

**THE NEW MEXICO HUMAN SERVICES DEPARTMENT**

**REQUEST FOR PROPOSALS (RFP)**

**Medicaid School Based Services Random Moment Sampling,  
Administrative Claiming and Direct Medical Services Cost  
Reporting and Settlement**



**RFP# 22-630-8000-0002**

RFP Release Date: February 25, 2022

Proposal Due Date: March 24, 2022

**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 of Random Moment Sampling (RMS), Administrative Claiming and Direct Medical Services Cost Reporting and Settlement for the Medicaid School-Based Services (MSBS) program. Specifically, the New Mexico Human Services Department (HSD) is seeking an organization to provide these services for HSD at the Local Education Agencies (LEAs)/Regional Education Cooperatives (RECs)/State-Funded Education Agencies (SFEAs) participating in the MSBS program.

The purpose of this Request for Proposal (RFP) is to select a qualified offeror that has the experience and expertise to perform the mandatory requirements of the RMS, administrative claiming, direct medical services cost reporting, and settlement functions to support the Medicaid program.

## **B. BACKGROUND INFORMATION**

This section provides background on HSD and the Medical Assistance Division (MAD) programs that may be helpful to the offeror in preparing a proposal. The information is provided as an overview and is not intended to be a complete and exhaustive description.

### **HSD Resources and Locations**

Approximately seventy percent (70%) of HSD's Medicaid revenue is from federal sources, twenty-eight percent (28%) is from the state general fund and two percent (2%) is from other state funds.

HSD has more than 1,800 authorized employees and contracts with community-based providers throughout the state. There are over 34 HSD, Income Support Division (ISD) field office locations statewide, with an additional three (3) satellite offices [http://www.hsd.state.nm.us/LookingForAssistance/Field\\_Offices\\_1.aspx](http://www.hsd.state.nm.us/LookingForAssistance/Field_Offices_1.aspx) There are also eight (8) quality control offices statewide. HSD's central offices are located in three (3) Santa Fe building complexes: Plaza la Prensa (Behavioral Health Services Division and Medical Assistance Division); Rodeo Road Building (Administrative Services Department, Office of Inspector General, Office of the Secretary, Income Support Division, Child Support Division and Office of General Counsel) and Siler Road (Information Technology Division).

### **Organization of HSD**

The State of New Mexico Human Services Department is a cabinet-level Department in the Executive Branch of New Mexico State government. The Agency is headed by a Cabinet Secretary appointed by the Governor and confirmed by the New Mexico State Senate.

HSD consists of the Office of the Secretary and six divisions. *Only those divisions or bureaus within each division that are related to this RFP are described herein.*

**Office of the Secretary (OOS).** The Office of the Secretary consists of the Secretary of Human Services, the two (2) Deputy Cabinet Secretaries, the Office of General Counsel, the Office of Human Resources and the Office of Inspector General.

The Secretary provides cabinet-level direction for HSD. The Office of General Counsel provides legal support for the Agency. The Office of Inspector General investigates and pursues cases of fraud and abuse and administers the fair hearing process. The Office of Human Resources serves personnel needs of department employees, handles job recruitments, hiring, reorganizations and career counseling, as well as employee insurance and benefits, handles matters related to department personnel policies, provides coaching to the Agency's supervisors and managers, works with labor relations and delivers and coordinates training programs and staff development.

**Administrative Services Division (ASD).** The Administrative Services Division provides general administrative support for HSD and all its programs, including Medicaid.

**Income Support Division (ISD).** The Income Support Division is the primary source for eligibility determination for all HSD programs, including Medicaid. The Division's field staff of close to 1,000 employees, supervisors and county directors is administered through four district operations offices under the direction of two Deputy Directors. Field staff is responsible for interviewing applicants/recipients, determining eligibility, and issuing benefits for the food stamp, cash assistance, Medicaid and other assistance programs.

**Medical Assistance Division (MAD).** The Medical Assistance Division manages and administers the federal Medicaid program and authorized waivers including the Centennial Care program. Medicaid is authorized under Title XIX of the Social Security Act. Federal contribution levels differ by program and vary based on relative ranking of the state in per capita income.

## **Program Overview Background and History**

**Covered Services.** Medicaid program regulations allow reimbursement for a broad array of health services and providers. Mandated services include, but are not limited to: general acute inpatient hospital care; outpatient hospital services; physician services provided in a variety of settings; nurse midwives; nursing facility services for certain individuals; home health care; rural health clinic services including services in Federally Qualified Health Centers; laboratory and radiology; nurse practitioner services; and medically necessary Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services. Optional services provided in New Mexico include, but are not limited to: prescription drugs; eyeglasses and hearing aids; organ transplants; dental services; physical, occupational and speech therapies; rehabilitative services; Intermediate Care Facilities for Individual with Intellectual Disabilities (ICF/IID); case management; hospice; transportation services; durable medical equipment and supplies and prosthetic devices.

**Administration of the Medicaid Program.** HSD/MAD works collaboratively with other state agencies in managing the Medicaid School Health programs. Specifically, it works with the Department of Health (DOH) on the School Based Health Centers; and the Public Education Department (PED) in the administration of the Medicaid School Based Service Program.

A program to monitor and control utilization and detect fraud and abuse is operated by HSD's Office of Inspector General, and the Medicaid Fraud Control Unit of the New Mexico Office of the Attorney General.

**Fee-For-Service Populations.** Some populations for Medicaid benefits are exempt from receiving services through an MCO. In those instances, HSD/MAD reimburses the providers directly. Provider reimbursement methodology can be found on HSD/MAD's website under Fee Schedules <http://www.hsd.state.nm.us/providers/fee-schedules.aspx>. This fee schedule is subject to change.

**Medicaid Managed Care.** Title XIX (Medicaid) of the Social Security Act (SSA) describes the terms under which a state may implement Medicaid managed care. A state must request a waiver of certain SSA provisions before implementation is possible. Waivers must be approved by CMS. HSD/MAD operates an 1115 waiver called Centennial Care.

**Medicaid School Based Services Program.** In 1994, New Mexico's Medicaid program began offering public school districts the opportunity to receive Medicaid reimbursement for a portion of their special education and related costs when students require services as part of an Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP) and are eligible for Medicaid/Children's Health Insurance Plan (CHIP). The MSBS program operates under the Medicaid Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) regulations. Nearly all of New Mexico's 89 school districts, in addition to numerous charter schools and state-funded schools, currently participate in this important program. Effective fiscal year 2023, HSD will expand the coverage of school-based services from Medicaid enrolled students with an IEP/IFSP to include all Medicaid enrolled students where medical necessity has been otherwise established. This change was made in accordance with CMS-issued State Medicaid Director Letter (SMDL) 14-006, the Free Care provision from CMS policy adding medically necessary services.

There are two ways that schools are reimbursed by the MSBS program:

*Direct Medical Services:* Schools receive payment for health care provided to children and youth with disabilities who receive those services as part of an IEP/IFSP, 504 Plan, Individual Health Care Plan (IHCP) or other plan of care. Reimbursable services include nursing services; physical, occupational and speech therapies; audiology services; nutritional assessments and counseling; behavioral health services; and specialized transportation.

*Administrative Services:* Schools also receive Medicaid reimbursement for services that directly support efforts to provide health-related services to Medicaid-eligible children and youth. These administrative activities include providing information about Medicaid programs and how to access them; facilitating the eligibility determination process; assisting recipients in obtaining transportation and interpretation/translation services when necessary to receive health care services; making referrals for Medicaid-reimbursable services; and coordinating and monitoring medical services that are covered by Medicaid.

Currently, there are 55 Local Education Agencies (LEAs)/Regional Education Cooperative (RECs)/State-funded Education Agencies (SFEAs) that participate in direct medical service and Administrative Claiming.

### **C. SCOPE OF PROCUREMENT**

The scope of the procurement shall encompass the requirements in the contract (Appendix C of this RFP). This procurement will result in a single source award for HSD. The effective date of the proposed contract is July 1, 2022 or upon signature of the New Mexico State Purchasing Division (SPD), Contracts Review Bureau (CRB).

The initial term of the contract is expected to be one (1) year, with optional three (3) additional years renewed annually. In no case shall the contracts, including the renewals thereof, exceed a total of four (4) years in duration.

### **D. PROCUREMENT MANAGER**

HSD 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: Christie Guinn, Procurement Manager  
Telephone: (505) 490-1169  
Email: [christie.guinn@state.nm.us](mailto:christie.guinn@state.nm.us)

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. “**Appeal**” means a request for a review related to a dispute relating to the eligibility process, service hours, services, supports, etc.
3. “**ASD**” means the Administrative Services Division of the New Mexico Human Services Department.
4. “**Award**” means the final execution of the contract document.
5. “**Business Hours**” means 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.
6. “**Centennial Care**” means the New Mexico Medicaid program. Services including physical health, behavioral health, long-term care and community benefits will be provided by four managed care organizations (MCOs).
7. “**CMS**” means the Centers for Medicare and Medicaid Services (CMS) which is part of the Federal Health and Human Services Department.
8. “**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.
9. “**Contract**” means any agreement for the procurement of items of tangible personal property, services or construction.
10. “**Contract Manager**” means the individual selected by the Agency to monitor and manage all aspects of the contract resulting from this RFP.



11. “**Contractor**” means any business having a contract with a state agency or local public body.
12. “**CPO**” means Chief Procurement Officer
13. “**CRB**” means contracts Review Bureau.
14. “**Day**” means business day unless otherwise specified.
15. “**Deliverable**” means a measurable, tangible, verifiable outcome, result or item that must be produced to complete a project or part of a project.
16. “**Desirable**” – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.
17. “**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.
18. “**Electronic Submission**” means a successful submittal of Offeror’s proposal in the Bonfire system, in such cases where Bonfire submissions are accepted.
19. “**Electronic Version/Copy**” means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (CD) or USB flash drive. The electronic version/copy can NOT be emailed.
20. “**Employer**” means any for-profit or not-for-profit business, regardless of location, that employs one or more persons that qualify as a “New Mexico Employee”. (See below.)
21. “**EPSDT**” means Early and Periodic Screening, Diagnostic and Treatment benefit.
22. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
23. “**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.
24. “**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.

25. “**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.
26. “**Fraud**” means intentional deception or misrepresentation made by an entity or person with the knowledge that the deception could result in some unauthorized benefit to himself or to some other previously described entity or person. It includes any act that constitutes fraud under applicable federal or state law.
27. “**Human Services Department**” mean the sole executive department in New Mexico responsible for the administration of Title XIX (Medicaid)> “HSD” may also indicate the Agency’s designee, as applicable.
28. “**IEP**” means Individualized Education Plan.
29. “**IFSP**” means Individualized Family Service Plan.
30. “**LEA**” means Local Education Agency.
31. “**Managed care organization (MCO)**” means an organization licensed to manage, coordinate and assume financial risk on a capitated basis for the delivery of specified services to enrolled members from a certain geographic area. Also referred to as a managed care plan and managed care program.
32. “**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.
33. “**Minor Irregularities**” means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
34. “**MSBS**” means Medicaid School-Based Services program.
35. “**New Mexico Employee**” means anyone performing the majority of their work within the State of New Mexico, for any employer regardless of the location of the employer’s office or offices.
36. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.
37. “**PED**” means Public Education Department.
38. “**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.

39. **“Procurement Manager”** means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.
40. **“Procuring Agency”** means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.
41. **“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.
42. **“Prospective”** means a period of time starting with the date of application going forward.
43. **“Quality Assurance”** means a process of discovery, both prospective and retrospective to evaluate the program; identifies areas for remediation; and implements quality improvement strategies to ensure that appropriate and timely action is taken, as indicated.
44. **“REC”** means Regional Education Cooperative.
45. **“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.
46. **“Request for Proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.
47. **“Requirements”** are obligatory and mean the system functions that are related to the organization’s goals and business opportunities. Requirements are defined by the project team and are usually prioritized.
48. **“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.
49. **“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.

50. “**RMS**” means Random Moment Sample.
51. “**Sealed**” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.
52. “**SFEA**” means State-Funded Education Agency.
53. “**SHO**” means School Health Office.
54. “**Solicitations**” means Invitations to Bid (ITBs) and Requests for Proposals (RFPs).
55. “**SPD**” means State Purchasing Division of the New Mexico State General Services Department.
56. “**Staff**” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.
57. “**State (the State)**” means the State of New Mexico.
58. “**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.
59. “**State plan**” means a statewide plan for Medicaid services submitted for approval to CMS under Title XIX of the federal Social Security Act.
60. “**State Purchasing Agent**” means the Director of the Purchasing Division of the General Services Department.
61. “**Subcontract**” means a written agreement between a contractor and a third party or between a subcontractor and another subcontractor, to provide services.
62. “**Subcontractor**” means a third party who contracts with a contractor or a subcontractor for the provision of services.

63. “**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.
64. “**Written**” means typewritten on standard 8 ½ x 11-inch paper. Larger paper is permissible for charts, spreadsheets, etc.

## 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 the electronic version of this document through your own internet connection. The library contains information listed below:

Electronic version of 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://www.state.nm.us)

No one at the Agency other than the Procurement Manager will answer any questions about any materials in the Procurement Library. Offerors are also encouraged to use the Agency website for additional information.

1. Medical Assistance Division Program Rules (See Chapters 300 & 302). Available on website: <https://www.hsd.state.nm.us/providers/rules-nm-administrative-code/>
2. MSBS Manual (See New Mexico Medicaid Guide for School-Based Services). Available on website: <https://www.hsd.state.nm.us/providers/medicaid-school-based-services-program/>
3. Medicaid School Based Services Program Policy (See Appendix C – MSBS Program Regulations). Available on website: <https://www.hsd.state.nm.us/providers/medicaid-school-based-services-program/>
4. NM Medicaid School-Based Services Administrative Claiming Implementation Plan. Available on website: <https://www.hsd.state.nm.us/providers/medicaid-school-based-services-program/>
5. Description of New Mexico Medicaid Eligibility Categories. Available on website: <https://www.hsd.state.nm.us/wp-content/uploads/Eligibility-Pamphlet-7.22.2021.pdf>
6. Procurement Code NMSA 1978, Section 13. Available on website: <https://nmonesource.com/nmos/nmsa/en/item/4378/index.do#!fragment/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoByCgSgBplfTCIBFRQ3AT0otokLC4EbDtp8BQkAGU8pAELcASgFEAMioBqAQOByAYRW1SYAEbRS2ONWpA>
7. Procurement Regulations, NMAC 1.4.1. A copy may be obtained from the following web site address: <https://www.generalservices.state.nm.us/wp-content/uploads/2021/02/1-4-1-NMAC.pdf>
8. Public Education Department website: <http://www.ped.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:

<b>Action</b>	<b>Responsible Party</b>	<b>Due Dates</b>
1. Issue RFP	Agency	February 25, 2022
2. Acknowledgement of Receipt Form	Potential Offerors	March 9, 2022
3. Pre-Proposal Conference	Agency	March 9, 2022
4. Deadline to submit Written Questions	Potential Offerors	March 14, 2022
5. Response to Written Questions	Procurement Manager	March 16, 2022
<b>6. Submission of Proposal</b>	<b>Potential Offerors</b>	<b>March 24, 2022</b>
7.* Proposal Evaluation	Evaluation Committee	March 28 – April 1, 2022
8.* Selection of Finalists	Evaluation Committee	March 31 – April 1, 2022
9.* Best and Final Offers	Finalist Offerors	April 8, 2022
10.* Oral Presentation(s)	Finalist Offerors	April 18 – 20, 2022
11.* Finalize Contractual Agreements	Agency/Finalist Offerors	May 4, 2022
12.* Contract Awards	Agency/ Finalist Offerors	When signed by SPD/CRB
13.* Protest Deadline	Agency	15 Days after the Contract Award
14. Effective Date of Contract (Approximate)	Agency	July 1, 2022

\* 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 on the date indicated in Section II.A, Sequence of Events.

### **2. Acknowledgement of Receipt Form**

Potential Offerors may submit the Acknowledgement of Receipt Form (APPENDIX A), to the to have their organization placed on the procurement Distribution List. The form must be returned to the Bonfire [New Mexico Human Services Department \(bonfirehub.com\)](https://www.bonfirehub.com) by 5:00 pm MST/ MDT on the date 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 2:00 PM MST/MDT via Microsoft Teams.

#### **Microsoft Teams meeting**

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

+1 575-323-9486,,103497878# United States, Las Cruces

Phone Conference ID: 103 497 878#

[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 4:00 PM MST/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).

An electronic version of the Questions and Answers will be posted to:

[New Mexico Human Services Department \(bonfirehub.com\)](http://bonfirehub.com)  
[Open RFPs | New Mexico Human Services Department \(state.nm.us\)](http://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 5:00 PM MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS. **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.

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN **5:00 PM** MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS. **PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE ACCEPTED.** The date and time of receipt will be



recorded on each proposal. If an Offeror decides to use a third-party delivery entity to submit its proposal, it is still the responsibility of the Offeror to ensure that the delivery is made on time. An Offeror should consider all factors regarding the delivery by the third-party entity and ensure that the delivery is made prior to the stated deadline. Weather delays, traffic jams, deliveries to the incorrect address nor any other reason for a delay will be accepted for failure to make the stated deadline.

**Proposals must be submitted electronically through Human Services Procurement Portal. Refer to Section III.B.1 for instructions.** Proposals submitted by facsimile, or other electronic means other than through the Human Services electronic procurement portal, ***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. Best and Final Offers**

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by as per schedule Section II. A., Sequence of Events or as soon as possible. Best and final offers may also be clarified and amended at finalist Offeror's oral presentation.

## **10. Oral Presentations**

Finalist Offerors, as selected per Section II.B.8 above, may be required to conduct an oral presentation at a venue to be determined as per schedule Section II.A., Sequence of

Events, or as soon as possible thereafter. If oral presentations are held, Finalist Offerors may be required to make their presentations through electronic means (GoToMeeting, Zoom, etc.). The Agency will provide Finalist Offerors with applicable details. Whether or not Oral Presentations will be held is at the discretion of the Evaluation Committee and HSD.

## **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 15<sup>th</sup> 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 delivered to:

Christie Guinn, Procurement Manager or Gary O. Chavez, CPO  
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

Potential Offerors must indicate their acceptance of these Conditions Governing the Procurement, Section II.C, 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 Sections III.B.1.a.i and III.B.2.a.i, 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 its evaluation team), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should an Offeror object to any of the terms and conditions as set forth in the RFP 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.20. 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 unless the Offeror either picks up, or arranges for pick-up, the materials within three (3) business days of notification of the cancellation. Offeror is responsible for all costs involved in return mailing/shipping of proposals.

## **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:

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

## **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 an **unaltered** Letter of Transmittal Form (Appendix E), which must be **completed** and **signed** by the individual authorized to contractually obligate the company, identified in #2 below. **DO NOT LEAVE ANY OF THE ITEMS ON THE FORM BLANK** (N/A, None, does not apply, etc. are acceptable responses).

The Letter of Transmittal MUST:

1. Identify the submitting business entity (its Name, Mailing Address and Phone Number);
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 required if the responses differs from the individual identified in A*);
3. Identify sub-contractors, if any, anticipated to be utilized in the performance of any resultant contract award;
4. Describe any relationship with any other entity (such as State Agency, reseller, etc., that is not a sub-contractor identified in #3), if any, which will be used in the performance of this awarded contract; and
5. Be signed and dated by the person identified in #2 above; 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 respond to ALL items as indicated above, 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.

### **32. New Mexico Preferences**

**The New Mexico Preferences shall not apply because the expenditures for this RFP includes federal funds.**

### III. RESPONSE FORMAT AND ORGANIZATION

#### A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

#### B. NUMBER OF COPIES

1. **ELECTRONIC SUBMISSION ONLY Responses (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

a) **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.

i. **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**:

- 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
- 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;

b) **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](mailto: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.

## **C. PROPOSAL FORMAT**

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.**

- A. Signed Letter of Transmittal
- B. Signed Campaign Contribution Form
- C. Table of Contents
- D. Proposal Summary
- E. Response to Contract Terms and Conditions (from Section II.C.15)
- F. Offeror's Additional Terms and Conditions (from Section II.C.16)
- G. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal**)
  1. Organizational Experience
  2. Organizational References
  3. Other Administrative Responsibilities
  4. Quality Assurance and Program Integrity
  5. Random Moment Sampling
  6. Administrative Claiming
  7. Direct Medical Services Cost Reporting and Settlement
  8. Information Systems Capacity and Reports
  9. Customer Service
  10. Oral Presentation (if applicable)

11. Financial Stability – (Financial information considered confidential, as defined in Section I.E. and detailed in Section II.C.8, should be placed in the **Confidential Information** file, per Section II.B.1.a.i or Section II.B.2.a.i, as applicable)

H. Suspension and Debarment Requirement Form

I. Other Supporting Material (if applicable)

**Cost Proposal:**

A. 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

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

### A. DETAILED SCOPE OF WORK

#### 1. Performance Measures

The Medical Assistance Division (MAD) has established a strong foundation for promoting and monitoring quality and access.

##### a. Goals:

1. Provide access to medically necessary services and access to quality health care.
2. Ensure that the HSD's approach is consistent with health care reform principles
3. Promote early intervention, preventive care, and attainment of improved clinical outcomes.

Measure: Rate of growth since the close of the previous fiscal-year in the number of children and youth receiving services in Medicaid School-Based Services Program(s) (MSBS).

##### b. Objectives:

1. Coordinate contractor, school districts and HSD/MAD in performing quarterly Random Moment Time Studies (RMS);
2. Collect Local Education Agency (LEA), Regional Education Cooperative (REC), or State Funded Education Agency (SFEA) financial information for calculation of quarterly administrative claiming invoices for Medicaid reimbursement. Generate and review final administrative claiming invoices to provide LEAs/RECs/SFEAs with Medicaid reimbursement for their allowable administrative expenses in support of the Medicaid program; and
3. Collect LEA/REC/SFEA financial information for calculation of annual cost report data from all LEAs/RECs/SFEAs who receive any MSBS payments during the cost reporting period, and prepare Annual Cost Report Settlement calculations to reconcile all interim payments (which includes direct services delivered by the LEAs/RECs/SFEAs under the MSBS Program when documented on an IEP or other plan of care when medical necessity has been established), with actual annual costs for direct services provided under the MSBS program. Generate and review final annual cost settlement reports for each LEA/REC/SFEA site to submit to the HSD/MAD.

##### c. Activities:

This effort will be completed through the various activities listed below:



1. Collect the Participant List to enable the quarterly reporting of allowable LEA/REC/SFEA staff whose activities will be surveyed by the RMS.
2. Administer RMS of activities of school-based staff to enable the measurement of administrative and direct services activities that are reimbursable under Medicaid, including both direct services documented on an IEP or documented on a medical plan other than an IEP or where medical necessity has been otherwise established, in accordance with the approved New Mexico Medicaid Guide for School-Based Services.
3. Provide specially trained, centrally-coordinated staff under the direction and supervision of Contractor whose responsibility is to review time study responses and to determine the appropriate CMS-approved time study activity designation, including administrative activities, direct service activities, and unallowable activities for those responses and to calculate statewide time study statistics.
4. Administer Financial Reporting and Administrative Claim calculation to prepare quarterly invoices. This will enable the drawdown of federal Medicaid matching funds from CMS via the CMS-64 for distribution to the LEAs/RECs/SFEAs.
5. Administer Financial Reporting and Annual Cost Settlement calculation to prepare invoices, as needed, to reconcile interim payments with actual costs for direct services provided under the MSBS program. This will include two different direct service calculations: 1) direct services documented on an IEP and 2) direct services documented on a medical plan other than an IEP or where medical necessity has been otherwise established. This will enable the drawdown of federal Medicaid matching funds from CMS via the CMS-64 for distribution to the LEAs/RECs/SFEAs.
6. Provide HSD/MAD with management reports, time study compliance monitoring, and management and post-claiming quality assurance and review to assist in assuring program integrity.
7. Perform all the above consistent with the HSD and CMS operational and security policies.

## **B. TECHNICAL SPECIFICATIONS**

Offerors should respond in the form of a thorough narrative to each of the numbered mandatory specifications. The narratives along with required supporting materials will be evaluated and awarded points accordingly.

**Failure to respond to Mandatory Specifications will result in the disqualification of the proposal as non-responsive.**

### **1. Organizational Experience**

#### **General Expectations:**

The offeror will:

- Perform Random Moment Sampling (RMS) and Administrative Claiming for

LEAs/RECs/SFEAs participating in the Medicaid School Based Services Program.

- Perform Direct Medical Services Cost Reporting and Settlement for LEAs/RECs/SFEAs participating in the Medicaid School Based Services Program.
- Perform all work associated with this contract in the United States.
- Employ sufficient staff as required to ensure completion of all RMS and/or Administrative Claiming responsibilities in accordance with established timelines.
- Employ sufficient staff as required to ensure completion of all Cost Reporting and Settlement responsibilities in accordance with established timelines,

Maintain a level of work performance consistent with high professional standards in the industry. All employees assigned to perform work relating to this contract will be capable, efficient and no less qualified than other employees of the contractor performing the same or similar work.

**Mandatory Requirements:**

1. Submit a statement of relevant corporate experience within the last five (5) years, including the experience of major subcontractors.
2. Provide the name and address of the offering company/organization and its parent company (if applicable), including any “doing business as” either in New Mexico or in other locations.
3. Provide a table of the organization or organizational chart including an explanation of the functions of the significant operating units within New Mexico and/or in other locations for this contract.
4. Provide documentation describing the offeror’s relationship to parent, affiliated or related business entities including, but not limited to, subsidiaries, joint ventures, or sister corporations.
5. For any of the offeror’s (to include the offeror’s parent organization, affiliates and subsidiaries) contracts listed in #4 above, has the other contracting party notified the offeror that it has found the offeror to be in breach of the contract (failed to meet a contract requirement)? If yes:
  - Please provide a description of the events concerning the breach, specifically addressing the issue of whether or not the breach was due to factors beyond the offeror’s control.
  - Was a corrective action plan (CAP) or its equivalent imposed? If so, describe the steps and timeframes in the CAP and whether the CAP was completed.
  - Was a sanction imposed? If so, please describe the sanction, including the amount of any monetary sanction (e.g., penalty or liquidated damage).
  - Was the breach the subject of an administrative proceeding or litigation? If so, what was the result of the proceeding/litigation?

The offeror shall provide the required information for all public sector contracts (including, but not limited to, Medicaid, Medicare, CHIP, and public

employees) as well as any non-public sector contracts that cover more than 200,000 lives.

## 2. Organizational References

### General Expectations:

The offeror will:

- Ensure its staff possesses sufficient current knowledge of the requirements of this Scope of Work, the Medical Assistance Division Program Policy Manual and the applicable State and Federal regulations, the NM Medicaid School Based Services Program Manual (see Procurement Library) and the NM Medicaid Administrative Claiming Implementation Plan.

### Mandatory Requirements:

6. Provide three (3) external corporate references from clients who have received similar services to those proposed for this contract, especially those projects in the public sector that have occurred within the past five (5) years. If the offeror proposes to use subcontractors for significant portions of the scope of work, the offeror shall provide additional three (3) external references for each major subcontractor, if applicable. 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 vendor’s score in the evaluation process. Offerors are encouraged to specifically request that their Organizational References provide detailed comments. 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 Business Reference information required herein), in its evaluation of Offeror responsibility per Section II, Para C.18.

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) Technical environment (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);
- e) Staff assigned to reference engagement that will be designated for work per this RFP; and
- f) Client project manager name, telephone number, fax number and e-mail address.

### **3. Oral Presentation/Product Demonstration**

If selected as a finalist, the Agency will ask the finalists to provide the Evaluation Committee the opportunity to interview all proposed core staff during an oral presentation and review the information systems capabilities at a date, time, and place set by the Procurement Manager.

### **4. Mandatory Specifications**

#### **A. Other Administrative Responsibilities**

##### **General Expectations:**

The offeror shall:

- Demonstrate the flexibility to work with HSD/MAD and stakeholder groups on the successful implementation of program changes.
- Coordinate as necessary with the LEAs/RECs/SFEAs and the Public Education Department (PED) to assure participant questions are appropriately directed.
- Be responsive, and respond within one (1) business day, to the State and the LEAs/RECs/SFEAs.
- Be expected to function as a partner to HSD/MAD. This partnership will include availability to attend, as allowable, the Annual Fall Training and three (3) on-site quarterly meetings (at offerors expense) and providing input on issues as requested.
- Participate in ad hoc conference calls at HSD/MAD's request.
- Be available to participate in audit activities as requested
- Assist with HSD/MAD audits of the offeror's work by making RMS and/or Administrative Claiming documentation available electronically through the online system.
- Assist with HSD/MAD audits of the offeror's work by making Cost Reporting and Settlement documentation available electronically through the online system.

##### **Mandatory Requirements:**

7. Provide a preliminary work plan identifying the key tasks to be completed by the offeror and the Agency as well as outstanding issues that need to be addressed before contract implementation, with estimated timeframes and responsible parties.

8. Describe the offeror's internal compliance program to assist the HSD/MAD audit activities.
9. Describe the offeror's plan for attending annual face-to-face meetings.
10. Describe the offeror's process for problem resolution related to this project.
11. Describe the offeror's capacity to teleconference and conduct web-based conferencing.

## **B. Quality Assurance and Program Integrity**

### **General Expectations:**

The offeror must be committed to ensuring program compliance and integrity. HSD/MAD is dedicated to preventing, detecting and addressing fraudulent and/or abusive billing practices. The Medicaid Integrity Program requires collaboration between the Agency and offeror to review activities of LEAs/RECs/SFEAs, perform audits, identify overpayment, communicate via email or telephone regarding audit findings and educate LEAs/RECs/SFEAs about false claims.

The offeror shall:

- Have policies and procedures to address prevention, detection, preliminary investigation and reporting of potential and/or actual fraud and abuse on the part of subcontractors and LEAs/RECs/SFEAs.
- Have a comprehensive internal program to prevent, detect, investigate and report suspicious activity or potential fraud or abuse.
- Have specific program controls and program quality assurance, compliance and integrity activities.
- Report any indication of data reporting errors to HSD/MAD immediately and promptly.
- Cooperate with the Medicaid Fraud Control Unit (MFCU) and other investigatory agencies.
- Not retaliate against any employee, agent, participant, or contractor who makes a good faith complaint, whether it be an internal or external complaint, about potential Medicaid fraud and abuse.
- Comply with regulations related to program integrity, set forth in 42 C.F.R. §455 <https://www.gpo.gov/fdsys/pkg/CFR-2006-title42-vol4/pdf/CFR-2006-title42-vol4-part455.pdf>.
- Comply with the Deficit Reduction Act of 2005 and the CMS Medicaid Integrity Program <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Program>

### **Mandatory Requirements:**

12. Describe the offeror's internal Fraud and Abuse or Program Integrity Program.
13. Describe the offeror's policies and procedures to address prevention, detection and reporting of potential and actual fraud and abuse.
14. Describe the offerors fraud and abuse detection/prevention training activities for

employees and providers.

### **C. Random Moment Sampling**

#### **General Expectations:**

The offeror will be responsible for conducting the quarterly Random Moment Sampling (RMS) of the LEAs/RECs/SFEAs participating in the MSBS program. Quantified results from the RMS will be used to allocate the amount of time staff spent on Medicaid and non-Medicaid reimbursable activities.

The offeror shall:

- Implement, and maintain a statewide RMS online service.
- Conduct face-to-face (as allowable) and/or web-based trainings statewide of the MSBS participants in the RMS process. Be available to conduct additional web-based training sessions as needed.
- Conduct RMS activities every quarter within deadlines set by the Agency.
- Randomly select a sample of staff and moments, using a statistically valid methodology necessary to attain a precision level of +/-2% with a 95% confidence level for Cost Pool 1 and a precision level of +/-5% with a 95% confidence level for Cost Pool 2 as indicated in the NM Medicaid Administrative Claiming Implementation Plan.
- Conduct coding of RMS responses received from LEAs/RECs/SFEAs as per CMS regulations and the NM Medicaid Administrative Claiming Implementation Plan.
- Promote consistency and accuracy of the RMS coding requirements with no variations.
- Communicate with the LEAs/RECs/SFEAs and the Medical Assistance Division, within one (1) business day, regarding any delays or problems related to the RMS process.

#### **Mandatory Requirements:**

15. Describe the face-to-face and/or web-based training program for the LEAs/RECs/SFEAs of the RMS process. If web-based training will be used, describe how secure access will be established.
16. Submit a sampling methodology for the RMS that is consistent with and complies with the sampling criteria outlined in the New Mexico MSBS Program Guide and applicable federal rules.
17. Describe how the RMS will be conducted, how activity will be coded, and how results will be submitted to the Medical Assistance Division.
18. Describe the review of the sampled moment activity descriptions and coding to ensure consistency and compliance with the New Mexico MSBS program code definitions.

19. Describe the methodology used to assure homogeneity among sampled groups.

#### **D. Administrative Claiming**

##### **General Expectations:**

The offeror shall:

- Conduct face-to-face (as allowable) and/or web-based trainings statewide for all LEAs/RECs/SFEAs currently participating in Administrative Claiming and any additional sites should they decide to participate.
- Communicate with the LEAs/RECs/SFEAs and the Medical Assistance Division, within one (1) business day, regarding any delays or problems related to the Administrative Claim process.
- On a quarterly basis, develop and complete a claim for all LEAs/RECs/SFEAs participating in Administrative Claiming.

##### **Mandatory Requirements:**

20. Describe the methodology for developing the Administrative Claim.
21. Describe which and how financial information will be collected from the participating LEAs/RECs/SFEAs and how accuracy of the information collected will be verified.
22. Describe the timeline and method in which the claim will be submitted to HSD/MAD.
23. Provide a sample claim utilized by another client.

#### **E. Direct Medical Services Cost Reporting and Settlement**

##### **General Expectations:**

The offeror shall:

- Conduct face-to-face (as allowable) and/or web-based trainings statewide of the LEAs/RECs/SFEAs participating in the Cost Reporting and Settlement process. Be available to conduct additional web-based training sessions as needed.
- Conduct Cost Reporting and Settlement activities annually within deadlines set by the Agency.
- Communicate with the LEAs/RECs/SFEAs and the Medical Assistance Division, within one (1) business day, regarding any delays or problems related to the Cost Reporting and Settlement process.

##### **Mandatory Requirements:**

24. Describe the face-to-face and/or web-based training program for the LEAs/RECs/SFEAs of the Direct Medical Services Cost Reporting and Settlement process. If web-based training will be used, describe how secure access will be established.

25. Describe the methodology for developing the Direct Medical Services Cost Reports and Settlements.
26. Describe which and how financial information will be collected from the participating LEAs/RECs/SFEAs and how accuracy of the information collected will be verified.
27. Describe the timeline and method in which the claim will be submitted to HSD/MAD.
28. Provide a sample claim utilized by another client.

## **F. Information Systems Capacity and Reports**

### **General Expectations:**

The offeror will:

- Maintain secure online services to support the activities related to the Offeror's proposal and meet the Procuring Agency's requirements, including back-up systems to provide service in case of system disaster or malfunction.
- Provide various standard or ad hoc reports in formats and detail as required by the Procuring Agency, Centers for Medicaid and Medicare Services, or other federal, state, school, or government agencies in order for the Procuring Agency to meet its reporting or compliance requirements.
- Provide and maintain data and documentation in a format acceptable, such as PDF and Excel spreadsheets, to the Procuring Agency for the term of the contract period and a period of no less than 10 years from the termination of any contract with the Procuring Agency. Delivery of such data or documentation will be in a format and location determined by the Procuring Agency.

### **Mandatory Requirements:**

29. Describe the approach or method that the Offeror will use to meet the requirements of the RFP, General Expectations of this section, and perform the work included in its proposal. Include in the response any aspects related to delivery of service in light of system disaster or malfunction recovery situations, online security, and system maintenance periods.
30. Describe how the Offeror will meet the needs of rural LEAs/RECs/SFEAs in performing the requirements of this RFP.
31. Explain how the Offeror will assure delivery of its services under the requirements of this RFP in a secure manner.

## **G. Customer Service**

### **General Expectations:**

The offeror shall:

- Provide on-site, telephonic and e-mail technical assistance on the RMS, Administrative Claiming and Direct Medical Services Cost Reporting and



Settlement process during normal state business hours. Inquiries will originate from the Medical Assistance Division and the LEAs/RECs/SFEAs.

- Respond to telephonic, mailed, and electronic inquiries from LEAs/RECs/SFEAs within one (1) business day.
- Maintain, at offeror's cost, a sufficient number of toll-free telephonic/electronic lines for the use of the LEA/REC/SFEA and other callers during normal business hours.
- Be able to accommodate non-English speaking and hearing and visually impaired customers.
- Have the ability to trace receipt and status of submitted requests and report the number of inquiries received and all associated timelines.

**Mandatory Requirements:**

32. Describe how the offeror will maintain customer service resources to meet the needs of the LEAs/RECs/SFEAs. Provide your proposed staffing of the customer service function.
33. Describe the offeror's step-by-step customer service processes and procedures and how the offeror will monitor the process and quality of service.
34. Provide examples of how the offeror has worked proactively with school districts and other stakeholders.

**C. BUSINESS SPECIFICATIONS**

**1. Financial Stability**

- a. List any pending lawsuit or bankruptcy petitions, any lawsuit or bankruptcy that has been concluded within the last five years, or any current investigation of the offeror, its parent, affiliates, or subsidiaries that may be relevant to the operation of this program. Include a brief description of each item listed.
- b. Offerors must submit copies of the most recent years independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D & B report).

**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 respond to ALL items, as indicated in Section II.C.30 and Appendix E, and to return a signed, unaltered 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 selected as a finalist, Offerors agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the Agency. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications.

### **5. Cost**

Offerors must complete the Cost Response Form in Appendix D. Cost will be measured by the total cost per state fiscal year for implementation of their service. The cost should be inclusive of completing all of the specifications related Random Moment Surveys, Administrative Claiming & Direct Medical Service Cost Reporting & Settlement. All charges listed on Appendix D must be justified and evidence of need documented in the proposal.

## 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.

Table 1: Evaluation Point Summary

	Points
<b>Technical Specifications</b>	
1. Organizational Experience	30
• Experience in other states	
2. Organizational References	15
3. Oral Presentation/Demonstration (100 points)	
• Ease of system use	25
• Online training	25
• Reference materials	20
• Level of presentation detail	30
4. Mandatory Specifications	
A. Other Administrative Responsibilities (50 points)	
• Preliminary work plan	10
• Audit/problem resolution responsibilities (working with SHO)	25
• Availability (face-to-face, teleconferencing)	15
B. Quality Assurance & Program Integrity	50
C. Random Moment Sampling (100 points)	
• Training of districts	30
• Sample methodology	20
• Overall process (sampling, coding, results to SHO)	30
• Review of coding process	20
D. Administrative Claiming (100 points)	
• Training of districts	30
• Develop claim/sample claim	20
• Timeline/method claim to office	30
• Verify district financial information	20
E. Direct Medical Services Cost Reporting and Settlement (100 points)	
• Training of districts	30
• Cost settlement process	30
• Timeline/method claim to office	20
• Verify district financial information	20

F. Information Systems Capacity & Reports (75 points)	
• Security/System Maintenance/Reliability	25
• File storage and back-up	25
• Reports	25
G. Customer Service	80
<b>Business Specifications</b>	
1. Financial Stability	
• No pending lawsuits/bankruptcy	Pass/Fail
• Financial statements (solvency)	Pass/Fail
2. Letter of Transmittal Form Provided	Pass/Fail
3. Campaign Contribution Disclosure Form Provided	Pass/Fail
4. Reserved	
5. Cost Proposal	300
<b>Total</b>	<b>1,000</b>

## B. EVALUATION FACTORS

Points will be awarded on the basis of the quality of the response, clarity of the response, perceived likelihood of the success of the response and/or applicability of the response to the need at hand for the following evaluation factors:

### 1. B.1 Organizational Experience (See Table 1)

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror's experience, expertise and knowledge; and of personnel education, experience and certifications/licenses. In addition, points will be awarded based on Offeror's candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

### 2. B.2 Organizational References (See Table 1)

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 1/3 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.

### **3. B.3 Oral Presentation (See Table 1)**

Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda.

### **4. B.4 Mandatory Specifications**

#### **A. Other Administrative Responsibilities (50 points)**

The offeror shall be evaluated on its ability to function as a partner to HSD/MAD by setting forth a preliminary work plan for the project, assisting in auditing activities, participating in meetings and ad-hoc conference calls and assisting in problem resolution.

#### **B. Quality Assurance and Program Integrity (50 points)**

The offeror shall be evaluated on the organization's approach to preventing, detecting and addressing fraudulent and/or abusive billing practices in the Medicaid program.

#### **C. Random Moment Sampling (100 points)**

The offeror shall be evaluated on the organization's ability to conduct Random Moment Sampling in an accurate and timely manner.

#### **D. Administrative Claiming (100 points)**

The offeror shall be evaluated on the organization's ability to develop an accurate and thorough administrative claim.

#### **E. Direct Medical Services Cost Reporting and Settlement (100 points)**

The offeror shall be evaluated on the organization's ability to develop an accurate and thorough direct medical services cost report and settlement.

#### **F. Information Systems Capacity and Reports (75 points)**

The offeror shall be evaluated on its information systems capacity and ability to produce reports to the HSD/MAD.

#### **G. Customer Services (80 points)**

The offeror shall be evaluated on its ability to provide customer service including technical assistance on the RMS, Administrative Claiming and Direct Medical Services Cost Reporting and Settlement processes.

### **5. C.1 Financial Stability (See Table 1)**

Pass/Fail only. No points assigned.

**6. C.3 Letter of Transmittal (See Table 1)**

Pass/Fail only. No points assigned.

**7. C.4 Campaign Contribution Disclosure Form (See Table 1)**

Pass/Fail only. No points assigned.

**8. C.5 Oral Presentation (See Table 1)**

Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda. (If no Oral Presentations are held all Offerors will receive the maximum amount of total points for this Evaluation Factor).

**9. C.6 Cost (See Table 1)**

The offeror will be evaluated based on the total cost of implementation of the program for the 1-year contract period. The evaluation of each Offeror’s cost proposal will be conducted using the following formula

$$\frac{\text{Lowest Responsive Offeror's Cost}}{\text{Each Offeror's Cost}} \times \text{Available Award Points}$$

**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 will 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

**Medicaid School Based Services Random Moment Sampling, Administrative Claiming and Direct Medical Services Cost Reporting and Settlement # 22-630-8000-0002**

### ACKNOWLEDGEMENT OF RECEIPT FORM

This Acknowledgement of Receipt Form should be signed and submitted no later than 5:00 pm MST/MDT as per schedule Section II. A., Sequence of Events. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

In acknowledgement of receipt of this Request for Proposal, the undersigned agrees that he or she has received a complete copy of the RFP, beginning with the title page, and ending with Appendix F.

The name and address below will be used for all correspondence related to the Request for Proposal.

ORGANIZATION: \_\_\_\_\_

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

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

E-MAIL: \_\_\_\_\_

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

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

**Submit Acknowledgement of Receipt Form to:**

To: Christie Guinn

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



## APPENDIX B - CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (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:** \_\_\_\_\_  
**(Completed by State Agency or Local Public Body)**

**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

The Agreement included in this Appendix C represents the contract/price agreement the Agency intends to use to make an award/awards. The State of New Mexico and the Agency reserve the right to modify the Agreement prior to, or during, the award process, as necessary.

STATE OF NEW MEXICO  
**HUMAN SERVICES DEPARTMENT**  
PROFESSIONAL SERVICES CONTRACT  
(SAMPLE)

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 GSD/SPD. 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.

**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:

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

- a) Provide all employees engaged in performance of the PSC with a copy of the statement required by subparagraph B(1);
- b) 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:
  - (i) Abide by the terms of the statement; and
  - (ii) 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;

c) 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;

- d) 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:
  - (i) Taking appropriate personnel action against such employee, up to and including termination; or
  - (ii) 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
- 3) Make a good faith effort to maintain a drug-free workplace through implementation of B(1) through B(6) of this paragraph.

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 if 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; are collectively referred to as Confidential Information in Article 10 of this Agreement, 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 purged from 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 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 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. The HSD will have the right to terminate the contract if the Contractor or its subcontractors or Business Associates fail to provide the safeguards described above, consistent with the termination clause herein.

K. 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.

L. 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.

M. 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.

N. 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.

O. 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.

P. HSD Personally Identifiable Information (PII) cannot be accessed by HSD employees, agents, representatives, or contractors located offshore, outside of the United States territories, embassies, or military installations. Further, HSD PII may not be received, processed, stored, transmitted, or disposed of by information technology (IT) systems located offshore.

**31. Criminal/Civil Sanctions.**

A. 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 disclose 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.

B. Contractor agrees that granting access to PHI and PII must be preceded by certifying that each individual understands the HSD's applicable security policy and procedures for safeguarding PHI and PII. Contractors must maintain their authorization to access PHI and PII through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review.

**32. Inspection.**

The HSD shall have the right, with 24-hour notice, to send its inspectors into the offices and plants of the Contractor to inspect the facilities and operations provided for the performance of any work related to PHI and PII under this Agreement. On the basis of such inspection specific measures may be required in cases where the Contractor is found to be noncompliant with contract safeguards.

**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.

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

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. Electronic Information Exchange Security Requirements, Guidelines, And Procedures for State and Local Agencies Exchanging Electronic Information with The Social Security Administration; and
5. 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.

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: \_\_\_\_\_  
HSD Chief Financial Officer

Approved for legal sufficiency:

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

TBIN Number: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Tax and Revenue Department Representative

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

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

## Exhibit A

### Scope of Work

#### **I. Performance Measures**

The Medical Assistance Division (MAD) has established a strong foundation for promoting and monitoring quality and access.

##### **A. Goals:**

1. Improve the value and range of services we provide to ensure that every qualified New Mexican receives timely and accurate benefits.
2. Create effective, transparent communication to enhance the public trust.
3. Successfully implement technology to give customers and staff the best and most convenient access to services and information.
4. Promote an environment of mutual respect, trust and open communication for staff to grow and reach our professional goals.

Measure: Rate of growth since the close of the previous fiscal-year in the number of children and youth receiving services in Medicaid School-Based Services Program(s) (MSBS).

##### **B. Objectives:**

1. Coordinate contractor, school districts and HSD/MAD in performing quarterly Random Moment Time Studies (RMS);
2. Collect Local Education Agency (LEA), Regional Education Cooperative (REC), or State Funded Education Agency (SFEA) financial information for calculation of quarterly administrative claiming invoices for Medicaid reimbursement. Generate and review final administrative claiming invoices to provide LEAs/RECs/SFEAs with Medicaid reimbursement for their allowable administrative expenses in support of the Medicaid program; and
3. Collect LEA/REC/SFEA financial information for calculation of annual cost report data from all LEAs/RECs/SFEAs who receive any MSBS payments during the cost reporting period, and prepare Annual Cost Report Settlement calculations to reconcile all interim payments (which includes direct services delivered by the LEAs/RECs/SFEAs under the MSBS Program when documented on an IEP or other plan of care when medical necessity has been established), with actual annual costs for direct services provided under the MSBS program. Generate and review final annual cost settlement reports for each LEA/REC/SFEA site to submit to the HSD/MAD.

##### **C. Activities:**

This effort will be completed through the various activities listed below:

1. Collect the Participant List to enable the quarterly reporting of allowable LEA/REC/SFEA staff whose activities will be surveyed by the RMS.

2. Administer RMS of activities of school-based staff to enable the measurement of administrative and direct services activities that are reimbursable under Medicaid, including both direct services documented on an IEP or documented on a medical plan other than an IEP or where medical necessity has been otherwise established, in accordance with the approved New Mexico Medicaid Guide for School-Based Services.
3. Provide specially trained, centrally-coordinated staff under the direction and supervision of Contractor whose responsibility is to review time study responses and to determine the appropriate CMS-approved time study activity designation, including administrative activities, direct service activities, and unallowable activities for those responses and to calculate statewide time study statistics.
4. Administer Financial Reporting and Administrative Claim calculation to prepare quarterly invoices. This will enable the drawdown of federal Medicaid matching funds from CMS via the CMS-64 for distribution to the LEAs/RECs/SFEAs.
5. Administer Financial Reporting and Annual Cost Settlement calculation to prepare invoices, as needed, to reconcile interim payments with actual costs for direct services provided under the MSBS program. This will include two different direct service calculations: 1) direct services documented on an IEP and 2) direct services documented on a medical plan other than an IEP or where medical necessity has been otherwise established. This will enable the drawdown of federal Medicaid matching funds from CMS via the CMS-64 for distribution to the LEAs/RECs/SFEAs.
6. Provide HSD/MAD with management reports, time study compliance monitoring, and management and post-claiming quality assurance and review to assist in assuring program integrity.
7. Perform all the above consistent with the HSD and CMS operational and security policies.

# APPENDIX D - COST RESPONSE FORM

## Human Services Department MSBS Random Moment Sampling, Administrative Claiming and Direct Medical Service Cost Reporting and Settlement

RFP #22-630-8000-0002

### COST RESPONSE FORM

The offeror should indicate a total cost per state fiscal year for implementation of their service. The cost should be inclusive of completing all of the specifications related Random Moment Surveys, Administrative Claiming & Direct Medical Service Cost Reporting & Settlement. The offeror will be evaluated based on the total cost of implementation of the program.

FIRM NAME:	
SIGNATURE:	DATE:

**APPENDIX E - LETTER OF TRANSMITTAL FORM**



## ***APPENDIX E***

### ***Letter of Transmittal Form***

**ITEMS #1 to #4 EACH MUST BE COMPLETED IN FULL (pursuant to Section II.C.30).  
FAILURE TO RESPOND TO ALL FOUR (4) ITEMS WILL RESULT IN THE  
DISQUALIFICATION OF OFFEROR'S PROPOSAL! DO NOT LEAVE ANY ITEM BLANK!  
(N/A, None, does not apply, etc. are acceptable responses.)**

**RFP#: 22-630-8000-0002**

**1. Identify the following information for the submitting organization:**

<b>Offeror Name</b>	
<b>Mailing Address</b>	
<b>Telephone</b>	
<b>FED ID#</b>	
<b>NM CRS#</b>	

**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:**

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

\* 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. Use of subcontractors (Select one):**

- No subcontractors will be used in the performance of any resultant contract, OR  
 The following subcontractors will be used in the performance of any resultant contract:

\_\_\_\_\_  
 (Attach extra sheets, as needed)

**4. Describe any relationship with any entity (such as a State Agency, reseller, etc. that is not a subcontractor listed in #3 above), if any, which will be used in the performance of any resultant contract. (N/A, None, does not apply, etc. are acceptable responses to this item.)**

\_\_\_\_\_  
 (Attach extra sheets, as needed)

**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.

\_\_\_\_\_, 20\_\_\_\_\_  
 Authorized Signature and 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 three (3) 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: Christie Guinn at [christie.guinn@state.nm.us](mailto:christie.guinn@state.nm.us) by March 24, 2022, 5:00PM MST/MDT 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 # 22-630-8000-0002**  
**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. This Questionnaire is to be submitted to the State of New Mexico, Human Services Department via e-mail at:

Name: Christie Guinn  
Email: [christie.guinn@state.nm.us](mailto:christie.guinn@state.nm.us)

Forms must be submitted no later than March 24, 2022, 5:00 PM MST/MDT, and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings.

**For questions or concerns regarding this form**, please contact the State of New Mexico **Procurement Manager** at 505-4909-1169 or [christie.guinn@state.nm.us](mailto:christie.guinn@state.nm.us). When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

<b>Organization providing reference</b>	
<b>Contact name and title/position</b>	
<b>Contact telephone number(s)</b>	
<b>Contact e-mail address</b>	
<b>Project description</b>	
<b>Project dates (start and end dates)</b>	
<b>Technical environment for the project your providing a reference (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);</b>	

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 the project scope and timelines?

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

COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced 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 products developed 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:

## **APPENDIX G - SUSPENSION AND DEBARMENT REQUIREMENT**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT AND OTHER RESPONSIBILITY MATTERS**

The entering of a contract between HSD and the successful Offeror pursuant to this RFP is a “covered transaction,” as defined by 45 C.F.R. Part 76. HSD’s contract with the successor Offeror shall contain a provision relating to debarment, suspension, and responsibility. All Offerors must provide as a part of their proposals a certification to HSD in the form provided below. Failure of an Offeror to furnish a certification or provide such additional information as requested by the Procurement Manager for this RFP will render the Offeror non-responsible. Furthermore, the Offeror shall provide immediate written notice to the Procurement Manager for this RFP if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Although HSD may review the veracity of the certification through the use of the federal Excluded Parties Listing System or by other means, the certification provided by the Offeror in paragraph A., below, is a material representation of fact upon which HSD will rely when making a contract award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to HSD, HSD may terminate the contract resulting from this request for proposals for default.

The certification provided by the Offeror in paragraph A., below, will be considered in connection with a determination of the Offeror's responsibility. A certification that any of the items in paragraph A., below, exists may result in rejection of the Offeror’s proposal for non-responsibility and the withholding of an award under this RFP. If the Offeror’s certification indicates that any of the items in paragraph A., below, exists, the Offeror shall provide with its proposal a full written explanation of the specific basis for, and circumstances connected to, the item; the Offeror’s failure to provide such explanation will result in rejection of the Offeror’s proposal. If the Offeror’s certification indicates that that any of the items in paragraph A., below, exists, HSD, in its sole discretion, may request, that the U.S. Department of Health and Human Services grant an exception under 45 C.F.R. §§ 76.120 and 76.305 if HSD believes that the procurement schedule so permits and an exception is applicable and warranted under the circumstances. In no event will HSD award a contract to an Offeror if the requested exception is not granted for the Offeror.

By signing and submitting a proposal in response to this RFP, the Offeror certifies, to the best of its knowledge and belief, that:

A. The Offeror and/or any of its Principals (check applicable blocks):

Status	Yes	No
Are presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency.		
Have, within a three-year period preceding the date of the Offeror's proposal, 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.		
Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with, commission of any of the offenses enumerated in paragraph A. (2) of this certification.		
Have, within a three-year period preceding the date of Offeror's proposal, had one or more public agreements or transactions (federal, state or local) terminated for cause or default.		
Have 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. "Principal," for the purposes of this certification, shall have the meaning set forth in 45 C.F.R. § 76.995 and shall include an officer, director; owner, partner, principal investigator, or other person having management or supervisory responsibilities related to a covered transaction.

"Principal" also includes a consultant or other person, whether or not employed by the participant or paid with federal funds, who: is in a position to handle federal funds; is in a position to influence or control the use of those funds; or occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

C. For the purposes of this certification, the terms used in the certification, such as covered transaction, debarred, excluded, exclusion, ineligible, ineligibility, participant, and person have the meanings set forth in the definitions and coverage rules of 45 C.F.R. Part 76.

D. Nothing contained in the foregoing certification shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph A. of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

OFFEROR:	
SIGNATURE/TITLE:	DATE: