HEALTH CARE AUTHORITY

REQUEST FOR PROPOSALS (RFP)

Employee Assistance Program (EAP)

HEALTH CARE
AUTHORITY

RFP# 27-630-0900-0015

RFP Release Date: November 05, 2026

Proposal Due Date: December 07, 2026 at 03:00 PM MST

ELECTRONIC-ONLY PROPOSAL SUBMISSION

Contents

I. INTRODUCTION 5

A. PURPOSE OF THIS REQUEST FOR PROPOSALS 5
B. BACKGROUND INFORMATION 5
C. SCOPE OF PROCUREMENT 5
D. PROCUREMENT MANAGER 5
E. PROPOSAL SUBMISSION 6
F. DEFINITION OF TERMINOLOGY 6
G. PROCUREMENT LIBRARY 9

II. CONDITIONS GOVERNING THE PROCUREMENT 9

A. SEQUENCE OF EVENTS 9
B. EXPLANATION OF EVENTS 10
1. *Issue RFP* 10
2. *Acknowledgement of Receipt Form* 10
3. *Deadline to Submit Written Questions* 10
4. *Response to Written Questions* 10
5. *Submission of Proposal* 10
6. *Proposal Evaluation* 11
7. *Selection of Finalists* 11
8. *Oral Presentations* 11
9. *Best and Final Offers* 11
10. *Finalize Contractual Agreements* 12
11. *Contract Awards* 12
12. *Protest Deadline* 12

C. GENERAL REQUIREMENTS 12
1. *Acceptance of Conditions Governing the Procurement* 12
2. *Incurring Cost* 12
3. *Prime Contractor Responsibility* 12
4. *Subcontractors/Consent* 13
5. *Amended Proposals* 13
6. *Offeror's Rights to Withdraw Proposal* 13
7. *Proposal Offer Firm* 13
8. *Disclosure of Proposal Contents* 13
9. *No Obligation* 14
10. *Termination* 14
11. *Sufficient Appropriation* 14
12. *Legal Review* 14
13. *Governing Law* 14
14. *Basis for Proposal* 14
15. *Contract Terms and Conditions* 14
16. *Offeror's Terms and Conditions* 15
17. *Contract Deviations* 15
18. *Offeror Qualifications* 15
19. *Right to Waive Minor Irregularities* 15
20. *Change in Contractor Representatives* 15
21. *Notice of Penalties* 15
22. *Agency Rights* 15
23. *Right to Publish* 16
24. *Ownership of Proposals* 16
25. *Confidentiality* 16
26. *Electronic mail address required* 16
27. *Use of Electronic Versions of this RFP* 16

28. New Mexico Employees Health Coverage *16*
29. Campaign Contribution Disclosure Form *16*
30. Letter of Transmittal *17*
31. Disclosure Regarding Responsibility *17*
32. New Mexico/Native American Resident Preferences *18*

III. RESPONSE FORMAT AND ORGANIZATION **19**

A. NUMBER OF RESPONSES 19
I. Technical Proposals *19*
II. Cost Proposals *19*
B. PROPOSAL CONTENT AND ORGANIZATION 20
1. Proposal Content and Organization *20*
2. Cost Proposal: *20*
3. Letter of Transmittal *21*
4. Campaign Contribution Disclosure Form *21*
5. Table of Contents *21*
6. Proposal Summary *21*
7. Response to Department's Terms and Conditions *21*
8. Offeror's Additional Terms and Conditions *21*
9. Response to Mandatory Specifications *22*
10. Lobbying *22*

IV. SPECIFICATIONS **23**

A. DETAILED SCOPE OF WORK 23
B. TECHNICAL SPECIFICATIONS 34
1) Organizational Experience *34*
2) Organizational References *35*
C. BUSINESS SPECIFICATIONS 35
1. Financial Stability *35*
2. Letter of Transmittal Form *36*
3. Campaign Contribution Disclosure Form *36*
4. Oral Presentation *36*
5. Cost *36*
6. New Mexico/Native American Resident Preferences *36*

V. EVALUATION **37**

1. EVALUATION POINT SUMMARY 37
2. EVALUATION FACTORS 37
B. TECHINICAL SPECIFICATIONS *37*
C. BUSINESS SPECIFICATIONS *38*
3. EVALUATION PROCESS 39

APPENDIX A **41**

ACKNOWLEDGEMENT OF RECEIPT FORM 41

APPENDIX B **42**

CAMPAIGN CONTRIBUTION DISCLOSURE FORM 42

APPENDIX C **45**

DRAFT CONTRACT 45

APPENDIX D **72**

COST RESPONSE FORM 72

APPENDIX E **73**

LETTER OF TRANSMITTAL FORM 73
APPENDIX F 74
ORGANIZATIONAL REFERENCE QUESTIONNAIRE 74

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 a comprehensive Employee Assistance Program (EAP). The EAP will provide confidential counseling, assessment, referral, crisis intervention, and related behavioral health and wellness services to eligible State of New Mexico employees and their dependents participating in the State Health Benefits (SHB) plan, administered through the State of New Mexico Health Care Authority (HCA) for a term of four years. The successful Offeror will also support statewide access to services, including telephonic and virtual service options, outreach, training, and program promotion throughout the term of the contract.

B. BACKGROUND INFORMATION

The State of New Mexico, through the Health Care Authority (HCA), State Health Benefits Bureau (hereinafter "SHB" or the "Agency"), administers a comprehensive health and welfare benefits program for State of New Mexico Employees, participating Local Public Bodies (LPBs), Legislators, and other eligible populations. The Program serves a large and diverse membership across the State of New Mexico, including urban, rural, and underserved communities.

To further support the wellbeing of its members, the Agency is seeking a qualified Contractor to provide Employee Assistance Program (EAP) services. The Contractor will be responsible for delivering, coordinating, and administering an EAP that offers confidential counseling, referral services, crisis intervention, and related support resources. These services are essential to promoting mental, emotional, and behavioral health, enhancing productivity, and ensuring access to professional support across the State of New Mexico's workforce and eligible populations.

C. SCOPE OF PROCUREMENT

The Agency anticipates that this RFP will result in a single award.
This procurement will result in a contractual agreement between two parties; the procurement may ONLY be used by those two parties exclusively.

D. PROCUREMENT MANAGER

The HCA 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:	Shashikanth Surkanti, Procurement Manager
Telephone:	(505) 618-0369
Email:	Shashikanth.Surkanti@hca.nm.gov

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

2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.12.** 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 accordance with regulatory requirements 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 Health Care Authority's electronic procurement portal, Euna. Refer to Section III.B.1 for instructions.

F. DEFINITION OF TERMINOLOGY

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

1. "**Agency**" means the State Purchasing Division of the General Services Department or that State Agency sponsoring this Procurement.

2. "**Award**" means the final execution of the contract document.

3. "**Business Hours**" means weekdays (Monday – Friday) 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.

4. "**Close of Business**" means weekdays (Monday – Friday) 5:00 PM MST/MDT, whichever is in effect on the date given.

5. "**Confidential**" means confidential financial information concerning Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7 NMSA 1978,. See also NMAC 1.4.1.45. The following items may **not** be labelled as confidential: Offeror's submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.

6. "**Contract**" means any agreement for the procurement of items of tangible personal property, services or construction.

7. "**Contractor**" means any business having a contract with a state agency or local public body.

8. "**Determination**" means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

9. "**Desirable**" – the terms "may," "can," "should," "preferably," or "prefers" identify a desirable or discretionary item or factor.

10. "**Electronic Submission**" means a successful submittal of Offeror's proposal in the eProNM system.

11. "**Electronic Version/Copy**" means a digital format consisting of text, images or both, readable on computers or other electronic devices, which includes all content that the original document contains. The electronic version/copy CANNOT be emailed.

12. "**Evaluation Committee**" means a body appointed to perform the evaluation of Offerors' proposals.

13. "**Evaluation Committee Report**" means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee's recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.

14. "**Final Award**" means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.

15. "**Finalist**" means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee, as explained in Section II.B.7.

16. **"HCA"** means Health Care Authority Agency of the State of New Mexico.

17. "**Hourly Rate**" means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

18. "**IT**" means Information Technology.

19. "**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.

20. "**Minor Irregularities**" means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.

21. "**Multiple Source Award**" means an award of a contract for one or more items of tangible personal property, services or construction to more than one Offeror.

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

23. "**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.

24. "**Procurement Manager**" means any person or designee authorized by a state agency or local public body with the responsibility, authority, and resources to conduct the RFP procurement, make written determinations regarding the RFP procurement, and/or enter into or administer contracts as a result of the RFP procurement.

25. "**Procuring Agency**" means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to procure items of tangible personal property, services or construction from the agreement(s) awarded as a result of this RFP.

26. "**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.

27. "**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.

28. "**Request for Proposals (RFP)**" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

29. "**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.

30. "**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.

31. "**Sealed**" means, in terms of electronic submission, an Offeror's proposal and all accompanying documents has been completely and successfully uploaded into HCA'S/HCA's electronic procurement portal bonfire system prior to the submission deadline stated in the RFP.

32. **"SHB"** means State Health Benefits Division of the New Mexico Health Care Authority.

33. **"Single Source Award**" means an award of contract for items of tangible personal property, services or construction to only one Offeror.

34. "**SPD**" means State Purchasing Division of the New Mexico State General Services Department.

35. "**Staff**" means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors' company.

36. "**State (the State)**" means the State of New Mexico.

37. "**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.

38. "**State Purchasing Agent**" means the Director of the Purchasing Division of the General Services Department.

39. "**Statement of Concurrence**" means an affirmative statement from the Offeror indicating its response to a required Section IV specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal, pursuant to Section III.C.1. (E.g. "We concur," "Understands and Complies," "Comply," "Will Comply if Applicable," etc.)

40. "**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.

41. "**Written**" means typed in standard 8 ½ x 11 inch document format, by common electronic means (such as Microsoft Word, Adobe PDF, etc.). A larger size document is permissible for charts, spreadsheets, etc.

G. PROCUREMENT LIBRARY

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

RFP, Questions & Answers, RFP Amendments, etc.

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	HCA/HCA	11/5/2026
2. Acknowledgement of Receipt Form	Potential Offerors	11/10/2026
3. Deadline to submit Written Questions	Potential Offerors	11/12/2026
4. Response to Written Questions	Procurement Manager	11/16/2026
5. Submission of Proposal	***Potential Offerors***	12/7/2026 at 03:00pm MDT
6.* Proposal Evaluation	Evaluation Committee	1/8/2027
7.* Selection of Finalists	Evaluation Committee	1/8/2027
8 * Oral Presentation(s) & Best and Final Offers	Finalist Offerors	1/14/2027
9.* Finalize Contractual Agreements	Agency/Finalist Offerors	1/25/2027
10.* Contract Awards	Agency/ Finalist Offerors	1/26/27
11.* Protest Deadline	HCA/HCA	+15 days
12. Go Live Date	HCA	7/1/2027

*Dates indicated in Events 6 through 12 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 Health Care Authority (HCA) on the date indicated in Section II.A, Sequence of Events.

2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the HCA/HCA buyer, Shashikanth Surkanti at Shashikanth.Surkanti@hca.nm.gov, to have their organization placed on the procurement Distribution List. The form must be returned to the procurement manager by 3:00 pm 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. 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 such time 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.

4. Response to Written Questions

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

The Questions and Answers will be posted to:

EUNA: https://newmexicohsd.bonfirehub.com/portal/?tab=openOpportunities

WEBSITE: https://www.hsd.state.nm.us/lookingforinformation/open-rfps/

5. Submission of Proposal

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

ALL PROPOSALS MUST BE RECEIVED BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MST ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS. **NO LATE PROPOSAL WILL BE ACCEPTED.** The date and time of receipt will be recorded on each proposal. Proposals will be time-stamped in the system when the Offeror clicks "OK" after "Review and Submit." Such electronic submissions will be considered sealed in accordance with statute.

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

Proposals must be submitted electronically through HCA's electronic procurement system, Euna. Refer to Section III.B.1 for instructions on electronic submissions. Proposals submitted by facsimile, or other electronic means other than through the HCA's/HCA's electronic e-procurement system, will not be accepted.

A log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to §13-1-116 NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required state agency signature on the contract(s) resulting from the procurement has been obtained.

6. 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.

7. 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.

8. Oral Presentations

Finalist Offerors, as selected per Section II.B.7 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 in person or through electronic means (Microsoft Teams, Zoom, etc). The Agency will provide Finalist Offerors with an agenda and applicable details; including an invitation to the event. Whether or not Oral Presentations will be held is at the sole discretion of the Evaluation Committee.

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. 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 within 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.

11. 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 approvals.

12. Protest Deadline

Any protest by an Offeror must be submitted 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 accordance with this Request for Proposals, applicable statute and regulations will be considered to have been submitted properly. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be directed to the Protest Manager at:

Chief General Counsel
Office of General Counsel
Health Care Authority
1474 Rodeo Rd.
Santa Fe, New Mexico 87505

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

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

2. Incurring Cost

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

3. Prime Contractor Responsibility

Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with a State Agency which

may derive from this RFP. The State Agency entering into a contractual agreement with a vendor will make payments to only the prime contractor.

4. Subcontractors/Consent

Offerors must include details of any proposed subcontractors as part of their proposal. HCA reserves the right to decline an Offeror's request to subcontract upon award or condition such consent on compliance with terms set forth in the resulting contract. 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 thereof.

5. Amended Proposals

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

6. Offeror's Rights to Withdraw Proposal

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

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

7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one-hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

8. Disclosure of Proposal Contents

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

a) Proprietary and Confidential information is restricted to:
    1. confidential financial information concerning the Offeror's organization; and
    2. Information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7 NMSA 1978.
b) An additional but separate redacted version of Offeror's proposal, as outlined and identified in Section III.B.2, 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 termination 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 successful Offeror's proposal may be incorporated into and become part of any resultant contract.

The Agency discourages exceptions from the contract terms and conditions as set forth in the RFP Draft Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Agency (and the Evaluation Committee), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should an Offeror object to any of the terms and conditions 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 explanation of the purpose and impact of each proposed change followed by the specific proposed alternate wording.

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an **explicit agreement** by the Offeror that the contractual terms and conditions contained herein are **accepted** by the Offeror.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Agency. See Section II.C.15 for requirements.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Offeror), will be discussed only between the Agency and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a Responsive Offer as defined in §13-1-83 and §13-1-85 NMSA 1978.

19. Right to Waive Minor Irregularities

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

20. Change in Contractor Representatives

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

21. Notice of Penalties

The Procurement Code, §§13-1-28 through 13-1-199 NMSA 1978, imposes civil, and misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

22. Agency Rights

The Agency, in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror's proposal.

23. Right to Publish

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

24. Ownership of Proposals

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

25. Confidentiality

The successful Offeror shall be obliged to maintain the confidentiality of certain information disclosed or created during the term of the resulting Agreement and in accordance with the terms thereof. Please see Appendix C for details.

26. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.4, Response to Written Questions).

27. Use of Electronic Versions of this RFP

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

28. New Mexico Employees Health Coverage

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

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

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

29. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form (APPENDIX B) as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor or other identified official. Failure to complete and return the signed unaltered form will result in Offeror's disqualification.

30. Letter of Transmittal

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

Provide the following information:

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

Failure to submit a signed Letter of Transmittal Form (Appendix E), including all required information, 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/Native American Resident Preferences

To ensure adequate consideration and application of §13-1-21 NMSA 1978 (as amended), **Offeror must submit a copy of its valid New Mexico/Native American Resident Preference Certificate or its valid New Mexico/Native American Resident Veteran Preference with its proposal.** Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx.

In accordance with §13-1-21(H) NMSA 1978, an agency shall not award any combination of New Mexico/Native American Resident Preferences.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

1. **ONLY ELECTRONIC SUBMISSION VIA (Health Care Authority Procurement Portal, Euna Interactive) can be accessed https//newmexicohsd.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 Health Care Authority Services Purchasing's electronic procurement portal ONLY; the Offeror needs to submit only 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 Offeror's 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

I. 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**. The Technical Proposals ***SHALL NOT*** *contain any cost information.*

a. **Confidential Information**: If Offeror's proposal contains confidential information, as defined in Section I.F.5 and detailed in Section II.C.8, Offeror **must** submit **two (2) separate ELECTRONIC technical files:**
   i. One (1) ELECTRONIC version of the requisite proposals identified in Section III.B.1 above as **unredacted** (def. Section I.F.40) versions for evaluation purposes; and
   ii. One (1) **redacted** (def. Section I.F.27) ELECTRONIC for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal. Redacted versions **must** be clearly marked as "REDACTED" or "CONFIDENTIAL" on the first page of the electronic file;

II. 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**.

The ELECTRONIC proposal submission must be fully uploaded to the Health Care Authority e-Procurement Portal by the submission deadline in Section II.B.5.

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

B. PROPOSAL CONTENT AND ORGANIZATION

All proposals must be submitted as follows:

Organization of files/envelopes for electronic copy proposals:

1. Proposal Content and Organization

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

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

1. Signed Letter of Transmittal
2. Signed Campaign Contribution Form
3. Table of Contents
4. Proposal Summary (limit 5 pages)
5. Response to Contract Terms and Conditions (from Section II.C.15)
6. Offeror's Additional Terms and Conditions (from Section II.C.16)
   a. Response to Specifications Organizational Experience
   b. Organizational References
   c. Oral Presentation
   d. Technical Specifications
   e. Financial Stability –(Financial information considered confidential, as defined in Section I.F. and detailed in Section II.C.8, should be placed in the **Confidential Information** file, per Section III.B.2, as applicable)
   f. New Mexico/Native American Resident Preferences (if applicable)

2. Cost Proposal:

Completed Cost Response Form, attached, and additional instructions provided in APPENDIX D

Within each section of the proposal, Offerors must 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.**

3. 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.

4. 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)

5. Table of Contents

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

6. 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.

7. 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 explanation of the purpose and impact of each proposed change followed by the specific proposed alternate wording. The Agency requests that Offerors propose any specific alternate language via submission of an editable Word document that shows, in redline, the proposed changes and provides a justification of the need for each change using the "Comments" tool within Word. In addition to the editable Word document, if desired, such Offerors may also submit an uneditable Word or PDF version of the same for recordkeeping purposes. Please note that 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.

8. 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 Agency. Offerors should check to ensure that any additional terms or conditions requested are in fact not already included within the Draft Contract set forth in Appendix C. The Agency requests that Offerors

propose any additional terms and conditions via submission of an editable Word document that shows, in redline, the proposed additions and provides a justification of the need for each new provision using the "Comments" tool within Word. In addition to the editable Word document, if desired, such Offerors may also submit an uneditable Word or PDF version of the same for recordkeeping purposes.

9. 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.

10. Lobbying

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

IV. SPECIFICATIONS

A. DETAILED SCOPE OF WORK

SCOPE OF WORK

EMPLOYEE ASSISTANCE PROGRAM (EAP)

1.0 INTRODUCTION AND PROGRAM PURPOSE

1.1 The State of New Mexico, through the Health Care Authority (HCA) and the State Health Benefits Bureau (SHB), administers a broad and diverse benefits program supporting eligible individuals across State agencies, participating Local Public Bodies (LPBs), and households throughout the State of New Mexico.

1.2 As part of its commitment to a healthy, resilient, and supported workforce, the State of New Mexico offers an Employee Assistance Program (EAP) to assist employees and eligible household members with personal, emotional, financial, legal, and work-related concerns that may affect well-being or job performance.

1.3 The EAP is intended to function as a preventive, supportive, educational, and crisis-response resource. Members shall have access to confidential, timely, empathetic, and professional support for concerns including stress, grief, financial issues, relationship issues, workplace concerns, and major life transitions.

1.4 Because of New Mexico's geographic and demographic diversity, the EAP shall provide services accessible to members in urban, rural, and frontier communities and shall be responsive to the cultural and linguistic needs of the populations served.

1.5 The State seeks a Contractor with demonstrated experience delivering comprehensive, integrated, and user-friendly EAP services. The Contractor shall serve as a strategic partner to SHB and provide reliable access to counseling, crisis intervention, digital tools, expert guidance, work-life resources, and organizational support.

1.6 The Contractor shall apply industry best practices, innovative approaches, and operationally sound processes to support member access, program effectiveness, and continuous improvement.

2.0 GENERAL PROGRAM REQUIREMENTS

2.1 The Contractor shall deliver a complete and confidential EAP that operates continuously and reliably and is accessible twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year.

2.2 The Contractor shall provide multiple communication and service channels, including, at minimum:

2.2.1 A dedicated toll-free telephone line;

2.2.2 Secure video counseling;

2.2.3 Online appointment scheduling;

2.2.4 Live chat and secure electronic communication;

2.2.5 Text-based support when clinically appropriate; and

2.2.6 Accessible alternatives for members who require language assistance or disability-related accommodations.

2.3 The Contractor shall provide a seamless and user-friendly member experience regardless of the access method selected.

2.4 The Contractor shall provide support for mental and emotional health needs, interpersonal and relationship concerns, workplace issues, trauma and crisis events, substance misuse concerns, legal and financial matters, parenting and caregiving concerns, and other appropriate EAP needs.

2.5 The Contractor shall maintain a statewide network of appropriately licensed and credentialed clinicians capable of providing short-term counseling in person, by telephone, and through secure video, with sufficient capacity to serve members throughout New Mexico.

2.6 When a member requires care beyond the scope of the EAP, the Contractor shall provide appropriate referrals and navigation assistance to support transition to longer-term, specialized, or other appropriate services.

2.7 The Contractor shall provide work-life, legal, and financial resources delivered by qualified professionals and in a manner that supports informed decision-making by members.

2.8 The Contractor shall maintain a secure, accessible, and mobile-friendly digital platform that supports member engagement, self-service access, educational resources, digital training, and secure communication.

2.9 The Contractor shall provide organizational support services, including Critical Incident Stress Management (CISM) and Learning and Organizational Excellence (LOE) training and consultation, as further described in this Scope of Work.

2.10 The Contractor shall proactively collaborate with SHB, participate in regular discussions, identify emerging trends, and recommend program improvements.

3.0 SCOPE OF SERVICES

3.1 COUNSELING AND EMOTIONAL SUPPORT SERVICES

3.1.1 The Contractor shall provide confidential, short-term counseling for personal, emotional, behavioral, and work-related concerns.

3.1.2 Counseling shall be available through multiple modalities, including in-person, telephonic, and secure video counseling.

3.1.3 Counseling services shall be delivered by appropriately licensed and credentialed professionals with training and experience relevant to the presenting concern.

3.1.4 The Contractor shall maintain sufficient staffing and provider capacity to support timely access to services across the State.

3.1.5 Counseling and support shall be available for concerns including, but not limited to, stress, anxiety, depression, grief, relationship concerns, trauma, workplace concerns, and substance misuse.

3.1.6 When longer-term or specialized care is warranted, the Contractor shall provide appropriate referrals and assist the member in connecting to services outside the EAP.

3.1.7 The Contractor shall clearly define the counseling session benefit applicable under the Agreement, including the number of sessions available, the basis on which sessions are allocated, the definition of a separate presenting issue, and the treatment of recurring or related issues.

3.1.8 The Contractor shall administer counseling benefits consistently across eligible members and household members in accordance with the benefit structure established by SHB.

3.1.9 The Contractor shall support continuity of care when a member transitions from EAP counseling to behavioral health, substance use, medical, community-based, or other services outside the EAP.

3.2 WORK-LIFE, LEGAL, AND FINANCIAL ASSISTANCE

3.2.1 The Contractor shall provide comprehensive work-life services to support members with daily living needs and challenges.

3.2.2 Work-life resources may include child care and elder care resources, relocation assistance, pet care resources, housing supports, community resource navigation, daily living tools, and guidance regarding government or community programs.

3.2.3 The Contractor shall provide access to legal consultation on matters such as estate planning, wills and trusts, family law, and other appropriate personal legal matters.

3.2.4 The Contractor shall provide access to financial consultation on matters such as debt management, budgeting, insurance needs, retirement considerations, mortgage decisions, and other appropriate personal financial matters.

3.2.5 The Contractor shall ensure that legal, financial, and work-life consultations are confidential, are provided by qualified professionals, and provide members with practical and actionable information.

3.3 DIGITAL TOOLS AND ONLINE PLATFORM

3.3.1 The Contractor shall operate and maintain a secure, intuitive, accessible, and mobile-friendly digital platform supporting the EAP member experience.

3.3.2 The platform shall include guided behavioral health programs, educational content, interactive resources, personal well-being modules, and self-care tools addressing topics such as anxiety, stress, sleep, mindfulness, and related concerns.

3.3.3 Members shall be able to initiate or schedule services online, access expert resources, view relevant content, communicate securely, and access digital training.

3.3.4 The Contractor shall maintain and update digital content regularly and shall ensure that the platform meets all applicable accessibility, privacy, and security requirements.

3.3.5 Digital tools shall supplement, and shall not replace, member access to qualified professionals when professional counseling, crisis intervention, legal, financial, or other professional services are appropriate.

3.4 CRISIS INTERVENTION AND ORGANIZATIONAL SERVICES

3.4.1 The Contractor shall provide crisis intervention and organizational support services, including CISM, for traumatic, disruptive, or other significant events affecting State agencies, LPBs, employees, or workgroups.

3.4.2 The Contractor shall maintain the operational capability to receive and coordinate requests for crisis support at all times and to provide remote and onsite services, as appropriate to the circumstances and location.

3.4.3 Crisis services may include consultation with leadership or human resources, psychological first aid, individual or group support, defusing or debriefing services where clinically appropriate, referral and follow-up resources, and other services appropriate to the event.

3.4.4 The Contractor shall provide LOE training and consultation addressing topics such as emotional well-being, behavioral health awareness, communication strategies, supervisory support, team resilience, and workplace relationship dynamics.

3.4.5 Crisis intervention and organizational services shall be delivered by professionals with appropriate training and experience in crisis response, behavioral health, and/or organizational facilitation, as applicable.

3.4.6 The Contractor shall coordinate with SHB and the requesting agency or LPB regarding the scope, delivery method, communications, and follow-up associated with organizational or critical incident services.

3.5 COVERED POPULATIONS

3.5.1 Services under this Agreement shall be available to all eligible populations identified by SHB, including eligible employees of the State of New Mexico and participating LPBs, eligible spouses or partners, eligible dependents, and other eligible individuals residing within the employee's household, as determined by SHB.

3.5.2 Services shall be available to eligible minor children, as appropriate, and shall be responsive to the diverse needs of families and households.

3.5.3 The Contractor shall apply eligibility rules and files provided or approved by SHB and shall promptly coordinate with SHB when eligibility cannot be confirmed or when discrepancies are identified.

3.6 PROVIDER NETWORK, ACCESS, AND REFERRALS

3.6.1 The Contractor shall maintain an adequate network of licensed and credentialed EAP professionals sufficient to support eligible members throughout New Mexico, including urban, rural, and frontier communities.

3.6.2 The Contractor shall maintain both in-person and virtual service capacity and shall establish procedures for identifying alternative providers or service modalities when a member cannot reasonably access the initial referral.

3.6.3 The Contractor shall maintain accurate information regarding provider licensure, credentials, specialties, languages, service modalities, geographic availability, and acceptance of new referrals.

3.6.4 The Contractor shall be responsible for assisting members with locating an available provider and shall not place the burden on the member to independently contact multiple unavailable providers.

3.6.5 The Contractor shall maintain referral processes for behavioral health, substance use treatment, medical care, community resources, legal services, financial services, and other services outside the EAP, as appropriate.

3.6.6 The Contractor shall coordinate referrals in a manner that supports continuity, confidentiality, and informed member choice.

3.7 MANAGEMENT, SUPERVISORY, AND ORGANIZATIONAL REFERRALS

3.7.1 The Contractor shall provide consultation and referral support to authorized managers, supervisors, human resources personnel, and other designated State or LPB representatives regarding appropriate use of EAP services.

3.7.2 The Contractor shall support voluntary, informal, formal, and other management-initiated referrals as authorized by SHB and consistent with applicable law and policy.

3.7.3 The Contractor shall clearly communicate the confidentiality parameters applicable to management or organizational referrals, including the information that may and may not be disclosed to the referring entity.

3.7.4 Where an authorized formal referral permits limited confirmation of participation or compliance, the Contractor shall disclose only the minimum information permitted by law, member authorization, and applicable State policy.

3.7.5 The Contractor shall provide consultation to managers and human resources representatives regarding workplace concerns without requiring disclosure of confidential member clinical information.

3.8 MEMBER COMMUNICATIONS, EDUCATION, AND ENGAGEMENT

3.8.1 The Contractor shall support SHB in promoting awareness, understanding, and appropriate use of EAP services across eligible populations.

3.8.2 The Contractor shall provide member-facing communications and educational materials suitable for use through email, websites, benefit guides, onboarding, webinars, benefit fairs, workplace campaigns, and other channels identified by SHB.

3.8.3 The Contractor shall provide manager and supervisor resources explaining appropriate EAP referrals, confidentiality, crisis support, and available organizational services.

3.8.4 All communications developed specifically for the State shall be subject to SHB review and approval prior to distribution unless otherwise authorized by SHB.

3.8.5 The Contractor shall coordinate outreach and engagement activities with SHB priorities and, when requested, with other State wellness, behavioral health, benefits, or point-solution initiatives.

3.9 LANGUAGE ACCESS, CULTURAL RESPONSIVENESS, AND ACCESSIBILITY

3.9.1 The Contractor shall provide services in a manner that is culturally responsive and appropriate for the populations served by SHB.

3.9.2 The Contractor shall provide reasonable language assistance, including access to bilingual providers and/or qualified interpretation resources, as necessary to support members with limited English proficiency.

3.9.3 The Contractor shall provide member materials and digital resources in accessible formats and shall comply with applicable disability-access and digital-accessibility requirements.

3.9.4 The Contractor shall accommodate members who require alternative communication methods or reasonable modifications to access EAP services.

3.10 REPORTING AND DATA REQUIREMENTS

3.10.1 The Contractor shall provide accurate, complete, timely, and auditable reports to SHB in the format and frequency specified by SHB.

3.10.2 Reporting shall include, at a minimum:

- Program utilization and unique users;
- Number and type of service encounters;
- Presenting issue trends;
- Demographic and geographic insights, subject to applicable confidentiality and privacy requirements;
- Service modality, including in-person, telephonic, virtual, and digital utilization;
- Management and organizational referral activity;
- Crisis and organizational support events;
- Work-life, legal, and financial service utilization;
- Digital engagement metrics;
- Access and responsiveness measures;
- Member satisfaction and complaint trends;
- Referral activity to services outside the EAP;
- Communication, training, and engagement activity; and
- Other data and reports reasonably requested by SHB.
- The Contractor shall provide sufficient narrative analysis with reporting to identify meaningful trends, emerging concerns, utilization patterns, access issues, and opportunities for program improvement.

3.10.3 The Contractor shall protect member confidentiality in all reporting and shall apply appropriate aggregation, suppression, or other privacy protections when reporting small populations or sensitive information.

3.10.4 The Contractor shall ensure that all data submitted to SHB is supported by underlying records and complies with all applicable confidentiality, privacy, and data security requirements.

3.11 DATA OWNERSHIP, RECORD RETENTION, AND TRANSITION SUPPORT

3.11.1 To the extent permitted by applicable law, State-specific program, utilization, financial, outreach, engagement, performance, administrative, and operational data generated through delivery of services under this Agreement shall be available to and usable by the State for contract administration, program evaluation, transition, and other lawful purposes.

3.11.2 Nothing in this Section shall be interpreted to require disclosure to SHB of individually identifiable counseling, clinical, substance use, or other confidential records where disclosure is prohibited by applicable law or where member authorization is required and has not been obtained.

3.11.3 The Contractor shall maintain EAP records in accordance with all applicable federal and state laws and regulations, professional standards, contractual obligations, and record-retention requirements.

3.11.4 The Contractor shall make records and information necessary for SHB to administer and audit the Agreement available upon request to the extent disclosure is permitted by applicable law and consistent with member confidentiality requirements.

3.11.5 Upon expiration or termination of the Agreement, or during any transition period, the Contractor shall fully cooperate with SHB and any successor contractor in the timely and orderly transfer of EAP-related reports, operational materials, program data, documentation, reporting processes, and historical program information.

3.11.6 Transition activities shall be performed in a manner designed to maintain continuity of EAP services and minimize disruption to members, including appropriate handling of active cases and pending organizational services consistent with applicable law and member confidentiality.

3.12 TECHNOLOGY, PRIVACY, AND SECURITY

3.12.1 The Contractor shall maintain technology systems and administrative, technical, and physical safeguards appropriate to the sensitivity of the information processed and to the delivery of EAP services.

3.12.2 The Contractor shall comply with all applicable federal and state privacy and security requirements, including HIPAA and 42 C.F.R. Part 2 when applicable, and any other requirements governing behavioral health information or confidential communications.

3.12.3 The Contractor shall maintain business continuity and disaster recovery processes sufficient to support continued access to core EAP services, data, and communications in the event of an outage, disaster, emergency, or other operational disruption.

3.12.4 The Contractor shall notify SHB of actual or suspected privacy, security, or data incidents involving information related to services provided under this Agreement in accordance with applicable law and contractual requirements.

3.12.5 The Contractor shall identify all systems, applications, third-party platforms, and subcontracted technology services materially involved in the delivery of the EAP and shall remain responsible for compliance with applicable security and privacy requirements.

3.13 IMPLEMENTATION AND TRANSITION-IN

3.13.1 The Contractor shall develop and execute a comprehensive implementation plan in coordination with SHB prior to the effective date of services.

3.13.2 The implementation plan shall address, at a minimum, governance, roles and responsibilities, project milestones, eligibility and data exchange, member communications, digital and telephonic access, provider-network readiness, reporting configuration, training, testing, issue escalation, and go-live readiness.

3.13.3 The Contractor shall designate an implementation lead with authority to coordinate implementation activities and resolve issues across the Contractor's organization.

3.13.4 The Contractor shall coordinate with SHB and, when directed by SHB, the incumbent EAP contractor to support continuity of services and an orderly transition.

3.13.5 The Contractor shall identify implementation risks, dependencies, and decisions requiring SHB action and shall communicate such items promptly and in an organized manner.

3.13.6 The Contractor shall support transition of active cases and ongoing organizational services to the extent appropriate and legally permissible, with the objective of minimizing disruption to members and agencies.

3.14 ACCOUNT MANAGEMENT AND GOVERNANCE

3.14.1 The Contractor shall assign a qualified account management team responsible for day-to-day contract support, issue resolution, reporting, strategic consultation, and coordination with SHB.

3.14.2 The Contractor shall identify a primary account manager and an executive-level escalation contact and shall notify SHB in advance of material changes to assigned personnel whenever practicable.

3.14.3 The Contractor shall participate in operational, implementation, strategic, and other governance meetings as requested by SHB.

3.14.4 The Contractor shall maintain a documented process for tracking open issues, decisions, action items, risks, and escalations arising from contract administration.

3.14.5 The Contractor shall provide consultative support to SHB regarding utilization trends, workforce needs, engagement opportunities, emerging EAP practices, and program improvement opportunities.

3.15 COMPLAINTS, GRIEVANCES, AND ESCALATION

3.15.1 The Contractor shall maintain documented processes for receiving, investigating, resolving, and tracking member complaints and service concerns.

3.15.2 The Contractor shall maintain escalation procedures for urgent member-access issues, clinical concerns, provider issues, organizational requests, data issues, and other matters requiring elevated attention.

3.15.3 The Contractor shall provide SHB with information regarding complaint themes, root causes, corrective actions, and unresolved or material issues, subject to applicable confidentiality requirements.

3.15.4 The Contractor shall coordinate with SHB when a complaint or service issue presents a material operational, reputational, contractual, or member-impact concern.

3.16 SUBCONTRACTORS AND DELEGATED SERVICES

3.16.1 The Contractor shall disclose all material subcontractors, affiliates, or delegated entities that will perform services or process State data in support of this Agreement.

3.16.2 The Contractor shall remain fully responsible for the performance, compliance, quality, security, privacy, and contractual obligations of all subcontractors and delegated entities.

3.16.3 The Contractor shall not materially change or replace a subcontractor performing a critical service without prior notice to SHB and any approval required under the Agreement or applicable procurement requirements.

3.16.4 All subcontractors and delegated entities shall be subject to requirements at least as protective as those applicable to the Contractor where relevant to the services performed.

3.17 AUDIT, DOCUMENTATION, AND PROGRAM OVERSIGHT

3.17.1 The Contractor shall maintain complete and accurate documentation sufficient to substantiate invoicing, utilization reporting, provider-network representations, service delivery, eligibility administration, and compliance with the requirements of this Scope of Work.

3.17.2 Subject to applicable confidentiality and privacy restrictions, the Contractor shall provide SHB and authorized State representatives reasonable access to records necessary to validate contractual compliance and program administration.

3.17.3 The Contractor shall cooperate with program reviews, audits, investigations, data validation activities, and corrective-action processes conducted or authorized by the State.

3.17.4 Audit and oversight activities shall be conducted in a manner that protects confidential member information and does not require disclosure of protected clinical information beyond what is legally permissible and necessary.

3.18 COMPLIANCE

3.18.1 The Contractor shall comply with all applicable federal and state laws, regulations, professional standards, and ethical requirements governing the delivery of EAP services, including requirements related to behavioral health service delivery, privacy and confidentiality, data security, licensure, accreditation, accessibility, and professional practice.

3.18.2 The Contractor shall ensure that all personnel and subcontractors involved in providing services under this Agreement meet all applicable licensure, certification, credentialing, training, and professional requirements.

3.18.3 The Contractor shall maintain documentation sufficient to demonstrate ongoing compliance with applicable requirements and shall provide such documentation to SHB upon reasonable request.

3.18.4 The Contractor shall notify SHB of any material regulatory action, licensure restriction, accreditation change, legal restriction, or other event that may materially affect the Contractor's ability to perform services under the Agreement.

3.19 COLLABORATION AND CONTINUOUS IMPROVEMENT

3.19.1 The Contractor shall work collaboratively with SHB to support program operations and provide timely updates regarding emerging member needs, operational concerns, and program trends.

3.19.2 The Contractor shall maintain sufficient staffing, resources, provider capacity, and operational readiness to fulfill the requirements of this Scope of Work during routine operations and periods of increased demand.

3.19.3 The Contractor shall identify and recommend enhancements, innovations, and additional services that may strengthen the EAP, improve member experience, and support a resilient statewide workforce.

3.19.4 The Contractor shall participate in mutually agreed program-improvement activities, corrective-action efforts, and strategic planning as requested by SHB.

4.0 PRICING AND SERVICE INCLUSIONS

4.1 The Offeror shall clearly identify in its Cost Proposal all services included in the base administrative fee and all services, if any, that may result in additional charges to the State.

4.2 At a minimum, the Offeror shall clearly identify the pricing treatment of counseling, crisis and CISM services, organizational consultation, training, legal and financial consultation, work-life services, digital tools, communications, implementation, reporting, account management, travel, and any optional or enhanced services.

4.3 No service required by this Scope of Work shall be subject to an additional charge unless the applicable charge is expressly identified in the Offeror's Cost Proposal and accepted by the State as part of the resulting Agreement.

4.4 The Contractor shall not impose fees on members for covered EAP services except where expressly authorized by the State and clearly disclosed in the Agreement.

5.0 ORDER OF PRECEDENCE AND RELATED CONTRACT DOCUMENTS

5.1 This Scope of Work defines the services and responsibilities required of the Contractor. Performance guarantees, service-level thresholds, financial remedies, and amounts at risk, if applicable, shall be established separately in the Performance Guarantees document and incorporated into the resulting Agreement.

5.2 Nothing in this Scope of Work shall be interpreted to waive or limit any additional requirement contained in the RFP, the Contractor's accepted proposal, the Performance Guarantees, the resulting Agreement, or applicable law.

5.3 In the event of a conflict among contract documents, the order of precedence established in the resulting Agreement shall govern.

B. TECHNICAL SPECIFICATIONS

1) Organizational Experience

Offeror **must**:

a) Provide a detailed description of relevant corporate experience with state government and private sector. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge as a provider of Employee Assistance Program (EAP) services. All Employee Assistance Program (EAP) services provided to private sector will also be considered;

b) Provide a detailed bio of all key personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. Key personnel is identified as Account Manager, Eligibility Manager and Call Center Manager. Offeror must include key personnel education, work experience, and relevant/applicable

certifications/licenses.

c) Describe at least two project successes and failures relevant to the Detailed Scope of Work. Include how each experience improved the Offeror's services.

2) Organizational References

Offeror must provide a list of a minimum of three (3) external references from similar projects/programs in scope and scale performed for private, state or large local government clients within the last three (3) years. At least one (1) reference must be from a client whose contract with the Offeror has been terminated or concluded within the past three (3) years, and the Offeror shall include a brief description of the reason for termination or conclusion and whether the client would consider engaging the Offeror again.

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.

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 <u>not</u> return the completed Questionnaire to the Offeror.** It is the Offeror's responsibility to ensure the completed forms are submitted on or before the date indicated in Section II.A, Sequence of Events, for inclusion in the evaluation process.

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

C. BUSINESS SPECIFICATIONS

1. Financial Stability

The offeror is required to provide financial stability information as part of the proposal.

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 submit a signed form will result in Offeror's disqualification.**

3. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

4. Oral Presentation

If oral presentations are held, finalist Offeror(s) may be required to explain, demonstrate, detail, and/or clarify any aspect of its submitted proposal, to which the Evaluation Committee may ask questions and/or seek clarifications. Pursuant to Section II.B.7, Oral Presentations may held at the sole discretion of the Evaluation Committee.

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 to the Scope of Work. All proposed costs listed on Appendix D must be justified and evidence of need documented in the cost proposal narrative. The Agency will review all proposed costs for reasonableness and allowability.

6. New Mexico/Native American Resident Preferences

To ensure application of § 13-1-21 NMSA 1978 (as amended), an Offeror **MUST** submit a copy, in this section, of its valid New Mexico/Native Resident Preference Certificate or its valid New Mexico/Native American Resident Veteran Preference Certificate, as issued by the New Mexico Taxation and Revenue Department.

V. EVALUATION

1. 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

Evaluation Factors *(Correspond to Sections IV.B and IV.C)*	**Points Available**
B. Technical Specifications (Total Points)	
B. 1. Organizational Experience	75
B. 2. Organizational References	75
B. 3. Questionnaire (Technical Proposal)	400
C. Business Specifications (Total Points)	
C.1. Financial Stability	Pass/Fail
C.2. Letter Of Transmittal	Pass/Fail
C.3. Campaign Contribution Disclosure Form	Pass/Fail
C. 4. Oral Presentations	150
C.5. Cost (proposal budget and cost narrative)	300
TOTAL POINTS AVAILABLE	**1,000**
C.6.A New Mexico / Native American Resident Preference	**80**
C.6.B New Mexico / Native American Resident Veteran Preference Points per Section IV C.7	**100**

2. EVALUATION FACTORS

B. TECHINICAL SPECIFICATIONS

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. Organizational References (See Appendix F)

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 all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

C. BUSINESS SPECIFICATIONS

a. **Financial Stability (See Table 1)**
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).

1. Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

2. Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

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. Cost (See Table 1)

The offeror will be evaluated based on a best value determination, taking into account the total cost of implementation of the program for the 4-year contract period. The evaluation of each Offeror's cost proposal will be conducted using the following formula

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

5. New Mexico/Native American Resident Preferences

Percentages will be determined based upon the point-based system outlined in § 13-1-21 NMSA 1978 (as amended).

6 A. New Mexico Resident Business Preference / Native American Resident Preference

If an Offeror has provided a copy of its New Mexico Resident Preference Certificate or Native American Resident Preference Certificate, the points awarded will be calculated as 8% of the total points available in this RFP.

6 B. New Mexico/Native American Resident Veteran Preference

If an Offeror has provided a copy of its New Mexico Resident Veteran Preference Certificate or Native American Resident Veteran Preference Certificate the points awarded will be calculated as 10% of the total points available in this RFP.

3. 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.

1. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.

2. The Evaluation Committee may use other sources of information 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 Offeror(s) with scores in the competitive range as established by the Evaluation Committee may be selected as finalist Offerors, based upon the proposals submitted. The Agency reserves the right to enter into best and final negotiations with one or more Offerors in response to this RFP. 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.10). 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

REQUEST FOR PROPOSAL

Employee Assistance Program (EAP) of the State of New Mexico
RFP#: 27-630-0900-0015

ACKNOWLEDGEMENT OF RECEIPT FORM

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

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

ORGANIZATION:_____

_
CONTACT NAME:_____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:
To: Shashikanth Surkanti
E-mail: Shashikanth.Surkanti@hca.nm.gov
Subject Line: **Employee Assistance Program (EAP) of the State of New Mexico**
RFP#: 27-630-0900-0015

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

A prospective contractor or a family member or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

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

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

The following definitions apply:

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

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

"**Campaign Contribution**" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"**Family member**" means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

"**Pendency of the procurement process**" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

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

"**Representative of a prospective contractor**" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any: Governor Michelle Lujan-Grisham; Lieutenant Governor Howie Morales,
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 anticipated 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

HEALTH CARE AUTHORITY

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter this "Agreement") is made by and between the State of New Mexico, **Health Care Authority**, hereinafter referred to as the "HCA," and **NAME OF CONTRACTOR**, hereinafter referred to as the "Contractor".

RECITALS

WHEREAS, the State of New Mexico Health Care Authority administers a comprehensive health and welfare benefits Group Health Plan for State employees, participating Local Public Bodies (LPBs), Legislators, and other eligible populations (hereinafter the "Plan"); and

WHEREAS, the HCA on behalf of the Plan has issued a Request for Proposals for the administration of Plan benefits to which Contractor responded with a proposal; and

WHEREAS, the HCA on behalf of the Plan desires to retain Contractor to provide certain employee assistance program services with respect to the Plan that Contractor proposed.

NOW THEREFORE, 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. Capitalized terms not otherwise defined herein this Agreement shall have the definitions set forth in Section 1of Exhibit A.

2. Compensation.

A. The HCA shall pay to the Contractor in full payment for services satisfactorily performed the Fees set forth in Exhibit B, Fee Schedule, which is attached to this Agreement and

incorporated herein; and such compensation, in total, shall not exceed -- dollars ($), including gross receipts tax, during the term of this Agreement. This amount is a maximum and not a guarantee that the work assigned to be performed by the Contractor under this Agreement shall equal the amount stated herein. The New Mexico gross receipts tax, if applicable, levied on the amounts payable under this Agreement shall be paid by the Contractor. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. The Contractor is responsible for notifying the HCA 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.

1) The Authority shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work an amount not to exceed -- dollars ($--) in **FY27**, including gross receipts tax.

2) The Authority shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work an amount not to exceed -- dollars **($--)** in **FY28**, including gross receipts tax.

3) The Authority shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work an amount not to exceed -- dollars **($--)** in **FY29**, including gross receipts tax.

4) The Authority shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work an amount not to exceed -- dollars **($--)** in **FY30**, including gross receipts tax.

B. Payment in FY27, FY28, FY29, and FY30 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 Agency 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 Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and

outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL EXECUTED BY THE GSD/SPD Contracts Review Bureau (the "Effective Date"). This Agreement shall commence on the Effective Date and shall expire [INSERT YEARS] years thereafter, unless earlier terminated pursuant to Section 4 (Termination), or Section 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 Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. Notice; Agency Opportunity to Cure.

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

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

D. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

E. Survival. Any provision of this Agreement which by its nature would continue beyond the term of this Agreement will survive the expiration or termination of this Agreement, including: Section 2 B and C, Section 4 C, D, and E, Sections 6 through 11, Section 18, Section 21, and Section 27.

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 Agency to the

Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the General Services Department/State Purchasing Division and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

7. Release.

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

8. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

9. Confidentiality.

A. Definition. "Confidential Information" of HCA means any and all information, except

information that is or becomes generally public other than as a result of the breach of this Agreement, that is provided to or developed by the Contractor in the performance of this Agreement. Contractor acknowledges and agrees that, as between Contractor and the HCA, all Confidential Information is owned by the HCA, including underlying member data (in any form).

B. Obligations of Non-Use and Non-Disclosure. Contractor agrees not to use Confidential Information for any purpose other than to exercise its rights or perform its obligations under this Agreement. For example, Contractor shall not (i) sell, license, or grant any other rights to the Confidential Information, or (ii) use the Confidential Information for the creation, operation or improvement of any product, service or database for external or commercial use. Additionally, Contractor shall not disclose the Confidential Information to any person or entity other than to its employees, permitted subcontractors, and Business Associates needing access to such information for the permitted uses herein. Notwithstanding the foregoing, Contractor is requested or required to disclose the Confidential Information by a court order, subpoena, legal process, or applicable law, including public records acts, it shall (to the extent permitted by law) provide the HCA with prompt written notice of that request or requirement so that the HCA may seek a protective order or other appropriate remedy and shall furnish only that portion of such Confidential Information that it determines is legally required to be disclosed.

C. Return or Destruction. Upon expiration or termination of this Agreement for any reason whatsoever, Contractor shall cease all use of and within thirty (30) days return to the HCA or destroy all HCA Confidential Information per the written instructions of the HCA, except to the extent that Contractor is required by applicable law to retain such documents and materials, and provided further that Contractor may keep a single copy of all Confidential Information within its legal archives solely to assure compliance with applicable law. The obligations of this Section 9 shall survive the termination or expiration of this Agreement until such time as Contractor no longer retains any Confidential Information.

10. Rights to and Protection of Data.

A. Rights. Any and all Data that is stored upon Contractor's servers or lies within Contractor's custody hereunder, is the HCA's sole and separate property and inures to the HCA's exclusive benefit. As used herein, "Data" means any and all data provided by or on behalf of the HCA to Contractor, its agents or permitted subcontractors, or generated as a result of the performance of this Agreement, including, but not limited to, Confidential Information of HCA, for example eligibility data provided to Contractor by HCA; provided, however, that any records generated under this Agreement that Contractor is legally obligated to retain, such as patient medical records, shall be excluded from the definition of "Data" while the data contained therein shall be included in the definition of "Data". None of Contractor or Contractor's Employees, subcontractor(s), affiliates and/or assigns will make use of, disclose, sell, copy, license or reproduce the Data in any manner, or provide the Data to any third party absent the HCA's prior written authorization. Notwithstanding the foregoing, Contractor, its subcontractors or its subsidiaries may use the Data to provide Services and information derived from the Data for internal business purposes, including research and analysis and performance benchmarking, so long as such Data retains its original character (i.e., it is not de-identified, if PHI) or Contractor receives HCA's prior written consent. With HCA's prior written consent, Contractor may also provide the HCA's Data to a third party to the extent permitted by applicable law or this

Agreement. Contractor shall supply the HCA a copy of its Data in a mutually agreed file format within five (5) business days, or a mutually agreed upon timeframe, of a written request submitted to Contractor from the HCA's Chief Information Officer.

B. Safeguards. Contractor will protect and safekeep all of the Data to the same or a higher degree of care that Contractor takes with respect to its own information and data, but in any event not less than a reasonable degree of care. Contractor will implement administrative, physical, and technical safeguards consistent with commercially acceptable standards and practices to protect the Data from any and all harm, including but not limited to, breach, intrusion, contamination, corruption, loss, leak, theft, disintegration, viral attack, denial-of-service, malware, worms, trojans, ransomware, hacking, phishing, skimming and other damage of any kind (collectively "Data Damage"), whether caused by Contractor, Contractor's employees or one or more third parties. Data Damage shall not include (i) unsuccessful attempts to penetrate networks or servers maintained by Contractor and (ii) immaterial incidents that occur on a routine basis, such as general "pinging" or "denial of service" attacks. In the event a Data Damage incident occurs while the Data is within Contractor's purview and/or control, upon Contractor's confirmation of a Data Damage incident affecting Data and without undue delay, Contractor will notify the HCA's Chief Information Officer concerning the Data Damage incident, including sufficient information (to the extent such information is known) and the measures Contractor will implement to mitigate the Data Damage. For the avoidance of doubt, HCA will be notified of a Data Damage incident resulting in the unauthorized access, use, disclosure, modification, or destruction of HCA's PII and PHI per the terms of the BAA, specifically Section 4(c).

C. Use and Disclosure of Patient Information. The parties acknowledge and agree that they have entered into a Business Associate Agreement ("BAA") as required by HIPAA, which is attached hereto as Exhibit C and incorporated herein by this reference. The parties agree the BAA will govern the use, access, or disclosure of all personally identifiable information ("PII"), including Protected Health Information ("PHI"), Contractor may collect or receive. While Contractor does not anticipate receiving or collecting PII about Covered Persons that is not PHI, Contractor agrees to protect and secure any PII of Covered Persons according to the terms of the BAA and agrees to fulfill any other obligations related to PII as required therein.

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 Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Equitable Remedies.

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the HCA irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the HCA, and the Contractor consents to the HCA's obtaining from a court of competent jurisdiction in the State of New Mexico, specific performance, or injunction, or any

other equitable relief in order to enforce such compliance. HCA's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that the HCA may have under applicable law, including, but not limited to, monetary damages.

13. Conflict of Interest; Governmental Conduct Act.

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

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

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

2) this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;

4) this Agreement complies with NMSA 1978, § 10-16-9(A)because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family;

(iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase 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 Agency.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

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

14. <u>Penalties for Violation of Law.</u>

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.

15. 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.

16. 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 HCA.

17. 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.

18. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the 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.

19. Assignment.

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

20. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

21. Contractor Personnel.

A. Key Personnel. The Contractor's key personnel shall not be diverted from this Agreement without the prior written approval of the Authority. Key personnel are those individuals considered by the Authority to be mandatory to the work to be performed under this Agreement. Key personnel shall be agreed upon by both the Authority and the Contractor.

B. Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, qualifications, and experience. If the number of Contractor's personnel assigned

to the Authority is reduced for any reason, Contractor shall, replace with the same or greater number of personnel with equal ability, experience, and qualifications.

22. 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.

23. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

24. Incorporation by Reference and Order of Precedence. If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any Authority response to questions); (2) the Contractor's best and final offer; and (3) the Contractor's response to the request for proposals. In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the body of Agreement, followed by all its Exhibits, including the Scope of Work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the Authority; and (5) the Contractor's response to the request for proposals.

25. 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 Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

26. 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.

27. 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.

28. 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 HCA:

JoLou Trujillo-Ottino, Director

New Mexico Health
Care Authority State
Health Benefits Bureau

PO Box 2348

Santa Fe, NM 87504

To the Contractor: [insert name, address and email].

29. 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.

Remainder of this page intentionally left blank; Signature page follows

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:_____

HCA

By: _____ Date:_____

HCA's Legal Counsel – Certifying legal sufficiency

By: _____ Date:_____

HCA's Chief Financial Officer

By: _____ Date:_____

Contractor

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and/or compensating taxes.

ID Number: **00-000000-00-0**

By: _____ Date:_____

Taxation and Revenue Department

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

By: _____ Date:_____

GSD/SPD Contracts Review Bureau

EXHIBIT A

Scope of Work

[To be inserted from RFP]

EXHIBIT B

Fee Schedule

[To be inserted from Offeror's Proposal]

EXHIBIT C

BUSINESS ASSOCIATE AGREEMENT

This **BUSINESS ASSOCIATE AGREEMENT** (this "**Agreement**") is made by and between HCA (**"Covered Entity"**) and Contractor (the "**Business Associate**"), jointly the "the Parties" and individually a "Party."

RECITALS

A. Covered Entity and Business Associate are Parties to and have entered into a Professional Services Agreement (the "Underlying Agreement"), to which this Business Associate Agreement is an Exhibit. Per the Underlying Agreement, Business Associate provides services involving the creation, receipt, use, disclosure, maintenance or transmission of Protected Health Information that Business Associate receives from or on behalf of Covered Entity (collectively, "PHI").

B. The Parties intend to protect the privacy and provide for the security of PHI that may be stored or transmitted through the terms of the Underlying Agreement in compliance with: (i) the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); (ii) Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), also known as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009; and (iii) regulations promulgated thereunder by the U.S. Department of Health and Human Services, including the HIPAA Omnibus Final Rule ("the HIPAA Final Rule"), which amended the HIPAA Privacy and Security Rule pursuant to the HITECH Act, extending certain HIPAA obligations to business associates and their subcontractors.

C. The purpose of this Agreement is to satisfy certain standards and requirements of HIPAA, the Privacy Rule and Security Rule (as those terms are defined below), and the HIPAA Final Rule, including but not limited to, Title 45, §§164.314(a)(2)(i), 164.502(e), and 164.504(e) of the Code of Federal Regulations ("C.F.R").

D. Covered Entity and Business Associate desire to enter into this Agreement to ensure the protection and proper use and disclosure of PHI and each of the Parties' compliance with HIPAA.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Covered Entity and Business Associate agree as follows:

AGREEMENT

1. Definitions.

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information ("PHI"), Required By Law, Secretary, Subcontractor, Unsecured Protected Health Information and Use. Specific definitions include:

(a) **Affiliate**: "Affiliate" means any corporation, limited liability company or other entity, directly or indirectly controlling, controlled by, or under common control with a party. "Control," including "controlling", "controlled by" or "under common control with" means the power to direct the affairs of a party by reason of (i) having the power to elect or appoint, through ownership, membership or otherwise, either directly or indirectly, a majority of the governing body of such party; (ii) owning or controlling the right to vote a majority number of the shares of voting stock, nonprofit membership interests or other voting interest of such party; or (iii) having the right to direct the general management of the affairs of such party by contract or otherwise.

(b) **Business Associate**: "Business Associate" shall have the same meaning as the "business associate" at 45 C.F.R. §160.103, and in reference to the Party to this Agreement.

(c) **Covered Entity**: "Covered Entity" shall have the same meaning as the term "Covered Entity" at 45 C.F.R. 160.103, and in reference to the Party to this Agreement.

(d) **Disclosure**: "Disclosure" shall mean the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.

(e) **Electronic Protected Health Information" and/or EPHI**: "Electronic Protected Health Information" means Protected Health Information that is created, received, maintained, or transmitted by Electronic Media as defined at 45 C.F.R. §160.103, and includes without limitation, any EPHI provided by Covered Entity or created or received by Business Associate on behalf of Covered Entity.

(f) **HIPAA**: "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-91, as amended, and related HIPAA regulations (45 C.F.R. Part 160 and 164).

(g) **HIPAA Rules**: "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160, 162, and 164, and as amended.

(h) **HITECH Standards**: "HITECH Standards" shall mean the privacy, security, and breach notification provisions applicable to a Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH") Act, which is Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and any regulations promulgated thereunder.

(i) **Privacy Rule**: "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subpart A and Subpart E, as amended.

(j) **Security Incident**: "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

(k) **Security Rule**: "Security Rule" shall mean the Standards for Security of Electronic Protected Health Information at 45 C.F.R. Parts 160, 162, and 164, and as amended.

Capitalized terms used in this Agreement and not otherwise defined herein, have the same meaning as set forth in the Privacy Rule, the Security Rule, and the HIPAA Final Rule, which definitions are incorporated into this Agreement by reference. A change to HIPAA which modifies any defined HIPAA term, or which alters the regulatory citation for the definition, shall be deemed incorporated into this Agreement.

2. General Provisions.

(a) Effect. The provisions of this Agreement shall control with respect to PHI. The terms and provisions of this Agreement shall supersede any conflicting or inconsistent terms and provisions of the Underlying Agreement to the extent of such conflict or inconsistency, except that in the event that any term of provision of the Underlying Agreement provides for an additional restriction on the use or disclosure of PHI or other Covered Entity data, the more restrictive provision shall control. This Agreement shall not modify or supersede any other provision of the Underlying Agreement.

(b) No Third-Party Beneficiaries. The Parties have not created and do not intend to create by the Agreement any third-party rights, including but not limited to, third-party rights for Members or patients of Covered Entity.

(c) HIPAA Amendments. Any future amendment to HIPAA affecting Business Associate agreements is hereby incorporated by reference into this Agreement in its entirety, effective on the later of the of the effective date of this Agreement or such subsequent date as may be specified by HIPAA.

(d) Regulatory References. A reference in this Agreement to a section in HIPAA means the section as it may be amended from time-to-time.

(e) Interpretation. This Agreement is intended to comply with HIPAA. If there is any ambiguity in this Agreement, it will be resolved to permit compliance with HIPAA.

3. Permitted Uses and Disclosures of PHI.

(a) Performance of the Agreement for Covered Entity. Except as otherwise limited in this Agreement, Business Associate may make any and all uses of PHI necessary to perform its

obligations under the Underlying Agreement provided that any such Use or Disclosure would not violate HIPAA if done by Covered Entity. All other uses not authorized by this Agreement are prohibited.

(b) Management, Administration, and Legal Responsibilities. Except as otherwise limited in this Agreement, Business Associate may Use and Disclose PHI for the proper management and administration of Business Associate and/or to carry out the legal responsibilities of Business Associate, provided that any Disclosure may occur only if: (1) Required By Law; (2) Business Associate makes uses or disclosures in accordance with the minimum necessary requirements of HIPAA; (3) Business Associate agrees to use or disclose only a "limited data set" of PHI as defined in the HIPAA Standards while conducting the authorized activities herein, except where a "limited data set" is not practicable in order to accomplish those activities, or (4) Business Associate obtains written reasonable assurances from the person to whom the PHI is Disclosed that it will be held confidentially and Used or further Disclosed only as Required By Law or for the purpose for which it was Disclosed to the person, and the person notifies Business Associate of any instances of which it becomes aware in which the confidentiality of the PHI has been breached.

(c) Business Associate may provide data aggregation services relating to the health care operations of the Covered Entity to the extent specifically authorized within the Underlying Agreement.

(d) Business Associate agrees to make uses and disclosures and requests for PHI of Covered Entity subject to the minimum necessary provisions that are applicable to Business Associate.

(e) Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity.

(f) Except as otherwise provided in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

(g) Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual without Covered Entity's prior written approval and notice from Covered Entity that it has obtained from the Individual, in accordance with 45 C.F.R. § 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by Business Associate.

(h) Business Associate may use or disclose PHI to communicate about a product or service, provided that such communication is made in a manner that does not constitute marketing as defined in 45 C.F.R. § 164.501 or otherwise constitute a use or disclosure that Covered Entity is prohibited from performing itself.

(i) Business Associate in consultation with Covered Entity may use PHI that is the subject of this Agreement to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. § 164.502(j).

(j) Business Associate is not permitted to de-identify PHI without prior written consent of the HCA and, with such consent, is only permitted to de-identify PHI in accordance with HIPAA de-identification rules and to use aggregated, de-identified data for internal benchmarking purposes and to satisfy mandated regulatory requirements that demand such data for reporting purposes.

4. Obligations and Activities of Business Associate.

(a) Use and Disclosure. Business Associate shall not use or disclose PHI, and shall ensure that its officers, directors, owners, employees, agents and subcontractors do not use or disclose PHI, other than as permitted or required by this Agreement or the Underlying Agreement or as Required By Law. [45 C.F.R. §164.504(e)(2)(ii)(A)].

(b) Safeguards Against Misuse of Information. Business Associate agrees that it will implement appropriate safeguards to prevent the unauthorized use or disclosure of PHI other than pursuant to the terms and conditions of this Agreement. To the extent Business Associate will create, receive, maintain, or transmit PHI in electronic format, ("**EPHI**"), Business Associate shall implement administrative, physical, and technical safeguards consistent with the HIPAA Security Rule that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI, including, but not limited to, encryption of data in storage, i.e., data at rest, and in transit, i.e., data in motion, with at least a 256-bit encryption key. [45 C.F.R. §164.504(e)(2)(ii)(B)].

(c) Reporting of Breaches, Security Incidents, and Unauthorized Uses and Disclosures of PHI. Business Associate shall report promptly to Covered Entity without unreasonable delay and in any case within three (3) business days of the date on which Business Associate first discovers it, any Breach of Unsecured PHI, any other use or disclosure of PHI not permitted by this Agreement, and any Security Incident of which it becomes aware, provided that notice is deemed given for Unsuccessful Security Incidents and no further notice of such Unsuccessful Security Incidents shall be given. Business Associate shall provide to Covered Entity all information about a Breach of Unsecured PHI that is required at 45 C.F.R. §164.410, and, if requested by the HCA, provide information necessary for the Authority to investigate promptly the impermissible use or disclosure. Business Associate shall take all reasonable steps to mitigate the harmful effects of a Breach of Unsecured PHI, any other use or disclosure not permitted by this Agreement, and any Security Incident. Business Associate shall cooperate with Covered Entity's efforts to mitigate the harmful effects of the Breach. For purposes of this Section, "Unsuccessful Security Incidents" means, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, as long as no such incident results in unauthorized access, acquisition, Use or Disclosure of PHI.

(d) Risk Assessment. When Business Associate determines whether an impermissible acquisition, use or disclosure of PHI poses a low probability of the PHI being compromised, it shall document its assessment of risk in accordance with 45 CFR § 164.402 based on at least the following factors: (i) the nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the protected health information or to whom the disclosure was made; (iii) whether the protected health information was actually acquired or viewed; and (iv) the extent to which the risk to the protected health information has been mitigated. Such assessment shall include: 1) the name of the person(s) making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons documenting the determination of risk of the PHI being compromised. When requested by the HCA, Business Associate shall make its risk assessments available to the HCA.

(e) Mitigation. If the HCA determines that an impermissible acquisition, access, use or disclosure of PHI, for which Business Associate or one of Business Associate's employees or agents was responsible, constitutes a Breach, and if requested by the HCA, Business Associate shall provide notice to the individuals whose PHI was the subject of the Breach. When requested to provide notice, Business Associate shall consult with the HCA about the timeliness, content and method of notice, and shall receive the HCA's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Associate. The notice to affected individuals shall be provided as soon as reasonably possible and in no case later than 60 calendar days after Business Associate discovered the Breach. In addition, when a Breach involves more than 500 residents of a State or jurisdiction, Business Associate shall, if requested by the HCA, notify prominent media outlets serving such location(s), following the requirements set forth in 45 CFR §164.406.

(f) Disclosure to Subcontractors. Business Associate shall enter into a written agreement meeting the requirements of 45 C.F.R. §§164.504(e) and 164.314(a)(2) with each Subcontractor Business Associate that creates, receives, maintains, or transmits PHI on behalf of Business Associate to which the Subcontractor agrees to be bound to (1) the same or more stringent restrictions and conditions that apply to Business Associate with respect to such PHI; (2) appropriately safeguard the PHI; and (3) comply with the applicable requirements of 45 C.F.R. Part 164 Subpart C of the Security Rule. Business Associate remains responsible for its subcontractors' compliance with obligations in this Agreement.

(g) Access to Information. Within five (10) business days of a request by Covered Entity for access to PHI in a Designated Record Set about an individual, Business Associate shall make PHI available to Covered Entity for as long as such PHI is maintained as required by 45 C.F.R 164.524. In the event any individual requests access to PHI directly from Business Associate, Business Associate shall within five (5) business days forward such request to Covered Entity. Any denials of access to the PHI requested shall be the responsibility of Covered Entity that is the source of the PHI.

(h) Availability of PHI for Amendment. Within ten (10) business days of receipt of a request from Covered Entity for the amendment of an individual's PHI in a Designated Record Set, Business Associate shall provide such PHI to the Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. 164.526. In the event any individual requests an amendment to PHI directly from Business Associate, Business Associate shall within five (5) business days forward such request to Covered Entity that is the source of the PHI.

(i) Accounting of Disclosures. Within ten (10) business days of notice by Covered Entity to Business Associate that Covered Entity has received a request for an accounting of disclosures of PHI regarding an individual, Business Associate shall make available to Covered Entity such information as is in Business Associate's possession and is required for Covered Entity to make the accounting required by 45 C.F. R. 164.528. At a minimum, Business Associate shall provide Covered Entity with the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall, within five (5) business days, forward such request to Covered Entity. It shall be Covered Entity's responsibility to prepare and deliver any such requested accounting. Business Associate shall implement an appropriate record keeping process to enable it to comply with the requirements of this Section 4(i).

(j) Compliance With Covered Entity Obligations. To the extent Business Associate is to carry out Covered Entity's obligation under the Privacy Rule, Business Associate shall comply with the requirements that apply to Covered Entity in the performance of such obligation.

(k) Availability of Books and Records. Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to Covered Entity and to the Secretary for purposes of determining Covered Entity's or Business Associate's compliance with HIPAA. [45 C.F.R. §164.504(e)(2)(ii)(I).]

(l) Restrictions: Limitations in Notice of Privacy Practices. Business Associate shall comply with any reasonable limitation on Covered Entity's notice of privacy practices to the extent that such limitation may affect Business Associate's Use and Disclosure of PHI. Business Associate shall comply with any restriction that Covered Entity is required to abide by under 45 C.F.R. §164.522 and any reasonable restriction on the Use and Disclosure of PHI that Covered Entity has agreed to, to the extent such restriction may affect Business Associate's Use or Disclosure of PHI.

(m) Indemnification. Business Associate will defend any action brought against Covered Entity by a third-party to the extent that the action is based upon a claim that Business Associate has violated HIPAA or such third-party's privacy or confidentiality rights (each, a "**Third-Party Claim**"). Business Associate shall reimburse, indemnify and hold harmless Covered Entity for costs, damages, penalties, expenses (including reasonable attorney's fees) and any final award of damages or settlement amount (collectively, "**Losses**") resulting from (i) a Third-Party Claim, (ii) any breach of this Agreement and (iii) Unauthorized Use or Disclosure, Security Incident or Breach of PHI maintained by Business Associate or Business Associate's agent or subcontractor.

For the avoidance of doubt, Losses resulting from the incidents set forth in (ii) and (iii) above include, without limitation: (1) fines or settlement amount owed to a governmental authority; (2) the cost of any notifications of a breach of the privacy or confidentiality of an individual's personally identifiable information to the individual affected by the breach, a governmental authority, a credit bureau or media outlet; (3) credit monitoring for affected individuals; (4) call center services needed to respond to inquiries from affected individuals; or (5) other reasonable breach response steps taken by Covered Entity to comply with HIPAA or other applicable law.

5. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.

(a) Covered Entity shall notify Business Associate of any limitation(s) in the notice of privacy practices of Covered Entity under 45 C.F.R. §164.520, to the extent such limitation may affect Business Associate's use or disclosure or PHI.

(b) Covered Entity shall notify Business Associate of any changes in, revocation of the permission of any individual to use or disclose his or her PHI, to the extent such changes may affect Business Associate's use or disclosure of PHI.

(c) Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. §164.522, to the extent such restriction may affect Business Associate's use or disclosure of PHI.

6. Term and Termination.

(a) Term. The term of this Agreement shall commence on the Effective Date of the Underlying Agreement and expire at the later of (a) the expiration or termination of Underlying Agreement and (b) such time that Business Associate and its agents and subcontractors have returned to Covered Entity or destroyed PHI.

(b) Termination. Any other provisions of the Underlying Agreement notwithstanding, Covered Entity may terminate the Underlying Agreement upon thirty (30) days' advance written notice to Business Associate for convenience or in the event that Business Associate breaches this Agreement in any material respect and such breach is not cured to the reasonable satisfaction of Covered Entity within such 30-day period provided, however, that in the event that curing the breach of this Agreement is not feasible, in Covered Entity's sole discretion, Covered Entity may immediately terminate the Underlying Agreement without liability or penalty and/or report the breach to the Secretary.

(c) Effect of Breach. Notwithstanding the rights of the Parties pursuant to other provisions of this Agreement or the Underlying Agreement, if Business Associate breaches its obligations under this Agreement, Covered Entity may, at its option (i) exercise any of its rights of access and inspection under this Agreement or the Underlying Agreement; or (ii) require Business Associate to submit to a plan of monitoring and reporting, as Covered Entity may determine necessary to maintain compliance with this Agreement and such plan shall be made part of this Agreement.

Covered Entity's remedies under this Section 6(c) shall be cumulative, and the exercise of any remedy shall not preclude the exercise of any other remedy.

(d) Obligations of Business Associate Upon Termination. Business Associate's obligations under this Agreement will terminate only upon the expiration of this Agreement. Upon termination of the Underlying Agreement, Business Associate shall (i) return to Covered Entity all PHI that it maintains in any form or if expressly approved in writing by Covered Entity, destroy such PHI in accordance with this Agreement; and (ii) retain no copies of such PHI. Business Associate shall ensure the return or destruction of PHI created, received, or maintained by Subcontractors.

7. No Agency Relationship. It is not intended that an agency relationship (as defined under the federal common law of agency) be established hereby expressly or by implication between Covered Entity and Business Associate under HIPAA or the Privacy Rule, Security Rule, or Breach Notification Rule. No terms or conditions contained in this Agreement shall be construed to make or render Business Associate an agent of Covered Entity.

8. Severability. In the event that any provision of this Agreement is found to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, but rather the remainder of this Agreement shall be enforced to the greatest extent of the law.

9. Survival. The obligations of Business Associate under this Agreement shall survive the termination of the Underlying Agreement.

10. Notices. Any notice required to be given pursuant to the terms of this Agreement shall be in writing and shall be hand-delivered or sent by first-class mail to the Party to receive such notice at the addresses listed in Section 27 of the Underlying Agreement.

11. Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed an original but both of which together shall constitute one and the same instrument. Copies of signatures sent by facsimile transmission or scanned and sent by email are deemed to be originals for purposes of execution and proof of this Agreement.

APPENDIX D

COST RESPONSE FORM

Offerors **must** complete and submit the Cost Response Attachment included in this RFP. The attachment requires Offerors to provide detailed cost information for all applicable categories.

All sections of the Cost Response Attachment must be fully completed. Failure to submit a complete and itemized cost response may result in the proposal being deemed non-responsive.

APPENDIX E

LETTER OF TRANSMITTAL FORM

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

RFP#: 27-630-0900-0015

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

Offeror Name	
Mailing Address	
Telephone	
FED TIN#	
NM BTIN#	

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

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

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

-

3. **Will any subcontractor/s be used in the performance of any resultant contract?** (Select one):
____ No.
____ Yes. Identify subcontractor/s: _____

4. **Will any other entity/-ies (such as a State Agency, reseller, etc., that is not a subcontractor identified in #3 above) be used in the performance of any resultant contract**? (Select one)
____ No.
____ Yes. Identify entity/-ies: _____

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

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

Sign: _____ Date: _____

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

APPENDIX F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The State of New Mexico, as a part of the RFP process, requires Offerors to list a minimum of 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: Shashikanth Reddy Surkanti at Shashikanth.Surkanti@hca.nm.gov by December 04, 2026, 3:00PM 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 # 27-630-0900-0015
ORGANIZATIONAL REFERENCE QUESTIONNAIRE FOR:

_____
(Name of Offeror)

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

Name: Shashikanth Surkanti
Email: Shashikanth.Surkanti@hca.nm.gov

Forms must be submitted no later than December 04, 3:00 PM and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings. The comments you provide will help the State evaluate the above-referenced Offeror's service history, successful execution of services and evidence of customer/client satisfaction.

For questions or concerns regarding this form, please contact the State of New Mexico **Procurement Manager** at Shashikanth.Surkanti@hca.nm.gov. When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

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

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: