in writing to the HSD for good cause and the HSD reserves the right to approve or reject any such request. The HSD retains the right to contract for an independent financial and functional audit for funds and operations under this Agreement if it determines that such an audit is warranted or desired.

C. Upon completion of the audit under the applicable federal and state statutes and regulations, the Contractor shall notify the HSD when the audit is available for review and provide online access to the HSD, or the Contractor shall provide the HSD with four (4) originals of the audit report. The HSD will retain two (2) and one (1) will be sent to the HSD/Office of the Inspector General and one (1) to the HSD/Administrative Services Division/Compliance Bureau.

D. Within thirty (30) days thereafter or as otherwise determined by the HSD in writing, the Contractor shall provide the HSD with a response indicating the status of each of the exceptions or findings in the said audit report. If either the exceptions or findings in the audit are not resolved within thirty (30) days, the HSD has the right to reduce funding, terminate this Agreement, and/or recommend decertification in compliance with state and/or federal regulations governing such action.

E. This audit shall contain the Schedule of Expenditures of Federal Awards for each program to facilitate ease of reconciliation by the HSD. This audit shall also include a review of the schedule of depreciation for all property or equipment with a purchase price of \$5,000 or more pursuant to 2 CFR 200, specifically subpart F, and appendices where appropriate.

F. This audit shall include a report on compliance with requirements applicable to each major program and internal control over compliance in accordance with 2 CFR 200, specifically subpart F and appendices.

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless the HSD 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 HSD and the Risk Management Division of the New Mexico General Services Department by certified mail.

21. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <https://www.bewellnm.com>.

22. Invalid Term or Condition.

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

23. Enforcement of Agreement.

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

24. Notices.

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

To the HSD: [name, address, email]

To the Contractor: [name, address, email]

25. Debarment and Suspension.

A. Consistent with all applicable federal and/or state laws and regulations, as applicable, and as a separate and independent requirement of this Agreement the Contractor certifies by signing this Agreement, that it and its principals, to the best of its knowledge and belief: (1) are not debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) have not, within a three-year period preceding the effective date of this Agreement, been convicted of or had a civil judgment rendered against them for: 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; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; (3) have not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with, commission of any of the offenses enumerated above in this Paragraph A; (4) have not, within a three-year period preceding the effective date of this Agreement, had one or more public agreements or transactions (Federal, State or local) terminated for cause or default; and (5) have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a-7.

B. The Contractor's certification in Paragraph A, above, is a material representation of fact upon which the HSD relied when this Agreement was entered into by the parties. The Contractor's certification in Paragraph A, above, shall be a continuing term or condition of this Agreement. As such at all times during the performance of this Agreement, the Contractor must be capable of making the certification required in Paragraph A, above, as if on the date of making such new certification the Contractor was then executing this Agreement for the first time. Accordingly, the following requirements shall be read so as to apply to the original certification of the Contractor in Paragraph A, above, or to any new certification the Contractor is required to be capable of making as stated in the preceding sentence:

- 1) The Contractor shall provide immediate written notice to the HSD's Program Manager if, at any time during the term of this Agreement, the Contractor learns that

its certification in Paragraph A, above, was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances.

- 2) If it is later determined that the Contractor's certification in Paragraph A, above, was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to the HSD, the HSD may terminate the Agreement.

C. As required by statute, regulation or requirement of this Agreement, and as contained in Paragraph A, above, the Contractor shall require each proposed first-tier subcontractor whose subcontract will equal or exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by any Federal department or agency. The Contractor shall make such disclosures available to the HSD when it requests subcontractor approval from the HSD. If the subcontractor, or its principals, is debarred, suspended, or proposed for debarment by any Federal, state or local department or agency, the HSD may refuse to approve the use of the subcontractor.

26. Certification and Disclosure Regarding Payments To Influence Certain Federal Transactions (Anti-Lobbying).

A. The applicable definitions and exceptions to prohibited conduct and disclosures contained in 31 U.S.C. § 1352 and 45 C.F.R. Part 93, as applicable, are hereby incorporated by reference in subparagraph (B) of this certification.

B. The Contractor, by executing this PSC, certifies to the best of its knowledge and belief that:

- 1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement; and
- 2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer.

C. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

D. This certification is a material representation of fact upon which reliance is placed when this Agreement is made and entered into. Submission of this certification is a prerequisite for making and entering into this Agreement imposed under 31 U.S.C. § 1352. It shall be a material obligation of the Contractor to keep this certification current as to any and all individuals or activities of anyone associated with the Contractor during the pendency of this Agreement. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to: (1) a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure; and/or (2) at the discretion of the HSD, termination of the Agreement.

27. Non-Discrimination.

A. The Contractor agrees to comply fully with Title VI of the Civil Rights Act of 1964, as amended; the Rehabilitation Act of 1973, Public Law 93-112, as amended; and the Americans With Disabilities Act of 1990, Public Law 101-336; in that there shall be no discrimination against any employee who is employed in the performance of this Agreement, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex, or marital status.

B. This provision shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

C. The Contractor agrees that no qualified handicapped person shall, on the basis of handicap, be excluded from participation or be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of the Contractor. The Contractor further agrees to insert similar provisions in all subcontracts for services allowed under this Agreement under any program or activity.

D. The Contractor agrees to provide meaningful access to services for individuals with Limited English Proficiency (LEP) in accordance with Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency."

28. Drug Free Workplace.

A. *Definitions.* As used in this paragraph—
"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act, 21 U.S.C 812, and as further defined in regulation at 21 CFR 1308.11 - 1308.15.
"Conviction" means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.
"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/contractor that has no more than one employee including the offeror/contractor.

B. The Contractor, if other than an individual, shall:

1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor’s workplace and specifying the actions that will be taken against employees for violations of such prohibition;

2) Establish an ongoing drug-free awareness program to inform such employees about:

- a) The dangers of drug abuse in the workplace;
- b) The Contractor’s policy of maintaining a drug-free workplace;
- c) Any available drug counseling, rehabilitation, and employee assistance programs; and
- d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

3) Provide all employees engaged in performance of the PSC with a copy of the required by subparagraph B(1);

4) Notify such employees in writing in the statement required by subparagraph (B)(1) of this clause that, as a condition of continued employment on this PSC, the employee will:

- a) Abide by the terms of the statement; and
- b) Notify the employer in writing of the employee’s conviction under a criminal drug statute for a violation occurring in the workplace no later than five (5) days after such conviction;

5) Notify the HSD Program Manager in writing within ten (10) days after receiving notice under (B)(4)(ii) of this paragraph, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

6) Within thirty (30) days after receiving notice under B(4)(ii) of this paragraph of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

- a) Taking appropriate personnel action against such employee, up to and including termination; or

b) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

7) Make a good faith effort to maintain a drug-free workplace through implementation of B(1) through B(6) of this Section.

C. The Contractor, if an individual, agrees by entering into this PSC not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

D. In addition to other remedies available to the HSD, the Contractor's failure to comply with the requirements of subparagraph B or C of this paragraph will render the Contractor in default of this PSC and subject the Contractor to suspension of payments under the PSC and/or termination of the PSC in accordance with paragraph 4, above.

29. Findings and Sanctions.

A. The Contractor agrees to be subject to the findings, sanctions and disallowances assessed or required as a result of audits pursuant to this agreement.

B. The Contractor will make repayment of any funds expended by the HSD, subject to which an auditor acting pursuant to this agreement finds were expended, or to which appropriate federal funding agencies take exception and so request reimbursement through a disallowance or deferral based upon the acts or omissions of the Contractor that violate applicable federal statutes and/or regulations, subject to sufficient appropriations of the New Mexico Legislature.

C. If the HSD becomes aware of circumstances that might jeopardize continued federal funding the situation shall be reviewed and reconciled by a mutually agreed upon panel of Contractor and the HSD officials. If reconciliation is not possible, both parties shall present their view to the Director of the Administrative Services Division who shall determine whether continued payment shall be made.

30. Performance.

In performance of this Agreement, the Contractor agrees to comply with and assume responsibility for compliance by its employees, its subcontractors, and/or Business Associates (BA), as applicable, with the following requirements:

A. All work will be performed under the supervision of the Contractor, the Contractor's responsible employees, and the Contractor's subcontracted staff.

B. Contractor agrees that, if Federal Tax Information (FTI) is introduced into Contractor's information systems, work documents, and/or other media by written agreement, any FTI as described in 26 U.S.C. § 6103, limited to FTI received from, or created on behalf of, HSD by Contractor; Protected Health Information (PHI) as defined in 45 C.F.R. § 160.103, limited to PHI received from, or created on behalf of, HSD by Contractor; or Personally Identifiable Information (PII) as defined by the National Institute of Standards of Technology, limited to PII received from, or created on behalf of, HSD by Contractor pursuant to the Services; all together referred to

hereafter in Article 10 as Confidential Information, made available to Contractor shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and will not be divulged or made known in any manner to any person or entity except as may be necessary in the performance of this contract. Inspection by, or disclosure to, any person or entity other than an officer, employee, or subcontractor of the Contractor is prohibited.

C. Contractor agrees that it will account for all Confidential Information upon receipt and store such Confidential Information in a secure manner before, during, and after processing. In addition, all related output will be given the same level of protection by the Contractor as required for the source material.

D. The Contractor certifies that the Confidential Information processed during the performance of this Agreement will be deleted from, or otherwise wiped, removed, or rendered unreadable or incapable of reconstitution by known means on all electronic data storage components in Contractor's facilities, including paper files, recordings, video, written records, printers, copiers, scanners and all magnetic and flash memory components of all systems and portable media, and no output will be retained by the Contractor at the time the work is completed or when this Contract is terminated. If immediate purging of all electronic data storage components is not possible, the Contractor certifies that any Confidential Information remaining in any storage component will be safeguarded, using IRS Pub 1075 information storage safeguarding controls for FTI to prevent unauthorized disclosures beyond the term of this Agreement as long as Contractor is in possession of such Confidential Information.

E. Any spoilage or any intermediate hard copy printout that may result during the processing of Confidential Information will be given to the HSD or his or her designee. When this is not possible, the Contractor will be responsible for the destruction (in a manner approved by the HSD) of the spoilage or any intermediate hard copy printouts, and will provide the HSD or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.

F. All of Contractor's computer systems, office equipment, written records, and portable media receiving, processing, storing, or transmitting Confidential Information must meet the requirements defined in relevant federal regulations such as IRS Publication 1075, HIPAA Privacy Rule (45 CFR Part 160 and Subparts A and E of Part 164), HIPAA Security Rule (45 CFR Part 160 and Subparts A and C of Part 164), and/or any other Federal requirements that may apply to this contract. To meet functional and assurance requirements, the security features of the Contractor's environment must provide for security across relevant managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Confidential Information.

G. No work involving Confidential Information furnished under this Agreement will be subcontracted without prior written approval of the HSD.

H. The Contractor will maintain a list of its personnel, subcontractors, and/or business related entities with authorized access (electronic or physical) to HSD Confidential Information. Such list will be provided to the HSD and, upon request, to the federal agencies as required.

I. The Contractor will provide copies of signed acknowledgments for its staff and its subcontractors and/or Business Associates, to provide certification that relevant information security awareness and training was completed. These certifications will be provided to the HSD upon contract start and, at a minimum, annually thereafter during the term of this Agreement.

J. Upon request, the Contractor will provide the HSD copies of current policies and/or summaries of its current plans that document Contractor's privacy and security controls as they relate to HSD Confidential Information. This includes, at a minimum, any System Security Plans which describe the administrative, physical, technical, and system controls to be implemented for the security of the Department's Confidential Information. The plan shall include the requirement for a Contractor notification to the Department Security Officer or Privacy Officer of breaches or potential breaches of information within three (3) days of their discovery.

K. All incidents affecting the compliance, operation, or security of the HSD's Confidential Information must be reported to the HSD. The Contractor shall notify the HSD of any instances of security or privacy breach issues or non-compliance promptly upon their discovery, but no later than a period of three (3) days (as stated above). Notification shall include a description of the privacy and security non-compliance issue and corrective action planned and/or taken.

L. The Contractor must provide the HSD with a summary of a corrective action plan (if any) to provide any necessary safeguards to protect PII from security breaches or non-compliance discoveries. The corrective action plan must contain a long term solution to possible future privacy and security threats to PII. In addition to the corrective action, the Contractor must provide updates as to the progress of all corrective measures taken until the issue is resolved. The Contractor shall be responsible for all costs of implementing the corrective action plan.

M. The HSD will have the right to seek remedies consistent with the liability terms of this contract Agreement and/or terminate the Agreement if the Contractor or its Subcontractors or Business Associates fail to provide the safeguards or to meet the security and privacy requirements to safeguard Confidential Information as described above, consistent with the liability and/or termination clauses herein.

N. All client files and patient records created or used to provide services under this Agreement, as between the parties, are at all times property of HSD. Upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI in its possession, and shall retain no copies of the PHI. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to the Department notification of the conditions that make return or destruction of PHI not feasible. Upon consideration and mutual agreement of the Parties that return or destruction of the PHI is infeasible, Business Associate shall agree, and require that its agents, affiliates, subsidiaries and subcontractors agree to the extension of all protections, limitations and restrictions required of Business Associate hereunder.

31. Criminal/Civil Sanctions.

A. Each officer, employee, and/or subcontractor of the Contractor to whom tax returns or tax return information is or may be disclosed shall be notified in writing by the Contractor that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Contractor shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by Internal Revenue Code (IRC) Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

B. Each officer, employee, and/or subcontractor to whom tax returns or tax return information is or may be disclosed shall be notified in writing by Contractor that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need to know may constitute a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Contractor shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

C. Additionally, it is incumbent upon Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C.552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to HSD records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. Furthermore, the Contractor will inform its officers and employees of the penalties imposed by the HIPAA Privacy Rule (45 CFR Part 160 and Subparts A and E of Part 164), and HIPAA Security Rule (45 CFR Part 160 and Subparts A and C of Part 164), which provide that any officer or employee of a contractor, who willfully discloses Protected Health Information in any manner to any person not entitled to receive it, may be subject to civil and criminal penalties of up to \$50,000 and up to one year imprisonment.

D. Contractor agrees that granting access to Confidential Information to any individual must be preceded by certifying that each individual understands the HSD's applicable security policy and procedures for safeguarding the Confidential Information. Contractors must maintain authorizations issued to such individuals to access Confidential Information through annual recertification. The initial certification and recertification must be documented and placed in a file for the HSD's review. As part of the certification and at least annually afterwards, Contractor will be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and Exhibit 5, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches per Section 10 of IRS Publication 1075.)

32. Inspection.

The HSD and/or its regulating federal partners (such as IRS, CMS, FNS, etc.) shall have the right to send its officers and/or employees into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work related to Confidential Information under this contract. On the basis of such inspection, the HSD and/or regulating federal partners may communicate specific measures to be performed or met by the Contractor as may be required in cases where the Contractor is found to be noncompliant with contract safeguard.

33. Contractor's Responsibility For Compliance With Laws and Regulations.

A. The Contractor is responsible for compliance with applicable laws, regulations, and administrative rules that govern the Contractor's performance of the Scope of Work of this Agreement and Exhibit A, including but not limited to, applicable State and Federal tax laws, State and Federal employment laws, State and Federal regulatory requirements and licensing provisions.

B. The Contractor is responsible for causing each of its employees, agents or subcontractors who provide services under this Agreement to be properly licensed, certified, and/or have proper permits to perform any activity related to the Scope of Work of this Agreement and Exhibit A.

C. If the Contractor's performance of its obligations under the terms of this agreement qualifies it as a Business Associate of the HSD as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated thereunder, the Contractor agrees to execute the HSD Business Associate Agreement (BAA), attached hereto as Exhibit B, and incorporated herein by this reference, and comply with the terms of the BAA and subsequent updates. *[Use this paragraph C only if a BAA is included as Exhibit B. Either way, delete this italicized comment.]*

34. Contractor's Responsibility For Compliance With Laws and Regulations Relating To Information Technology.

A. The Contractor agrees to monitor and control all its employees, subcontractors, consultants, or agents performing the Services under this PSC in order to assure compliance with the following regulations and standards insofar as they apply to Contractor's processing or storage of HSD's Confidential Information or other data:

1. The Federal Information Security Management Act of 2002 (FISMA);

2. The Health Insurance Portability and Accountability Act of 1996 (HIPAA);
3. The Health Information Technology for Economic and Clinical Health Act (HITECH Act);
4. IRS Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies to include any Service Level Agreement requirements;
5. Electronic Information Exchange Security Requirements, Guidelines, And Procedures For State and Local Agencies Exchanging Electronic Information With The Social Security Administration; and
6. NMAC 1.12.20, *et seq.* “INFORMATION SECURITY OPERATION MANAGEMENT”.

35. Authority.

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

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of signature by the GSD/SPD Contracts Review Bureau below:

By: _____ Date: _____
HSD Cabinet Secretary

By: _____ Date: _____
Carolee Graham, HSD Chief Financial Officer

Approved for legal sufficiency:

By: _____ Date: _____
John Emery, HSD General Counsel

By: _____ Date: _____
Contractor

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the NM Taxation and Revenue Department to pay gross receipts and compensating taxes:

BTIN: 00-000000-00-0

By: _____ Date: _____
Tax and Revenue Department Representative

This Agreement has been approved by the GSD/SPD Contracts Review Bureau:

By: _____ Date: _____
GSD/SPD Contracts Review Bureau

Exhibit A
SCOPE OF WORK

APPENDIX D

COST RESPONSE FORM

The offeror should indicate the total cost per month for their services. The offeror understands that the amount of reimbursement for monthly costs is dependent on the total amount of funding provided annually by the United States Congress to CSFP that is awarded to USDA, then awarded to each FNS region and then awarded to each state. The offeror will be evaluated based on the total cost of implementation of the program.

Cost Response - Budget Proposal		
Line Item		
1.	Salary/Benefits	\$
2.	Equipment and Vehicle Cost Include Rental	\$
3.	Fuel	\$
4.	Equipment Maintenance	\$
5.	Providing Nutrition Education	\$
6.	Providing Program Outreach	\$
7.	Non-Capital Equipment/Supplies	\$
8.	Building/Space	\$
9.	Building/Space Maintenance	\$
10	Utilities	\$
11	Sub-Contract Cost	\$
12	Other: Please Specify	\$
13		\$ TOTAL

Cost Response - Budget Proposal – Distance to Furthest Distribution		
Line Item		
1.	Mileage to Distribution - Round Trip	
2.	Salary/Benefits	\$
3.	Equipment and Vehicle Cost Include Rental	\$
4.	Fuel	\$
5.	Sub-Contract Cost	\$
6.	Other: Please Specify	\$
		\$ TOTAL

FIRM NAME:	
SIGNATURE:	DATE:

APPENDIX E

LETTER OF TRANSMITTAL FORM

APPENDIX E

Letter of Transmittal Form

Please complete this form in its entirety. Failure to **sign and/or submit** this form will result in the disqualification of Offeror's proposal.

RFP#:24-630-9000-0002

1. Identify the following information for the submitting organization:

Offeror Name	
Mailing Address	
Telephone	
FED TIN#	
NM BTIN#	

2. Identify the individual(s) authorized by the organization to (A) contractually obligate, (B) negotiate, and/or (C) clarify/respond to queries on behalf of this Offeror:

	A Contractually Obligate	B Negotiate*	C Clarify/Respond to Queries*
Name			
Title			
E-mail			
Telephone			

* If the individual identified in Column A also performs the functions identified in Columns B & C, then no response is required for those Columns. If separate individuals perform the functions in Columns B and/or C, they must be identified.

3. Will any subcontractor/s be used in the performance of any resultant contract? (Select one):

No.
 Yes. Identify subcontractor/s: _____

4. Will any other entity/-ies (such as a State Agency, reseller, etc., that is not a subcontractor identified in #3 above) be used in the performance of any resultant contract? (Select one)

No.
 Yes. Identify entity/-ies: _____

By signing the form below, the Authorized Signatory attests to the accuracy and veracity of the information provided on this form, and explicitly acknowledges the following:

- On behalf of the submitting-organization identified in item #1, above, I accept the Conditions Governing the Procurement, as required in Section II.C.1. of this RFP;
- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP; and
- I acknowledge receipt of any and all amendments to this RFP, if any.

Sign: _____ Date: _____

(Must be signed by the individual identified in item #2.A, above.)

APPENDIX F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The State of New Mexico, as a part of the RFP process, requires Offerors to list a minimum of two (2) organizational references in their proposals. The purpose of these references is to document Offeror's experience relevant to the Section IV.A, Detailed Scope of Work in an effort to evaluate Offeror's ability to provide goods and/or services, performance under similar contracts, and ability to provide knowledgeable and experienced staffing.

Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.2. The business reference, if it chooses to respond, is required to submit its response to the Organizational Reference Questionnaire directly to the procurement manager JulieAnn Wold as indicated in Section II.A, Sequence of Events for inclusion in the evaluation process. The Questionnaire and information provided will become a part of the submitted proposal. Businesses/Organizations providing references may be contacted for validation of content provided therein.

RFP # 24-630-9000-0002
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

(Name of Offeror)

This form is being submitted to your company for completion as a reference for the organization listed above. Submit this Questionnaire to the State of New Mexico, Human Services Department via e-mail at:

Name: JulieAnn Wold
Email: julieann.wold@hsd.nm.gov

Forms must be submitted no later than as indicated in Section II.A, Sequence of Events and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings. The comments you provide will help the State evaluate the above-referenced Offeror’s service history, successful execution of services and evidence of customer/client satisfaction.

For questions or concerns regarding this form, please contact the State of New Mexico **Procurement Manager** at JulieAnn Wold, Procurement Manager, 505-841-2693, julieann.wold@hsd.nm.gov. When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

Organization providing reference	
Contact name and title/position	
Contact telephone number(s)	
Contact e-mail address	
Project description	
Project dates (start and end dates)	

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?

COMMENTS:

2. How would you rate this firm's knowledge and expertise?

____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in distribution dates, times, and locations?

____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

4. What is your level of satisfaction with the communications and directions provided to you by the vendor?

____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

5. How would you rate the dynamics/interaction between vendor personnel and your staff?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

6. Who are/were the vendor's principal representatives involved in your project and how would you rate them individually? Would you, please, comment on the skills, knowledge, behaviors or other factors on which you based the rating?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

COMMENTS:

7. How satisfied are/were you with the services provided by the vendor?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

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

COMMENTS:

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

COMMENTS:

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

COMMENTS: