

**STATE OF NEW MEXICO**

**Crime Victims Reparation Commission**



**Request for Proposals**

**For the Provision of Services For:**

Emergency Assistance for Victims of Crime in New Mexico

**RFP # 24-780-P707-00800**

**Webgrants ID# 25500**

RFP Release Date: September 29, 2023

Due Date October 13, 2023

**ELECTRONIC-ONLY PROPOSAL SUBMISSION**

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## PURPOSE OF THIS REQUEST FOR PROPOSAL

The New Mexico Crime Victim Reparation Commission (CVRC) is issuing this Request for Proposal (RFP) to solicit sealed proposals to establish and fund contracts through competitive negotiations for the procurement of professional services providers who can maintain and expand capacity of Emergency Funds to Victims of Crime. This solicitation will provide funding to governmental, tribal, and non-profit victim service organizations with a demonstrated history of providing professional comprehensive, trauma informed services to victims of crime in New Mexico. The total amount of funding available through this RFP is for the an 8-month period, and is subject to legislative appropriations of funding, and budget approval by the Department of Finance and Administration.

### PROCUREMENT MANAGER

CVRC has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address and email address are listed below:

**Marivel Baca, Procurement Manager**  
[Marivel.Baca@cvrc.nm.gov](mailto:Marivel.Baca@cvrc.nm.gov)  
**NM Crime Victims Reparation Commission**  
**6200 Uptown Blvd NE, Suite 210**  
**Albuquerque, NM 87110**

Any inquiries or requests regarding this procurement should be submitted, in writing, via email, to the Procurement Manager. Applicants 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 agency. All inquiries must be emailed, inquires via the phone or other mediums will be deemed nonresponsive to the RFP.

### SEQUENCE OF EVENTS TIMELINE

	Action	Responsibility	Date
1.	Issuance of RFP	CVRC	09/29/2023
2.	Questions Emailed Within WebGrants System	Potential Offerors	Wednesday, October 11,2023 last question answered at 10:00AM MST
3.	<b>Submission of Proposal Within WebGrants System</b>	Potential Offerors	<b>10/13/2023 4:00 PM MST</b>
4.	*Proposal Evaluation	Evaluation Committee	10/16/23 – 10/25/2023
5.	* Selection of Finalists approved by CVRC Commission	CVRC	10/26/2023
6.	* Preliminary offer(s) notification	CVRC	10/26/2023
7.	* Finalize Contractual Agreement routed for signatures	CVRC/Finalist Offerors	10/27/2023
8.	* Contract awards	Agency/Finalist Offerors	TBD
9.	* Protest	Finalist Offerors	+ 15 days

\* Dates indicated in Events 5 through 9 are estimates only and may be subject to change without necessitating an amendment to the RFP.

## **ISSUANCE OF RFP**

This RFP is being issued on behalf of the New Mexico State Crime Victims Reparation Commission on September 29, 2023.

## **TERM OF THE AWARD**

The term of the contract is November 1, 2023 – June 30, 2024. The initial contract term is for the 8-month period beginning on November 1, 2023 and ending on June 30, 2024. CVRC reserves the right to extend the contract on an annual basis, or any portions thereof, for up to three (3) additional years.

## **ELIGIBILITY**

Applicants must be able to present their organizational capacity to complete the elements outlined within their proposal. The New Mexico Crime Victims Reparation Commission has determined that applications will be ineligible for consideration if they are late, incomplete or fail any of the elements outlined within the Request for Proposal Solicitation.

## **ELIGIBILITY REQUIREMENTS AND RESTRICTIONS**

Eligible applicants under this RFP will reply to the components listed within the scope of work. Eligibility requirements for Applicants under each Service Provision is defined within the Scope of Work. Applicants that do not meet the eligibility requirements under the components in which they are applying will be deemed ineligible and non-responsive to the RFP.

## **GRANT ADMINISTRATION**

The Grants Department of the New Mexico Crime Victims Reparation Commission is responsible for the competitive application process. Any inquiries or requests regarding the application process should be submitted through the WebGrants Questions Function.

## **QUESTIONS REGARDING RFP**

Questions regarding the RFP must be submitted within the WebGrants Online Grants Management System, [www.nmcvrcgrants.com](http://www.nmcvrcgrants.com), which will be displayed to all applicants on the Funding Opportunity Preview.

## **SUBMISSION OF PROPOSALS: ELECTRONIC ONLY**

At this time, only **electronic** proposal submission is allowed. **Do not** submit hard copies. Facsimile, Postal Service or Delivery Service will not be accepted.

Proposals are due, via electronic submission within the **WebGrants Online Grants Management System**, [www.nmcvrcgrants.com](http://www.nmcvrcgrants.com) by **4:00 PM MST/MDT ON October 13, 2023**. Proposal arriving after **4:00 PM MST/MDT** will be disqualified from consideration.

## ***NO LATE PROPOSAL CAN BE ACCEPTED.***

A log will be kept of the names of all Applicant 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.

## **PROPOSAL EVALUATION**

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in the sequence of events, depending upon the number of proposals received. During this time, the Procurement Manager may initiate discussions with Applicants 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 Applicants.

## **SELECTION OF FINALISTS**

The Evaluation Committee will select the finalist and the Procurement Manager will notify the Applicants as per schedule, Sequence of Events or as soon as possible.

## **NOTICE OF AWARD DETERMINATION**

Applicants will be notified of award determination. Selected Applicants may be asked to submit revisions to their proposals as per schedule, Sequence of Events or as soon as possible. Applicants not selected will also receive determination notification.

## **PROTESTS**

Any protest by an Applicant must be timely submitted and in conformance with §13-1-172, NMSA 1978 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15-calendar day protest period shall begin on the day following the notice of Preliminary award of contract(s) and will end at 5:00 pm MST/MDT on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered via electronic submission to:

**Frank Zubia, Director**  
**New Mexico Crime Victims Reparation Commission**  
**Email address: [Frank.Zubia@cvrc.nm.gov](mailto:Frank.Zubia@cvrc.nm.gov)**

## **CONTRACTUAL AGREEMENTS**

Any contractual agreement(s) resulting from this RFP that support statewide needs and priorities as established within CVRC's funding strategies and plan, will be finalized with the applicants taking into consideration the evaluation factors set forth in this RFP. CVRC anticipates supporting numerous awards with this RFP. These contractual agreements will be emailed per the Sequence of Events, this date is subject to change at the discretion of the State or relevant Agency Procurement office. In the event mutually agreeable terms cannot be reached in the time specified, the State reserves the right to finalize a contractual agreement with the next most advantageous applicant without undertaking a new procurement process. The award is subject to appropriate Commission and State approval.

## **APPROPRIATION AND AVAILABILITY OF FUNDS**

The total amount of funding available through this RFP is subject to legislative appropriations of funding, and budget approval by the Department of Finance and Administration. Proposals must clearly indicate in their proposal narrative and budget which components are being applied for.

## SCOPE OF WORK

Applicants are invited to apply under the following areas for Component 1: Providing Emergency Funding to Crime Victims. Applicants must comply with both Component 1 and Component 2. Applications that only address one (1) will not be accepted.

**Component 1:** Maintaining and Expanding Capacity of Emergency Funding to Victims of Crime: The purpose of these awards is to support victim services organizations that have prior experience in providing professional comprehensive, trauma informed services to victims of crime in New Mexico. Grantees will create and submit a plan for how they will maintain, and/or expand services who have experience providing services to victims of crime, and/or train existing staff to address identified skill or knowledge deficits to ensure immediate assessment of emergency assistance requests are determined for eligibility. The goal is to increase the quality and quantity of the specialized service to assist victims of all crimes. See Area 1 Services below for the list of eligible services which may be considered.

**Component 2:** Specialized Emergency Assistance Services for Crime Victims: Awards will be made to victim service organizations with a demonstrated history of providing professional comprehensive, trauma informed to crime victims across the state and have the financial capacity to support emergency assistance funding. Emergency Assistance activities will be composed of service providers receiving requests for emergency assistance needed for crime victims, determining eligibility, and making the necessary arrangements to support these services/expenses immediately. Component 2 Services listed below outlines all emergency assistance which may be considered. Grantees must have sufficient cash flow in the amount of \$20,000.00 or more for up to 60 days to accommodate immediate requests for approved assistance. Grantees must accept emergency assistance financial requests forms, from any victim service provider in the state as needed. Grantees must have the ability to review, process and determine eligibility on a completed certification worksheet and provides opinions and recommendations within 24 hours and provide payment to vendors/payees within 48 hours of receipt, Monday through Friday.

### **Area 1 Services: Types of services that NMCVRC funds.**

#### **Type of services and Services Provision Terms**

- Advocacy and Legal Assistance
- Criminal Justice System-Based Advocacy Legal Services
- Client Coordination  
Client Intake Client Orientation Ongoing Case Management Social Service Advocacy and Explanation of Benefits/Entitlements/Availability
- Client Safety and Well-Being  
Crisis Intervention Emotional/Moral Support (Informal Counseling) Mental Health Treatment (Emergency and Long Term) Protection/Safety Planning and other professional services as deemed necessary for trauma informed emergency funds.
- Education/ Employment Assistance  
Education Employment Assistance
- Health-Related Services  
Dental (Emergency and Long Term) Medical Care (Emergency and Long Term) Substance Abuse Treatment
- Provision of Material and Housing Assistance  
Childcare Financial Assistance, Housing/Shelter Advocacy, Housing/Shelter Assistance Personal Items
- Support Services  
Interpreter/Translator/Transportation

## Area 2 Services

The grantee must provide professional, trauma informed emergency assistance in the form of immediate access to each of the following:

- Immediate and Temporary Housing Services  
Examples of eligible emergency assistance include expenses for hotel rooms, rental deposits and/or rent.
- Economic and/or Education Services  
Examples of eligible emergency assistance include but are not limited to care and support, loss of wages, vocational/skills training, financial counseling, job readiness assistance, education programs, and assistance with educational and professional certifications.
- Mental Health Services  
Examples of eligible emergency assistance include but are not limited to evidence-based practices, treatment, and trauma-informed and recovery support service expenses by licensed mental health professionals. Services such as care coordination, and integrated mental health and substance use, as well as medical services and medicine men may be considered.
- Substance Abuse Services  
Examples of eligible emergency assistance include but are not limited to evidence-based practice, treatment, and trauma-informed and recovery support service expenses by licensed professionals. Services such as care coordination, medication-assisted therapies, and integrated mental health, substance use, and medical services may be considered.
- Legal Services  
Examples of eligible crisis emergency assistance include but are not limited to expenses for comprehensive professional legal services, addressing the range of legal issues that arise from the victimization. Professional legal services can include immigration assistance; assistance with civil legal remedies, family law (including divorce, custody, child support, emancipation, dependency, guardianship, and family reunification); protective orders; employment law (including wage and hour claims); public benefits access; crime victims' rights enforcement; and other civil legal remedies and legal resources available.

Unallowable: 1. NMCVRC funding for criminal defense services. 2. Direct representation on vacatur or expungement matters, through court filings or through other litigation services.

## **NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION**

To ensure victim/survivors are served and ethical standards are upheld grantees and subgrantees may not disclose personally identifying information about victims served with these funds without a written release unless a statute or court order require the disclosure of the information. This applies whether the information is being requested for a grant program or another Federal agency, State, tribal, or territorial grant program. This provision also limits disclosures by subgrantees to other grantees, including disclosures to statewide or regional databases.

“Personally identifying information” means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including (but not limited to) a first and last name; a home or other physical address; contact information (including a postal, email or Internet protocol address, or telephone or facsimile number); a social security number; and any other information, including date of birth, racial or ethnic background, or religious affiliation that, in combination with other information, would serve to identify any individual. The specifics of what information is protected may depend on the individual situation. Grantees should be cognizant of their specific environment, including the size of their population, in making the determination of what information they might need to protect in order to prevent disclosures that could be used to locate individual victims.



Releases must be written, informed and reasonably time limited. At a minimum, victims should understand why the information would be shared, who would have access to the information, and what information would be shared.

What time period is reasonable will depend on the specific situation.

The victim should sign releases unless the victim is a non-emancipated minor or a person with disabilities that is unable to sign. In the case of a minor, the minor and a parent or guardian should sign the release; in the case of a person with disabilities, a legally appointed guardian should sign it. The abuser of the minor or person with disabilities or the abuser of the other parent of the minor may not give consent.

If release is compelled by statutory or court mandate, the grantee or subgrantee must make reasonable attempts to notify affected victims and take steps necessary to protect the privacy and safety of such victims.

Grantees and subgrantees may share non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with Federal, State, tribal or territorial reporting, evaluation, or data collection requirements.

Grantees and subgrantees may share court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes.

Grantees and subgrantees may share law enforcement and prosecution-generated information necessary for law enforcement and prosecution purposes.

For the purpose of file review during onsite visits by CVRC, subgrantees may choose to redact files in lieu of securing a written release.

## **EQUAL OPPORTUNITY/CIVIL RIGHTS COMPLIANCE**

***To receive these funds, a successful applicant must agree to the following civil rights provisions:***

The subgrantee 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.

Subgrantee will comply (and will require any contractors to comply) with any applicable Federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 US C. § 3789d); the Victims of Crime Act (42 US C. § 10604 (e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 US C. § 5672 (b)); the Civil Rights Act of 1964 (42 US C. § 2000d); the Rehabilitation Act of 1990 (42 US C. §§ 12131-34); the Education Amendments of 1972 (20 US C. §§ 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 US C. §§ 6101-07); 28 C.F.R. pt 31 (US Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (US Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Exec. Order No. 13279 (equal protection of the laws for faith-based and community organizations); Exec. Order No. 13559 (fundamental principles and policymaking criteria for partnerships with faith-based and neighborhood organizations); and 28 C.F.R. pt. 38 (US Department of Justice Regulations – Equal Treatment for Faith-Based Organizations).

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, sexual preference, age or disability against a recipient of funds, the subgrantee will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs and the New Mexico Crime Victims Reparation Commission (CVRC).

Subgrantee will provide an Equal Employment Opportunity Plan (EEO Plan) to the Office for Civil Rights, Office of Justice Programs and the CVRC, if required to submit one; otherwise, it will provide a certification to the Office for Civil Rights, Office of Justice Programs and the CVRC that it has a current EEO Plan on file, if required to maintain one. For grantee agencies receiving less than \$25,000, or grantee agencies with fewer than 50 employees,

regardless of the amount of the award, no EEOP is required. Information about civil rights obligations of grantees can be found at [www.ojp.usdoj.gov/ocr/](http://www.ojp.usdoj.gov/ocr/).

As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, recipient must take reasonable steps to ensure that LEP persons have meaningful access to its programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subgrantee is encouraged to consider the need for language services for LEP persons served or encountered both in developing its budgets and conducting its programs and activities. Additional assistance and information regarding LEP obligations can be found at [www.lep.gov](http://www.lep.gov).

In accordance with Federal civil rights laws, the subgrantee shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

### **PROVIDING MEANINGFUL ACCESS TO VICTIMS WITH LIMITED ENGLISH PROFICIENCY (LEP)**

National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). As noted above, to ensure compliance with Title VI of the Civil Rights Act and the Omnibus Crime Control and Safe Streets Act, recipients are required to take reasonable steps to ensure the LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including interpretation and translation services, where necessary. Grantees are encouraged to consider the need for language services for LEP persons served or encountered both in developing their proposals and budgets and in conducting their programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. The US Department of Justice has issued guidance for grantees to assist them in complying with Title VI. The guidance document can be accessed on the Internet at [www.lep.gov](http://www.lep.gov) or by contacting the OJP's Office for Civil Rights at 202-307-0690.

### **METHOD OF PAYMENT**

Method of payment is Cash Reimbursement. A monthly invoice and accounting must be submitted by the 10<sup>th</sup> day following the previous month's expenditures to be eligible to receive a monthly payment. If the 10<sup>th</sup> day falls on a weekend or holiday the invoice will be due on the last business day prior to the 10<sup>th</sup>. Applicants may choose to submit invoices on a quarterly basis if written notification is provided.

### **SUPPLANTING PROHIBITION**

State funds must be used to supplement existing funds for program activities and may not replace (supplant) other State funds, non-State or Federal funds that have been appropriated for the same purpose. Potential supplanting will be the subject of monitoring and audit. Violations can result in a range of penalties, including suspension of future funds under this program, suspension or debarment from grants, recoupment of monies provided under this grant and civil and/or criminal penalties.

### **REPORTING REQUIREMENTS**

Cash Reimbursement Invoice: All subgrantees must submit cash reimbursement invoice no later than the 10<sup>th</sup> day of each month. If the 10<sup>th</sup> day falls on a weekend or holiday, the invoice will be due on the last business day prior to the 10<sup>th</sup>. Applicants may choose to submit invoices on a quarterly basis. Failure to submit this packet in an accurate and timely manner will result in a delay or denial of payments.

## **AUDIT REQUIREMENTS**

Submit a complete audit review with the application. Subsequent audit reports must be submitted within nine months after the close of the fiscal year to CVRC. Funded agencies must adhere to the single audit requirements of the OMB Circular A-133/ Uniform Guide. If an agency does not meet the single audit threshold programs will be contractually required to have their grant funds reviewed in their annual audit. This is to ensure funds are not being commingled with other funding sources, are tracked, reconcile when randomly tested and there are no red flags for fraud, waste and/or abuse of funds. The testing does not have to rise to the level of an OMB A-133/Uniform Guide audit but must include an agreement that the auditor will perform agreed-upon procedures in accordance with applicable generally accepted auditing standards or attestation standards established by the American Institute of Certified Public Accountants (AICPA).

A sample agreement can include the following:

We have agreed to perform the following procedures and report to you the factual findings resulting from our work:

- The audit will include procedures to verify that the Agency is maintaining separate accounts and accounting records for the State funds, to ensure the funds are accounted for separately and not commingled with any other funding sources.
- A sample of current disbursements charged to the State grants will be reviewed and assessed to determine if the charges comply with the terms of the grants.
- A sample of current invoices submitted to CVRC will be reviewed to assess whether or not cash requests were on a cost reimbursement basis (e.g. the agency incurred the cost prior to the request for payment.)

Submitted audit reports should include:

- The auditor's report on financial statements and a schedule of financial assistance showing the total expenditure for program.
- The auditor's report on compliance containing:
  - A statement of positive assurance with respect to those items tested for compliance.
  - A statement of negative assurance of those items not tested and a summary of all instances of noncompliance.
  - The auditor's report on the study and evaluation of internal control system.

Audit Costs: Subgrantees who are eligible may use funds to support the pro-rated share of reasonable audit costs, which are considered essential to the operation of the project and are allowable.

## **TRAINING REQUIREMENTS**

### ***Mandatory Training Compensation:***

All agency staff funded and not funded, providing direct services to victims of crime are required to attend at least one Victim Compensation and Emergency Assistance Funds training workshop during the grant year offered by CVRC.

## **NO COPYRIGHT RESTRICTIONS**

All materials that are developed under this contract must be without copyright restrictions. Any materials that are copied and distributed must receive prior approval from CVRC. An electronic copy of developed materials will be delivered to the Grant Administrator upon completion of the project.

## **NEW MEXICO EMPLOYEES HEALTH COVERAGE**

- A. If the Applicant 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, Applicant 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.
  - B. Applicant 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. Applicant 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 website link to additional information: <https://bewellnm.com>.
  - D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Applicant reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.
1. For all contracts solicited and awarded on or after January 1, 2008: If the 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 must agree to:
- (a) 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 no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;
  - (b) 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 no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000.
  - (c) 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 no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000.
2. Applicant must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the State.
3. Applicant 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 website link to additional information:  
[www.bewellnm.com/](http://www.bewellnm.com/)
4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the contractor reports combined sales (from State and, if applicable, from local public bodies if from a State price agreement) of \$250,000, \$500,000 or \$1,000,000.

## **GENERAL REQUIREMENTS**

## **ACCEPTANCE OF CONDITIONS GOVERNING THE PROCUREMENT**

Potential Applicants must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in this RFP.

## **INCURRING COST**

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

## **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.

## **SUBCONTRACTORS/CONSENT**

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

## **AMENDED PROPOSALS**

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

## **APPLICANT'S RIGHTS TO WITHDRAW PROPOSAL**

Applicants will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Applicant must submit a written withdrawal request addressed to the Procurement Manager and signed by the Applicant'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.

## **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 Applicant is invited or required to submit one.

## **DISCLOSURE OF PROPOSAL CONTENTS**

Proposals will be kept confidential until negotiations and the award are completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the potential Applicant has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

Confidential data is restricted to: confidential financial information concerning the Applicant's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA1978 § 57-3A-1 to 57-3A-7.

PLEASE NOTE: The price of products offered, or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Applicant has made a written request for confidentiality, the Agency shall examine the Applicant's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Applicant takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

### **NO OBLIGATION**

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

### **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.

### **SUFFICIENT APPROPRIATION**

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

### **REVIEW**

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

### **GOVERNING LAW**

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

### **BASIS FOR PROPOSAL**

Only information supplied, in writing, by the Agency through the Procurement Manager or in this RFP should be used as the basis for the preparation of Applicant proposals.

### **CONTRACT TERMS AND CONDITIONS**

The contract between an agency and contractor will follow the format specified by the Agency and contain the terms and conditions set forth in the Sample Contract, which can be found on CVRC's webpage along with all of the other required documents for this RFP. However, the contracting agency reserves the right to negotiate provisions in addition to those contained in this RFP (Sample Contract) with any Applicant. The contents of this RFP, as revised and/or supplemented, and the successful Applicant's proposal will be incorporated into and become part of any resultant contract.

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

Should an Applicant object to any of the terms and conditions as set forth in the RFP Sample Contract strongly enough to propose alternate terms and conditions in spite of the above, the Applicant must propose specific alternative language. The Agency may or may not accept the alternative language. General references to the Applicant's terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to the Agency and will result in disqualification of the Applicant's proposal.

Applicants must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

If an Applicant fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Applicant), 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 Applicant) is an explicit agreement by the Applicant that the contractual terms and conditions contained herein are accepted by the Applicant.

### **APPLICANT TERMS AND CONDITIONS**

Applicants 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.

### **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 Applicant), will be discussed only between the Agency and the Applicant selected and shall not be deemed an opportunity to amend the Applicant's proposal.

### **APPLICANT QUALIFICATIONS**

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

### **RIGHT TO WAIVE MINOR IRREGULARITIES**

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the 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.

### **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.

## **NOTICE OF PENALTIES**

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

## **AGENCY RIGHTS**

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

## **RIGHT TO PUBLISH**

Throughout the duration of this procurement process and contract term, Applicants 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 Applicant's proposal or removal from the contract.

## **OWNERSHIP OF PROPOSALS**

All documents submitted in response to the RFP shall become property of the State of New Mexico.

## **CONFIDENTIALITY**

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

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

## **ELECTRONIC MAIL ADDRESS REQUIRED**

A large part of the communication regarding this procurement will be conducted by electronic mail (email). Applicant must have a valid email address to receive this correspondence.

## **FUNDING PRIORITIES & PROPOSAL SUBMISSION**

The State of New Mexico Crime Victims Reparation Commission 2022- 2025 Implementation Plan outlines funding priorities and strategies. The plan was adopted as part of CVRC's statewide implementation planning process for our federal awards. This state funding must be in compliance with this plan and the priorities identified within. The plan can be found at <https://www.cvrc.state.nm.us/wp-content/uploads/2022/07/2022-2025-Implementation-Plan-Final-June-16-2022-WO-Appendix.pdf>

Proposed projects must adhere to the established priorities outlined within this plan and must support the eligible allowable activities for the grant. The 2022 - 2025 Implementation Plan outlines current and future goals and objectives, types of programs to be funded and how the state will meet the statutory requirements of the award.

***All awards are subject to the availability of appropriated funds, the mandated allocation categories and provisions of the award and any modifications or additional requirements that may be imposed by law.***

## **PROPOSAL FORMAT AND ORGANIZATION**

All applicants must submit their application within the New Mexico Crime Victims Reparation Commission WebGrants Online Grants Management System, <https://nmcvrcgrants.com/index.do>. If an agency wants to add additional registered users, please register within the WebGrants system.



## EVALUATION SUMMARY

The following is a summary of evaluation factors with point values assigned to each for the project applications. These, along with the general requirements, will be used in the evaluation of Applicants' proposals. History of prior grant compliance with CVRC will be considered during the evaluation process.

<b>State of New Mexico Grant Application</b>	<b>1000 Points Available</b>
Application Contract Information	Pass/Fail
Project Summary	500
Budget	500
<b>TOTAL POINTS AVAILABLE</b>	<b>1,000 points</b>
New Mexico / Native American Resident Preference	80
New Mexico / Native American Resident Veteran Preference Point	100

\*Although not scored, if applicable, the information is mandatory and failure to provide this documentation could result in a determination that the applicant's proposal is non-responsive. \*\* Non-profit, non-governmental victim services agencies must provide evidence of 501(c)(3) status.

### **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.**

## **APPLICATION SECTION**

### **STATE OF NEW MEXICO GRANT APPLICATION FORM INSTRUCTIONS**

The Grant Application form consists of the sections outlined in the proposal format and organization sections. The State Grant Application must be submitted within the WebGrants system no later than 4:00PM (Mountain Standard Time),

### **APPLICANT CONTACT INFORMATION INSTRUCTIONS**

This section includes information regarding the contact person, authorized person and financial officer for your agency. Additionally, you are providing information regarding the amount of funding you are requesting and basic information about your proposal. Carefully review each part of the contact information section and provide current and accurate information.

### **PROJECT SUMMARY INSTRUCTIONS**

Provide a brief project summary of the project that you are proposing in this application. Summaries are limited to 1000 characters within the form. Program summaries should be brief, clear, and concise.

## **BUDGET**

Prepare the budget and budget narrative within the application on the New Mexico Crime Victims Reparation Commission WebGrants Online Grants Management System. The budget justification should be detailed and describe all expenditures.

## **CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

Applicant must complete, sign, and return the Campaign Contribution Disclosure Form, as a part of their proposal. This requirement applies regardless of 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 disqualification. This form can be downloaded off the CVRC webpage with the RFP and other documents. An electronic copy of the document(s) must be included in the additional document section of Required PDF file submitted.

## **CONFLICT OF INTEREST FORM**

Applicant must complete, sign, and return the Conflict of Interest Form, as a part of their proposal. Failure to complete and return the signed unaltered form may result in disqualification. This form can be downloaded off the CVRC webpage with the RFP and other documents. An electronic copy of the document(s) must be included in the additional document section of the Required PDF file submitted.

## **AGENCY CERTIFICATION FORM**

Applicant must complete, sign, and return the Agency Certification Form Campaign as a part of their proposal and as required by Contract Review Bureau (CRB), General Services Department (GSD). This form can be downloaded off the CVRC webpage with the RFP and other documents. An electronic copy of the document(s) must be included in the additional document section of the Required PDF file submitted.

## ***Final Steps***

Competitive applications must be received in the New Mexico Crime Victims Reparation Commission WebGrants Online Grants Management System no later than **4:00 PM (Mountain Standard Time) on October 13, 2023**. Proposals received after that time will be rejected as not meeting the mandatory requirements of the solicitation. Applicants must submit proposals through the New Mexico Crime Victims Reparation Commission WebGrants Online Grants Management System found at <https://nmcvrgrants.com>

If technical difficulties are experienced at any point during the application process, the applicant must contact the STATE Grant Administrator, Marivel Baca, at 505-795-4964 or Grants Bureau Chief, Donna Richmond, at 505-795-4486, no later than **5:00 PM (Mountain Standard Time) on Thursday, October 12, 2023**. Please note that copies of applications received via email, facsimile or mail will not be accepted.

## CAMPAIGN CONTRIBUTION DISCLOSURE FORM

### 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:** \_\_\_\_\_

**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)

**CONFLICT OF INTEREST AFFIDAVIT**

AFFIDAVIT

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF SANTA FE )

I, \_\_\_\_\_ (name), being first duly sworn upon my oath, depose and state the following:

I am a former employee of the \_\_\_\_\_ (name of Department/Agency), having separated/retired from state employment as of \_\_\_\_\_ (date).

I am a current employee of the \_\_\_\_\_ (name of Department/Agency), or a legislator with the state, or the family member (spouse, parent, child, sibling by consanguinity or affinity) of a current employee or legislator with the state. Being a current employee or legislator or family member of a current employee or legislator of the state, I hereby certify that I obtained this Agreement pursuant to Sections 10-16-7 or 10-16-9 NMSA 1978, that is, in accordance with the Procurement Code except that this Agreement has NOT been awarded via the sole source or small purchase procurement methods.

The Department/Agency and I have entered into a agreement in the amount of \$ \_\_\_\_\_.

Section 10-16-8.A(1) NMSA 1978 of the Governmental Conduct Act does not apply to this Agreement because I neither sought a contract with the Department/Agency, nor engaged in any official act which directly resulted in the formation of the Professional Services Agreement while an employee of the Department/Agency.

To the best of my knowledge, this Agreement was awarded in compliance with all relevant provisions of the New Mexico Procurement Code (13-1-28, et. seq., NMSA 1978).

FURTHER, AFFIANT SAYETH NOT.

\_\_\_\_\_  
Name

Subscribed and sworn to before me by \_\_\_\_\_ (name of former employee) this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:



## **DRAFT CONTRACT**

The Agreement included in this Appendix represents the contract 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**  
**New Mexico Crime Victims Reparation Commission**  
PROFESSIONAL SERVICES CONTRACT # \_\_\_\_\_

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **NAME OF AGENCY**, hereinafter referred to as the "Agency," and **NAME OF CONTRACTOR**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the General Services Department/State Purchasing Division (GSD/SPD Contracts Review Bureau).

IT IS AGREED BETWEEN THE PARTIES:

**1. Scope of Work.**

The Contractor shall perform the following work:

**2. Compensation.**

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

B. Payment 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.

(—OR—)

**(CHOICE – MULTI-YEAR)**

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in FYXX (USE FISCAL YEAR NUMBER TO DESCRIBE YEAR; DO NOT USE FY1, FY2, ETC.). The New Mexico gross receipts tax levied on the amounts payable under this Agreement in FYXX totaling (AMOUNT) shall be paid by the Agency to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FYXX.**

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

B. Payment in FYXX, FYXX, FYXX, and FYXX is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the 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 APPROVED BY THE GSD/SPD Contracts Review Bureau. This Agreement shall terminate on **(DATE)** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150.

**4. Termination.**

A. Grounds. The 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.

**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. 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.

**7. Assignment.**

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

**8. Subcontracting.**

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

**9. Release.**

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

**10. Confidentiality.**

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

**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. 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).

**13. Amendment.**

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

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

**14. Merger.**

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

**15. Penalties for violation of law.**

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

**16. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**17. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**18. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

**19. Records and Financial Audit.**

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

**20. Indemnification.**

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

**21. New Mexico Employees Health Coverage.**

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

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

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage.

**22. Invalid Term or Condition.**

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

**23. Enforcement of Agreement.**

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

**24. Notices.**

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

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

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

**25. Authority.**

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

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

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

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

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

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

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

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

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

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

By: \_\_\_\_\_ Date: \_\_\_\_\_  
GSD/SPD Contracts Review Bureau