REQUEST FOR PROPOSALS (RFP)

YOUTH DEVELOPMENT PROGRAMS TO PREVENT UNINTENDED TEEN PREGNANCY

RFP# 665-2023-TPP-01

Release Date: Monday, February 7, 2022

Due Date: 4:00 PM, Tuesday, March 8, 2022
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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The primary goal of this Request for Proposals (RFP) is to select multiple Offerors to assist the Family Planning Program (FPP) in developing and supporting quality youth development programming in communities throughout New Mexico in order to prevent unintended teen pregnancy. Programming should target high-risk teens (male or female/ages 18 or younger) through primary teen pregnancy prevention (preventing the first unintended teen pregnancy).

B. BACKGROUND INFORMATION

The New Mexico Department of Health (DOH), Public Health Division (PHD), Family Planning Program (FPP) is issuing a Request for Proposals (RFP) to select multiple Offerors to implement evidence-based programs for Unintended Teen Pregnancy Prevention (TPP). These statewide services must be provided in accordance with applicable federal, state, and local laws.

The total amount of funding available through this RFP is subject to legislative appropriations, awards of federal funding, and budget approval by the Department of Finance and Administration. Services must be provided in accordance with applicable federal, state and local laws.

C. SCOPE OF PROCUREMENT

This RFP covers the 4-year period from State Fiscal Year 2023 through State Fiscal Year 2026, starting on July 1, 2022, and ending June 30, 2026. After the initial year, DOH reserves the right to continue funding for up to three (3) additional years, contingent upon sufficient funding and satisfactory scope of work performance. In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978. FPP reserves the right to cancel this RFP and/or to reject any proposal in whole or in part.

D. PROCUREMENT MANAGER

1. DOH/PHD Family Planning Program 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:

   Genevieve Lujan, Procurement Manager
   DOH/PHD/Family Planning Program
   2040 S. Pacheco St. 2nd Floor
   Santa Fe, New Mexico 87505
   Telephone: (505) 476-8871
   Cell: (505) 470-1591
   Genevieve.Lujan@state.nm.us
2. **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 SPD. **Protests of the solicitation or award must be delivered by email to the Administrative Services Division.** ONLY protests delivered directly to the Administrative Services Division 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.

**E. DEFINITION OF TERMINOLOGY**

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

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

“Close of Business” means 5:00 pm MST.

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

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

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

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

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

“Evaluation Committee Report” means a document prepared by the Procurement Agent and the Evaluation Committee for submission to the State Purchasing Agent for contract award. It contains all written determinations resulting from the procurement.

“Finalist” is defined as an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

“Mandatory”: the terms “must”, “shall”, “will”, “is required” or “are required”, identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.
"Offeror" is any person, corporation, or partnership who chooses to submit a proposal.

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

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

"Responsible Offeror" means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

"Responsive Offer" or "Responsive Proposal" means an offer or proposal which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

"State Purchasing Agent" or "SPA" means the purchasing agent for the State of New Mexico or a designated representative.

F. PROCUREMENT LIBRARY
A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection or by contacting the Procurement Manager. The library contains information listed below:

Procurement Regulations and Request for Proposal – RFP instructions:
https://nmhealth.org/publication/rfp/

II. CONDITIONS GOVERNING THE PROCUREMENT
This section of the RFP contains the schedule, description, and conditions governing the procurement.

A. SEQUENCE OF EVENTS
The Procurement Manager will make every effort to adhere to the following schedule:

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsible Party</th>
<th>Due Dates Sample Time Frames</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Issue RFP</td>
<td>Agency</td>
<td>Monday, February 7, 2022</td>
</tr>
<tr>
<td>2. Pre-Proposal Conference</td>
<td>Agency</td>
<td>Thursday, February 17, 2022 10:00 AM MST</td>
</tr>
</tbody>
</table>
### B. EXPLANATION OF EVENTS

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

1. **Issuance of RFP**

   This RFP is being issued on behalf of The New Mexico Department of Health, Family Planning Program on **Monday, February 7, 2022 MST**.

2. **Pre-Proposal Conference**

   The Family Planning Program will be holding an informational meeting for applicants on **Thursday, February 17, 2022 from 10:00 AM to 11:00 AM MST**. Please note this meeting will be held via conference call or virtual meeting.

   Applicants are not required to attend this meeting. Written responses to any questions submitted in that meeting will be distributed on **Wednesday, February 23, 2022** to all potential Offerors whose organization name appears on the procurement distribution list.

3. **Acknowledgement of Receipt**
Potential Offerors should electronically deliver the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, APPENDIX A, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated, and returned to the Procurement Manager by 3:00 pm MST on Thursday, February 17, 2022.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror’s organization name shall not appear on the distribution list.

4. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until Thursday, February 17, 2022, 3:00 pm MST as indicated in the sequence of events. All written questions must be addressed to the Procurement Manager as declared in Section I, Paragraph D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

5. Response to Written Questions/RFP Amendments

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offerors that provide Acknowledgement of Receipt Forms described in II.B.2 before the deadline. Additional copies will be posted to: https://nmhealth.org/publication/rfp/.

An Acknowledgement of Receipt Form will accompany the distribution package. The form should be signed by the Offeror's representative, dated, returned by the date indicated thereon. Failure to return this form shall constitute a presumption of receipt and withdrawal from the procurement process. Therefore, the Offeror's organization name shall be deleted from the procurement distribution list.

6. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 4:00 PM MST ON TUESDAY, March 8, 2022. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and electronically delivered to the Procurement Manager at the e-mail address listed in Section I, Paragraph D2. Proposals should be clearly labeled in the SUBJECT LINE of the email as follows:

New Mexico Department of Health – Family Planning Program
Request for Proposals for Youth Development Programs to Prevent Unintended Teen Pregnancy
Page 5
“RESPONSE TO RFP PROPOSAL #665-2023-TPP-01 YOUTH DEVELOPMENT PROGRAMS TO PREVENT UNINTENDED TEEN PREGNANCY”

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

7. Proposal Evaluation

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

8. Selection of Finalists

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

9. Finalize Contractual Agreements

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s) as per schedule Section II. A., Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of the Agency Procurement office. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

10. Contract Awards

After review of the Evaluation Committee Report and the signed contractual agreement, the Agency Procurement office will award as per the schedule in Section II. A., Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the Agency Procurement office.
The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the State of New Mexico and New Mexico Department of Health taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate Department and State approval.

11. Protest Deadline

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. ONLY protests delivered directly to the Administrative Services Division 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 award of contracts and will end at 5:00 pm MST 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 to:

Roy McDonald  
Chief Procurement Officer  
Harrold Runnels Building  
Santa Fe, NM 87505

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

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

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

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.
3. **Prime Contractor Responsibility**

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

4. **Subcontractors/Consent**

Subcontracting of work with other organizations is not allowed under this RFP.

5. **Amended Proposals**

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

6. **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.

7. **Proposal Offer Firm**

Responses to this RFP, including proposal prices, will be considered firm for two hundred (200) days after the due date for receipt of proposals or one hundred and fifty (150) days after receipt of a best and final offer, if one is submitted.

8. **Disclosure of Proposal Contents**

A. 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 Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:

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

C. Confidential data is restricted to:
1. confidential financial information concerning the Offeror’s organization;

2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.

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

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

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

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

12. Legal Review

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

13. Governing Law

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

14. Basis for Proposal

Only information supplied, in writing, by the Agency through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals.
15. **Contract Terms and Conditions**

The contract between an agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in the Sample Contract Appendix I. However, the contracting agency reserves the right to negotiate provisions in addition to those contained in this RFP (Sample Contract) with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror’s proposal will be incorporated into and become part of any resultant contract.

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

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

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

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

16. **Offeror’s Terms and Conditions**

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

17. **Contract Deviations**

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

Private for profit, not for profit and government agencies are eligible.

Applicant qualifications and experience must include:

a. Offerors must have, or be willing to obtain, a current New Mexico tax identification number from the New Mexico Taxation and Revenue Department.

b. Offerors may be individuals, public or private agencies/organizations, or corporate entities providing such services. Regardless of the Offeror’s business status, each Offeror must document their capacity to provide the services described in each service category, and where applicable, provide copies of diplomas, transcripts, certificates, licenses and other documentation substantiating their credentials.

c. The organization must have policies and procedures which assure that no person in the State of New Mexico shall, on the grounds of race, color, national origin, gender, sexual orientation, age, handicap or disability, medical condition, or religion will be excluded from employment with, participation in, denied the benefit of service, or be otherwise subjected to discrimination under any program or activity performed as a result of a contract entered into pursuant to this RFP.

d. If the Offeror is a 501(c)(3) non-profit organization, then provide a copy of the organization’s Internal Revenue Service Determination letter, a copy of the agency’s by-laws and Articles of Incorporation in the appropriate Appendix section.

e. Strong preference will be given to Offerors with experience in provision of these services on behalf of NMDOH in the past with satisfactory performance during a previous contract period.

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

19. Right to Waive Minor Irregularities

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

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.

25. Confidentiality

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

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

26. Electronic mail address required

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

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

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 website link to additional information http://www.insurenewmexico.state.nm.us/.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000.

29. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX C, 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 disqualification.

30. Letter of Transmittal

Offeror’s proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX D which must be completed and signed by an individual person authorized to obligate the company. The letter of transmittal MUST:

1. Identify the submitting business entity.
2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.

3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization, if different than bullet (2) above.

4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.

5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.

6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.

7. Identify the following with a check mark and signature where required:
   a. Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II. C.1;
   b. Explicitly indicate acceptance of Section V of this RFP; and
   c. Acknowledge receipt of any and all amendments to this RFP.

8. Be signed by the person identified in bullet (2) above.

31. Pay Equity Reporting Requirements

A. If the Offeror has ten (10) or more employees OR eight (8) or more employees in the same job classification, Offeror must complete and submit the required reporting form (PE10-249) if they are awarded a contract. Out-of-state Contractors that have no facilities and no employees working in New Mexico are exempt if the contract is directly with the out-of-state contractor and fulfilled directly by the out-of-state contractor, and not passed through a local vendor.

B. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Offeror must also agree to complete and submit the required form annually within thirty (30) calendar days of the annual bid or proposal submittal anniversary date and, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract.

C. Should Offeror not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, Offeror must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.

D. Offeror must also agree to levy these reporting requirements on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Offeror must further agree that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, Offeror will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement.
32. Disclosure Regarding Responsibility

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor’s company:
   1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
   2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
      a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
      b. violation of Federal or state antitrust statutes related to the submission of offers; or
      c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
   3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
   4. has, preceding this offer, been notified of any delinquent federal or state taxes in an amount that exceeds $3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
      a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
      b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
      c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the Department of Health 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 Chief Procurement Officer or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

33. New Mexico Preferences and Federal Grant Requirements

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

The proposed contract will be federally funded and therefore subject to the federal grant requirements as listed in the Sample Contract herein. Offeror must provide its Dun and Bradstreet Data Universal Numbering System Number (DUNS Number).
III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES

Offerors should deliver:

1. **Proposals** – One (1) electronic copy of the proposal **MUST be emailed**.
   - Proposals containing confidential information **must** be submitted as two separate attachments:
     - **Unredacted** version for evaluation purposes
     - **Redacted** version (information blacked out and not omitted or removed) for the public file

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.

The electronic submission must be received no later than the time and date indicated in Section II.B.6.

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

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

a) typewritten, in Arial or Calibri font sized 12 point,

b) in black and white, with no color used,

c) numbered sequentially from beginning to end, and,

d) while single-spacing is allowed, Offerors are encouraged to use formatting that makes the proposal readable.

1. **Proposal Content and Organization**

   The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated.

   1. Signed Letter of Transmittal
   2. Table of Contents
3. Proposal Summary
4. Proposal Narrative
5. Signed Campaign Contribution Form
6. Response to Contract Terms and Conditions
7. Offeror’s Additional Terms and Conditions
8. Response to Specifications
9. Community Collaboration
10. Required Attachments
11. Other Supporting Material (If applicable)

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should 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.

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal.

The proposal summary may be included by potential Offerors 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.
IV. SPECIFICATIONS

A. Information

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

Performance under prior contracts, including state agency-generated evaluations of prior performance, may be considered.

B. Proposal Sections

Offerors applying to the RFP must respond to the following elements:

1. Signed Letter of Transmittal

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

1. Identify the submitting organization;

2. Identify the name and title of the person authorized by the organization to contractually obligate the organization;

3. Identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;

4. Identify the names, titles and telephone numbers of persons to be contacted for clarification;

5. Explicitly indicate acceptance of the Proposal Content and Organization of the procurement stated in Section II, Paragraph C.1;

6. Be signed by the person authorized to contractually obligate the organization; and,

7. Acknowledge receipt of any and all amendments to this RFP.

2. Table of Contents

Proposals should be numbered sequentially from beginning to end, including all attachments. Please include a Table of Contents following the Letter of Transmittal.
3. Proposal Summary

A brief summary of the proposed program and services should be included. This should be no more than 300 words in length. This summary should include a listing of all priority populations and interventions that are included in the proposal, as well as the total number of clubs/groups requested for the first year.

4. Proposal Narrative

Narrative Section 4a. Organizational Description, Capability, and Eligibility

The Organizational Description, Capability and Eligibility section may be up to 3 pages in length. It is worth 30 points.

To be eligible to receive funding under this RFP, Offerors must meet this eligibility criterion. Please describe with specific details and years of experience how your organization meets this standard.

The Offeror must demonstrate the expertise and capacity to deliver effective and evidence-based programs through either:

1. two years of documented experience in the delivery of TPP programs to at-risk populations; or,

2. two years of documented experience in the delivery of evidence-based health promotion or prevention programs for other health issues, AND two years of documented experience in the delivery of services to the at-risk populations for which it is proposing programs under this RFP.

Please describe the following about your organization in this section.

1. Year of incorporation and year that non-profit 501(c)(3) status was granted, if applicable.

2. Size of current organizational operating budget. Note the fiscal year to which this applies.

3. Number of members of your Board of Directors/Trustees, their demographics and their particular areas of expertise.

4. Total number of staff members of the contracting organization, expressed as full-time equivalents (FTE).

5. Number of staff members working in TPP and/or other health education and prevention programs, expressed as FTE.

6. Background and qualifications of your Executive Director or CEO.

7. Background and qualifications of your Program Manager responsible for TPP activities.
8. Experience and performance on prior and current Federal and State contracts. Describe whether any contracts were reduced or cancelled due to performance challenges.

9. Overview of contractor programs and services, with an emphasis on health services, health promotion activities and prevention services. Please note any evidence-based models that you incorporate in your service delivery.

This section will be scored in part on credibility of the descriptions of previous and current services provided by the Offeror, in addition to the plausibility that the Offeror can conduct services specified in this RFP. Performance under prior contracts, including state agency-generated evaluations of prior performance may be considered in verifying the correctness and credibility of the Offeror’s response.

**Proposals by a current or previous contractor will be considered if the following criteria are met:**

1. Programs must state which curriculum, the number of Clubs facilitated, and explain the effectiveness of both their past TPP programming and organization’s performance under previous contracts. Include whether programming was on site or elsewhere. Offerors should speak to the relationship with partnering organization who offer the location of programming.

2. Programs must explain how they collaborated during previous programming, including, but not limited to, state agencies, evaluators, and partnering organizations.

3. Programs must address teen/staff retention rates during their past TPP programming. This should include a comparison of teen initial enrollment and completion of programming.

**Narrative Section 4b. Other Area Services**

The proposal should have a description of current Public Health Offices, School Based Health Centers, preventative, or other relevant health related services offered in the Offeror’s geographic service area. It should include discussion of coordination, referral, or other linkages which the Offeror maintains with the providers of these services.

**Narrative Section 4c: Proposed Services**

The Proposed Services section may be up to 6 pages in length. It is worth 25 points. Please include the following information in this section.

**Proposed Target Populations:** Identify the populations that you propose to serve. Please address the following items:

1. Is the population identified as at-risk? If so, in what way?

2. What is teen birth rate of the county where the proposed activities will take place?

3. How many teens are there in the target population?
4. Where will the program be implemented and how will recruitment occur?

Offerors must provide programming to unduplicated participants if applying for multiple programs.

5. How will the Offeror target populations without duplicating services?

6. Please note any other demographic features of the group you will serve, including ethnic/racial groups, age groups, and communities to be served. This information will also be reflected in each of your Program Model Forms, Appendix H.

**Problem Statement:** A problem statement is required as a separate section of the narrative. Offerors must identify both the teen birth rates and risk co-factors or contributing factors (i.e., poverty, graduation rates, sexually transmitted infection (STI) rates, alcohol/drug use, homelessness, etc.) that impact the populations you propose to serve. Describe specific needs the target populations have related to teen pregnancy. Describe how these needs were identified.

You can also note assets and cultural factors in your target populations that may be protective or contribute to teen pregnancy. These should be included both in the narrative on proposed services and in the Proposed Program Model forms. This should include a description of how and why your target populations were selected.

Scores will be assigned on the basis of completeness, comprehensiveness, descriptiveness, relevance, and demonstrated understanding of the above.

Note: In addition to proposal scores, special consideration may be given to proposals targeting counties with high teen birth rates and more than 20 births to teens aged 15-19 years old. Proposals targeting counties with lower teen birth rates need to convincingly describe the needs of the targeted sub-group within the county.

**Relationship to Current Services:** Please describe how the proposed services fit into your overall organizational mission and current programs. If this will expand or enhance existing programs, describe how these new TPP programs will complement your current work. If your organization currently has other funders who support TPP or related activities, please speak to how an award of this contract will leverage or build upon these other resources.

**Community Collaboration and Integration:** The proposed TPP services should complement other health promotion activities in the communities and regions you propose to serve. Please describe how your proposed program will collaborate, compliment, or coincide with other activities in your area. Speak to how you will ensure your proposed program will integrate into the community while fostering a sense of belonging and concern in youth participants.

Your activities should not duplicate those of other providers. Describe how you will collaborate with other TPP or health promotion programs in the area. Please describe current relationships, with an
emphasis on activities and programs that you provide in collaboration with other organizations. Note key referrals to and from your program with other organizations.

**Process and Outcome Monitoring:** All TPP contract providers must comply with the DOH/Family Planning Program’s process and outcome monitoring requirements. Please include a statement noting your commitment to comply with these requirements, including monthly reporting of process monitoring data.

In addition to process monitoring activities from the program, each Contractor must have their own outcome monitoring plan. **Please describe your evaluation plan including the following elements:**

1. Intended outcome of delivering your program models.

2. Describe how Offeror will ensure each participant will complete program surveys and pre-test/post-test information.

3. Describe what procedures are in place to monitor program implementation and maintain fidelity of program(s).

**Narrative Section 4d: Proposed Program Models**

The Proposed Program Models Section must use the form provided in Appendix H. For each program model, you must submit one form of up to 3 pages in length. The entire section is worth up to 25 points, per Offeror response. Should an Offeror submit proposals for Wyman’s Teen Outreach Program (TOP®) and Teen Connection Project TCP®, the proposals shall be evaluated independently and scored accordingly, not to exceed 25 points each.

**Section 5. Proposal Budget**

There is no page limit for the budget section, including the Proposed Staffing, Line Item Budget and Budget Justification. Proposed Staffing is worth 10 points; Line-Item Budget and Budget Justification are worth 5 points each. The total section is worth 20 points.

**Budget Section 5a: Proposed Staffing**

Describe the proposed staffing to be funded in support of this proposal. Provide a brief job description for each position, the amount of time to be devoted to the program and the rate of pay for each position. Indicate how these new positions fit into the organizational chart.

Describe the process and time required to hire the necessary staff. Include dates and method of recruitment for positions, expected time to interview, and target hire date.

Describe the qualifications needed by each position, such as bachelor’s degree or a minimum number of years working with adolescents.
For each incumbent who will be part of or directly manage the TPP team, describe any experience in teen pregnancy prevention. You may also describe related experience in health education and positive youth development.

**Budget Section 5b: Line Item Budget**

The proposal must include a detailed line-item budget indicating specific expenditures that link with the described activities and/or services.

Sub-contracting with other organizations is not allowed under this RFP.

No funds may be used for acquisition or remodeling of buildings, nor may it be used for purchase of vehicles. Please use the sample budget format in Appendix G in preparing your Line-Item Budget.

**Budget Section 5c: Budget Narrative Justification**

This budget must be fully justified in terms of described area needs and the proposed program. Offerors with current contracts must explain the reasons for any increases over the current budget, the proposed amounts of those increases, and their programmatic justifications.

Provide a narrative, including justification, for all program expenses according to the line items listed in Appendix G, Line-Item Budget Form.

Each program expense listed should be clearly linked to program activities as described in the Scope of Activities.

Estimate in detail any contracted services or other services that are listed as proposed expenditures as described in the Program Plan.

**Attachment 4: Audit**

If the total compensation included in the proposal exceeds $60,000, excluding gross receipts tax, the Offeror must submit its most recent financial statement, audit report, and management letter comments. If the Offeror cannot meet this requirement, an explanation and a plan of action may be acceptable.

**Local Financial and In-kind Support**

If there will be local financial or in-kind support, describe Offeror's commitments and local community contributions, which are to be made as part of the program. Provide documentation through letters of interest, which commit these services and/or funds to the program. Local contributions may be in cash or in-kind services.

**Supplementation**

Funding awarded as the result of this Request for Proposals may only be used to supplement, and not to supplant other funds.
Section 6: Community Collaboration

The proposal must include information on the Offeror's collaborative activities among private and public entities and other local/regional groups including formal and informal working relationships. This explanation must include current relationships and how relationships will be established and/or strengthened in the future. Explain whether a contract resulting from this RFP would be a continuation contract, more of what the Offeror is already doing, or a new activity by the Offeror.

The public's health is best enhanced by working through community partnerships and appropriate policy development. This range of activities includes initiatives such as Healthier Communities, Maternal and Child Health Councils, and Driving while Intoxicated (DWI) Councils, etc.

This proposal will be strengthened by explanation of how it fits in with the larger perspective of pursuit of public health across various disciplines. This section is worth up to 5 points.

Offerors may provide the following information:

1. Community support for the proposed activities in the general community. Examples of this include letters from the local public health office and the administration at targeted school(s).

2. Input from teens in the target population who have been given the opportunity to review and provide input into the program.

Note: If programming will occur within the school system, a letter of support must be submitted with this proposal and written approval from the school board/superintendent will be required before implementation of programs.

Section 7: Required Attachments

The completeness of the proposal will be scored and is worth up to 5 points.

Evaluation will be based on receipt and completeness of all attachments prescribed on the Checklist (see Appendix E). This scoring segment will include consideration of completeness of all attachments except where those attachments are the subject of separate useful evaluation factors. Offerors are expected to include the completed Checklist in their proposals.

Clarity, conciseness, and specificity of the attachments will be considered in the scoring. The degree to which the proposal is responsive to all sections of the Request for Proposals will be scored. Enough information must be presented for the Evaluation Committee to make a complete evaluation of the proposal.

Scoring will be based partially on the basis of inclusion of Appendix B, Proposal Cover Page and Assurances, and Attachment 3 on the Checklist. The remainder of the scoring of this section will be based on the comprehensiveness of the entire proposal.
V. EVALUATION

A. EVALUATION POINT SUMMARY

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

<table>
<thead>
<tr>
<th>Factor</th>
<th>Points Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizational Description/Capability</td>
<td>30</td>
</tr>
<tr>
<td>Proposed Services</td>
<td>25</td>
</tr>
<tr>
<td>Proposed Program Models</td>
<td>25</td>
</tr>
<tr>
<td>Proposed Staffing</td>
<td>10</td>
</tr>
<tr>
<td>Line-Item Budget</td>
<td>5</td>
</tr>
<tr>
<td>Budget Justification</td>
<td>5</td>
</tr>
<tr>
<td>Community Collaboration</td>
<td>5</td>
</tr>
<tr>
<td>Completeness</td>
<td>5</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>110</strong></td>
</tr>
</tbody>
</table>

Table 1: Evaluation Point Summary

B. EVALUATION PROCESS

The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

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

3. The Evaluation Committee may use other sources 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. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the State taking into consideration the evaluation factors in Section IV will be recommended for award (as specified in Section II. B.8). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.
APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM
APPENDIX A
ACKNOWLEDGEMENT OF RECEIPT FORM

REQUEST FOR PROPOSAL

RFP# 665-2023-TPP-01
YOUTH DEVELOPMENT PROGRAMS TO PREVENT UNINTENDED TEEN PREGNANCY

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that s/he has received a complete copy, beginning with the title page and table of contents, and ending with APPENDIX G.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than 4:30 PM MST on Thursday, February 17, 2022. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _________________________________________________________________

REPRESENTED BY: _____________________________________________________

TITLE: ______________________ PHONE NO.: __________________________

E-MAIL: ___________________ FAX NO.: __________________________

ADDRESS: _____________________________________________________________

CITY: ______________________ STATE: ________ ZIP CODE: ____________

SIGNATURE: ___________________________________ DATE: _________________

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

Firm does/does not (circle one) intend to respond to this Request for Proposal.

Genevieve Lujan, Procurement Manager
RFP# 665-2023-TPP-01
Youth Development Programs To Prevent Unintended Teen Pregnancy
DOH/PHD/FPP
E-mail: Genevieve.lujan@state.nm.us
APPENDIX B

PROPOSAL COVER PAGE AND ASSURANCES
APPENDIX B

PROPOSAL COVER PAGE AND ASSURANCES

OFFEROR ORGANIZATION: ______________________________________________

ADDRESS:    ______________________________________________

CONTACT PERSON:   ______________________________________________

TELEPHONE NO.:   ______________________________________________

EMAIL ADDRESS:   ______________________________________________

AMOUNT OF REQUEST:  ______________________________________________

As the duly authorized representative of the Offeror, I certify that the Offeror:

• Will abide by all Federal and State Laws, Rules, Regulations, and Executive Orders of the Governor of the State of New Mexico pertaining to equal opportunity. The Offeror assures the Department of Health that no person in the State of New Mexico shall on the grounds of race, color, national origin, gender, sexual orientation, age, handicap or disability, or religion be excluded from employment with or the participation in, be denied the benefit of or be otherwise subjected to discrimination under any program or activity performed under a contract(s) entered into pursuant to this Request for Proposals.

• Will give the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards.

• Will comply with the provisions of the Federal Certification Regarding Lobbying.


• Will comply with the provisions of Title VII of the Civil Rights Act of 1964.

• Will comply with the provisions of the Federal Certification Regarding Drug-Free Workplace Requirements.

• Will comply with the PHD’s guidelines for Governing and/or Advisory Board members to be residents of the area served and representative of the social, economic, linguistic, ethnic, and racial target population and shall include consumers of the Offeror’s services and shall not employ persons related to...
board members by consanguinity or affinity within the third degree, including father, mother, brother, sister, grandparent, aunt, uncle, niece, nephew, mother-in-law, father-in-law, brother-in-law, and sister-in-law.

- Will take steps to train and employ recipients of Temporary Assistance of Needy Families (TANF) in collaboration with New Mexico Welfare to Work Contractors and other supported employment programs and will submit quarterly reports documenting its efforts to comply with this provision.

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY, AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS

The prospective lower tier participant (Offeror) certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by a Federal Department or Agency.

Where the prospective lower tier participant (Offeror) is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

Authorized Signature of Certifying Official

Date

Printed Name of Certifying Official

Official Title
APPENDIX B (continued)

PROPOSAL COVER PAGE AND ASSURANCES

Offeror Name ____________________________________________________

Please complete the Statement of Assurance below, including initialing, as appropriate, each statement to indicate your certification. Please provide, on a separate sheet of paper, a brief explanation of any assurance statement that you cannot certify.

<table>
<thead>
<tr>
<th>As the duly authorized representative of the OFFEROR, I certify that the OFFEROR:</th>
<th>INITIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is a PUBLIC school, school district(s), or cluster of schools; OR</td>
<td></td>
</tr>
<tr>
<td>Is a Regional Center Cooperative/Regional Education Cooperative (RCC/REC); OR</td>
<td></td>
</tr>
<tr>
<td>Is a NON-PUBLIC school or cluster of schools, including private and tribal or Bureau of Indian Affairs (BIA) schools or cluster of schools; OR</td>
<td></td>
</tr>
<tr>
<td>Is a non-profit 501C(3); OR</td>
<td></td>
</tr>
<tr>
<td>Is a licensed NM provider agency; OR</td>
<td></td>
</tr>
<tr>
<td>Is a program within a NM University or College?</td>
<td></td>
</tr>
</tbody>
</table>

Will abide by all Federal and State Laws, Rules, Regulations, and Executive Orders of the Governor of the State of New Mexico pertaining to equal opportunity. The Offeror assures the DEPARTMENT of Health that no person in the State of New Mexico shall on the grounds of race, color, national origin, gender, sexual orientation, age, handicap or disability, or region be excluded from employment with or the participation in, be denied the benefit of or be otherwise subjected to discrimination under any program or activity performed under a contract(s) entered into pursuant to this Request For Proposals.

Will give the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards.


Will comply with the provisions of Title VII of the Civil Rights Act if 1964.

The prospective lower tier participant (Offeror) certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or
voluntarily excluded from participation in this transaction by an Federal DEPARTMENT or agency. Where the prospective lower tier participant (Offeror) is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

<table>
<thead>
<tr>
<th>Will comply with the provisions of the Federal Certification Regarding Drug-Free Workplace Requirements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will assure the Department of Health that any confidential information provided to or developed in the performance of any activity or under any contract award from this RFP shall be kept confidential.</td>
</tr>
<tr>
<td>Will assure the Department of Health that collaboration efforts with Temporary Assistance for Needy Families (TANF) and New Mexico Welfare to Work Contractors are made in order to train and employ TANF recipients who are seeking employment opportunities. In addition, assure efforts are made to train and employ populations enrolled in supportive employment programs.</td>
</tr>
</tbody>
</table>

As the duly authorized representative of the OFFEROR, I certify the above information is true and accurate.

<table>
<thead>
<tr>
<th>Signature of the Authorized Certifying Official</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printed Name of Certifying Official</td>
<td>Title</td>
<td>Date</td>
</tr>
</tbody>
</table>
APPENDIX C

CAMPAIGN CONTRIBUTION DISCLOSURE FORM
APPENDIX C

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

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

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

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

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the
authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

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

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

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

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

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

Name(s) of Applicable Public Official(s) if any: ____________________________
(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: __________________________________________

Relation to Prospective Contractor: ____________________________

Date Contribution(s) Made: ____________________________

Amount(s) of Contribution(s) __________________________________________

Nature of Contribution(s) __________________________________________
Purpose of Contribution(s) __________________________________________

(Attach extra pages if necessary)

________________________________________
Signature  Date

________________________________________
Title (position)

--OR--

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

________________________________________
Signature  Date

________________________________________
Title (Position)
APPENDIX D

LETTER OF TRANSMITTAL FORM
APPENDIX D
LETTER OF TRANSMITTAL FORM

RFP#:  YOUTH DEVELOPMENT PROGRAMS TO PREVENT UNINTENDED TEEN PREGNANCY
Offeror Name: ___________________ FED ID# _______________________________
Items #1 to #7 EACH MUST BE COMPLETED IN FULL Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

1. Identity (Name) and Mailing Address of the submitting organization:
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

2. For the person authorized by the organization to contractually obligate on behalf of this Offer:
Name _______________________________________________________________________
Title _______________________________________________________________________
E-Mail Address _______________________________________________________________
Telephone Number _____________________________________________________________

3. For the person authorized by the organization to negotiate on behalf of this Offer:
Name _______________________________________________________________________
Title _______________________________________________________________________
E-Mail Address _______________________________________________________________
Telephone Number _____________________________________________________________

4. For the person authorized by the organization to clarify/respond to queries regarding this Offer:
Name _______________________________________________________________________
Title _______________________________________________________________________
E-Mail Address _______________________________________________________________
Telephone Number _____________________________________________________________

5. Use of Sub-Contractors (Select one)
_____ No sub-contractors will be used in the performance of any resultant contract OR
_____ The following sub-contractors will be used in the performance of any resultant contract:
_________________________________________________________________________________
(Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.
______________________________________________________________________________
(Attach extra sheets, as needed)

7. ___ On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II. C.1.
___ I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.
___ I acknowledge receipt of any and all amendments to this RFP.
________________________________________________ _____________________, 2022
Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

New Mexico Department of Health – Family Planning Program
Request for Proposals for Youth Development Programs to Prevent Unintended Teen Pregnancy
Page 40
APPENDIX E

PROPOSAL CHECKLIST
## APPENDIX E

### PROPOSAL CHECKLIST

Please use this checklist when preparing and assembling your proposal. All items must be included in the order presented in this Checklist and labeled with the titles noted below. Please also include the Checklist as Attachment 5.

<table>
<thead>
<tr>
<th>Check all items included in proposal.</th>
<th>Item and Title</th>
<th>Page Limit</th>
<th>Points under Weighted Criteria</th>
<th>Page Number in Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1. Signed Letter of Transmittal</td>
<td>n/a</td>
<td>0 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 2. Table of Contents</td>
<td>n/a</td>
<td>0 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 3. Proposal Summary</td>
<td>300 words</td>
<td>0 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 4a. Organizational Description, Capability and Eligibility</td>
<td>3 pages</td>
<td>30 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 4b. Other Area of Services</td>
<td>n/a</td>
<td>0 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 4c. Proposed Services</td>
<td>6 pages</td>
<td>25 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 4d. Proposed Program Models</td>
<td>3 pages</td>
<td>25 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 5a. Proposed Staffing</td>
<td>n/a</td>
<td>10 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 5b. Line Item Budget</td>
<td>n/a</td>
<td>5 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 5c. Budget Narrative Justification</td>
<td>n/a</td>
<td>5 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 6. Community Collaboration</td>
<td>n/a</td>
<td>5 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attachment 1. Board of Directors List</td>
<td>n/a</td>
<td>0 points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attachment 2. Proof of Non-Profit Status</td>
<td>n/a</td>
<td>0 points</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Copy of proof of registration with the NM Department of Taxation and Revenue for the payment of gross receipts tax or proof of the grant of an exemption from payment of federal income tax pursuant to Section 501 (c)(3).*

| Attachment 3. Federal Tax ID          | n/a            | 0 points   |                                |                         |

*Attach a copy of your Federal W-9 form.*

| Attachment 4. Agency Audit            | n/a            | 0 points   |                                |                         |

*Note: only one copy is required, to be attached to the original application Most recent financial statement, audit report, and management letter*
Notes:

- Letters of support or collaboration are not expected or required.
- All proposal contents must be provided with the original application, except Attachment 4. Agency Audit.

<table>
<thead>
<tr>
<th>Attachment 5. Checklist and Completeness</th>
<th>n/a</th>
<th>5 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please include a copy of this checklist. Your proposal will be scored based on completeness, using this checklist as a guide.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX F

DESCRIPTION OF TEEN PREGNANCY PREVENTION PROGRAMS
APPENDIX F

DESCRIPTION OF TEEN PREGNANCY PREVENTION PROGRAMS

Teen Outreach Program (TOP®)

Program Overview
The Teen Outreach Program® is a national youth development program designed to prevent adolescent risk behavior by helping adolescents age 12-18 develop healthy behaviors, life skills, and a sense of purpose.

TOP® is a nine-month program that includes weekly curriculum-based meetings as well as 20 hours of community service annually. Group facilitators include teachers, guidance personnel, or youth workers who have been trained to facilitate the discussion outlines in the curriculum.

TOP® serves adolescents in grades 6 through 12, and is suitable for participants from all racial/ethnic backgrounds. TOP® can be effectively integrated into school curriculum, but is also implemented as an out-of-school program through community-based youth organizations, local health departments, and social service agencies.

Core Elements
TOP® combines community service learning, positive adult support and guidance, and educational peer group meetings.

- **Community Service Learning**: Participants engage in a minimum of 20 hours of community service learning per academic year. TOP® facilitators guide the youth in choosing, planning, implementing, reflecting on, and celebrating their service learning project. Service projects may include direct service, indirect service, or civic actions.

- **Educational Peer Group Meetings**: TOP® Clubs meet at least twice a week throughout a nine-month period. At least one session per week should include a lesson from the TOP® curriculum, and at least one session per week should include an opportunity for Community Service Learning. The TOP® curriculum includes lessons on communication skills/assertiveness, understanding and clarifying values, relationships, goal-setting, influences, decision-making, and adolescent health and sexual development, as well as a variety of other topics.

Program Materials
The TOP® curriculum uses a variety of experiential methods to engage youth, including small-group discussions and role-playing. A community service learning guide aids discussion about volunteer experiences, tying together the classroom and community service learning aspects of the program and allowing youth to process and reflect on their service activities.

TOP® is appropriate for a range of grades and ages; the curriculum is divided into three core topics, with three developmental levels to choose from. Each level contains material that the facilitator may choose from, to ensure the material is appropriate for that Club’s level of understanding of a topic.
Curriculum theme areas include the following:

- Communication Skills
- Understanding and Clarifying Values
- Relationships
- Goal-Setting
- Empathy
- Decision-Making
- Health and Wellness

Facilitators choose which TOP® lessons to implement with their TOP® group, allowing the group’s weekly meetings to be responsive to the needs of the group. Group facilitators include teachers, guidance personnel, or youth workers who have been trained to facilitate the discussions outlined in the curriculum.

Research Results
An experimental evaluation found that teens from a variety of racial/ethnic groups and socioeconomic levels who participated in TOP® were less likely to experience pregnancy or cause a pregnancy, and less likely to get suspended from school or to fail a school course during the time they were in the program than teens in a control group.
APPENDIX F (continued)

DESCRIPTION OF TEEN PREGNANCY PREVENTION PROGRAMS

Teen Connection Program (TCP®)

Program Overview
Our ability to build strong social connections and relationships with others is linked to many positive outcomes—yet many young people lack healthy, positive, and affirming social connections, feeling isolated and alone.

To ensure that youth have opportunities for supportive peer and adult connections and to boost the success of young people, Teen Connection Project (TCP) was developed through a research-practice partnership between Wyman and Dr. Joseph Allen, University of Virginia.

The program is designed to enhance teens’ social and emotional skills by empowering them to build supportive peer groups and healthy relationships, and then spread those messages to their peers. Teen Connection Project is delivered to small groups of high school students weekly for one semester, by trained facilitators.

Core Elements
Program Goals & Results
Our ability to build strong social connections and relationships with others is linked to many positive outcomes—yet many young people lack healthy, positive, and affirming social connections, feeling isolated and alone.

To ensure that youth have opportunities for supportive peer and adult connections and to boost the success of young people, Teen Connection Project (TCP) was developed through a research-practice partnership between Wyman and Dr. Joseph Allen, University of Virginia.

The program is designed to enhance teens’ social and emotional skills by empowering them to build supportive peer groups and healthy relationships, and then spread those messages to their peers. Teen Connection Project is delivered to small groups of high school students weekly for one semester, by trained facilitators.

TCP’s goals are:
- Strengthen connection to others
- Support development of a positive sense of self
- Improve social and emotional learning and life skills
- Improve health, well-being and academic outcome
- Reduce risky behavior

Through the research to practice partnership with the University of Virginia, TCP’s effectiveness was tested in St. Louis-area high schools using a rigorous, randomized controlled trial across 4 consecutive semesters spanning program years 2016-2017 and 2017-2018. TCP participation
resulted in significant improvements in peer relationships, academic engagement, and use of social support to cope with stress, as well as lower levels of depressive symptoms.

In April 2020, Teen Connection Project was recognized by the Collaborative for Academic, Social, and Emotional Learning (CASEL) as a Promising Program, and included in the CASEL Program Guide.
APPENDIX G

LINE ITEM BUDGET FORM
## APPENDIX G

### LINE-ITEM BUDGET FORM

<table>
<thead>
<tr>
<th>LINE ITEM</th>
<th>CALCULATION</th>
<th>TOTAL REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel <em>(list each position)</em></td>
<td><em>(for each position)</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>____ FTE x $ ____ annual salary x ______ months</td>
<td></td>
</tr>
<tr>
<td>Fringe Benefits</td>
<td>______ total salary x _____% fringe rate</td>
<td></td>
</tr>
<tr>
<td>Travel – In State</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travel – Out of State</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supplies – Educational Materials</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supplies – Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Costs: __________</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Costs: __________</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Costs: __________</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL REQUESTED PER YEAR</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note: Operating costs includes all other items such as audit, rent, phone, utilities, etc.*
APPENDIX H

PROPOSED PROGRAM MODELS FORM
APPENDIX H

PROPOSED PROGRAM MODELS FORM

For each proposed Program Model, complete one copy of this form. You may expand the form up to 3 pages in length for each Program Model.

<table>
<thead>
<tr>
<th>Name of Program Model (check one only)</th>
<th>__ Wyman’s Teen Connection Program (TCP®)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>__ Wyman’s Teen Outreach Program (TOP®)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organizational History</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>If your agency has previously implemented program model, year your agency began delivering this model, number of clients served and key successes and highlights.</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rationale and Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Describe why you chose this model, why it is appropriate for your target population and your goals for implementing it.</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Target Populations (check all that apply)</th>
</tr>
</thead>
<tbody>
<tr>
<td>__ Foster Care</td>
</tr>
<tr>
<td>__ Homeless and Runaway</td>
</tr>
<tr>
<td>__ Juvenile Justice</td>
</tr>
<tr>
<td>__ LGBTQ</td>
</tr>
<tr>
<td>__ Minority Youth</td>
</tr>
<tr>
<td>__ Rural Populations</td>
</tr>
<tr>
<td>__ Other (please describe): __________________________</td>
</tr>
<tr>
<td><strong>Key Sub-Populations</strong></td>
</tr>
<tr>
<td>-------------------------</td>
</tr>
<tr>
<td><em>Describe the demographics of your specific target group, including factors such as age and race/ethnicity.</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Staff Expertise</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><em>If applicable, list the name of each staff member trained in this model, the date they were trained, and who provided the training.</em></td>
<td></td>
</tr>
<tr>
<td><em>List other qualifications of staff if not currently trained in the model.</em></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Recruitment Strategies</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Describe how you can ensure that you will meet your goal numbers, including types of recruitment strategies and specific venues (including advertising and use of technology, if any).</em></td>
<td></td>
</tr>
<tr>
<td>Implementation Strategies</td>
<td></td>
</tr>
<tr>
<td>---------------------------</td>
<td></td>
</tr>
<tr>
<td><em>Address other issues that could have an impact on the program:</em></td>
<td></td>
</tr>
<tr>
<td><em>When and where will meetings with the participants take place?</em></td>
<td></td>
</tr>
<tr>
<td><em>How will access/transportation issues for participants be addressed?</em></td>
<td></td>
</tr>
<tr>
<td><em>If other agencies will be used to reach the participants, include appropriate letters of commitment from those agencies.</em></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Adaptation</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Describe any changes you would like to request to the model to ensure it is appropriate for population served.</em></td>
</tr>
</tbody>
</table>
APPENDIX I

SAMPLE TEEN OUTREACH PROGRAM CONTRACT
IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

   The Contractor shall perform the following work:

   A. Implement the 9-month Wyman Teen Outreach Program (TOP®) as an in, or out-of-school evidence-based unintended teen pregnancy prevention program that targets 12- to 17-year-old youth. Groups will consist of at least 8 but no more than 25 participants.

   B. Collaborate with community partners to identify participants and to build community supports around youth advocacy and program development.

   C. Identify at risk participants, through school officials and program partners, who have high risk behaviors such as: poor school performance, economic disadvantage, homelessness, teen parents, family disruption, substance use, gang-related activity, physical fighting, carrying weapons, depression, sexually active peers, and other risk factors for unintended teen pregnancy.

   D. Implement TOP® with participants.
      a. Within the first 4 weeks of programming, provide a TOP® Orientation with participants and their family to discuss program and to encourage family involvement and support;
         i. Provide at least one lesson from the TOP® curriculum and at least one hour of community service learning (CSL) each week for a minimum of 120 minutes of programming for participants.
            a. Structured classroom activity utilizing the TOP® curriculum;
            b. Completion of 4 sexual health lessons from the TOP® curriculum;
            c. Community Service Learning projects. CSL is defined as meaningful service in which a teen feels an emotional connection with his or her efforts. Participants should have a choice in selecting their service project, and it should include facilitated reflection that connects meaningful community service with academic learning, personal growth and civic responsibility. Time after the
specific project or activity has been chosen counts toward the required CSL hours. Time spent brainstorming possible projects and the process of choosing a project does not count toward the required CSL hours. Time spent planning after an activity has been chosen, acting, and reflecting do count; and
d. A total of 20 CSL hours per program year for each participant.

b. Ensure that the Facilitator is trained by a Wyman certified trainer. Each Facilitator must attend the 3-day, Wyman approved, Training of Facilitators.
c. TOP® certified Facilitators must attend the Annual Contractor Conference held by FPP each year prior to the beginning of the program start date.
d. Each TOP® Club must visit a Public Health Office or a School Based Health Center that provides birth control during the 9-month program period so that participants know where to find reproductive health services. If health facilities or a visit to a clinic off the programming site are not available, alternative activities must be completed with prior approval by FPP. All visits to a health facility must be documented.
e. At least 80% of all participants must complete the full duration of the program.

E. Provide program incentive or participant stipends as follows:
   a. Participants may receive:
      i. Mid-year and End-of-year stipends. Participants are eligible to receive a maximum of $100.00 at program mid-year and a maximum of $100.00 at program end-of-year. Participants are eligible for full stipend amount upon completion of TOP® lessons and CSL hours at both mid-year and end-of-year.
   a. Facilitator may award stipend amount based on attendance, group participation and general behavior.
   b. Facilitator must submit stipend receipts and documentation of participant attendance to Agency at the time of disbursement for full reimbursement.
   b. Contractor may provide participant incentive in lieu of stipends as follows:
      i. Contractor must have prior approval by FPP for program incentive, such as gift cards.
      ii. Incentives are not to include food items.

F. Implement a TOP® Parent Orientation meeting and parent communication training(s) as follows:
   a. Within the first 4 weeks of programming, hold a Parent Orientation meeting with a minimum of 8, maximum of 25 parents and guardians. Submit to Agency documentation of parent/guardian attendance;
   b. Train a minimum of 8, maximum of 25 parents and guardians using the “From Playground to Prom: Talking with Your Child About Sexuality” curriculum, or another adult communication curriculum designated by the Family Planning Program;
   c. Ensure facilitator attends a “From Playground to Prom” training held by the FPP.

G. Provide required monthly data reports. Such reports shall accompany monthly invoices. Data reports shall use forms provided and required by the FPP. These forms may be
revised as needed by the FPP. Information to be reported monthly shall include, but not limited to:

a. invoice with original signature of authorized requestor (electronic-copy);
b. a Wyman Connect entry for each Club meeting specifying lesson and/or CSL;
c. ensure documentation of participation to meet mandatory curriculum fidelity requirements (electronic copy);
d. monthly activity report (electronic copy);
e. when applicable, Implementation Plan (electronic copy);
f. when applicable, Supplemental Material Approval form (electronic copy); and
g. when applicable, stipend receipts that are signed and dated by participant; must be disbursed and billed within the same month; or incentive documentation (electronic copy).

H. Submit invoices and reports for each month of service by the 15th day of the following month. Invoices not received by the FPP by this date may not be processed until the following month. Any invoices not submitted monthly according to this timeline may not be paid.

I. Complete the evaluation process as follows:

a. Complete Implementation Plan on a yearly basis and submit to the FPP by the Labor Day holiday of said year;
b. Facilitators agree to notify the FPP of changes made to the Implementation Plan as needed;
c. Submit required program monitoring documentation on a weekly basis via Wyman Connect;
d. Administer pre- and post-surveys to participants within the first four weeks of program start date and within the last four weeks of program end date;
e. Every effort should be made to complete pre- and post-surveys online via the Wyman provided website;
f. Administer post-surveys to participants who exit the Teen Outreach Program® prior to the end date (online);
g. Obtain consent from the legal guardian of each participant to participate in the program;
h. Facilitators must submit a brief mid-year narrative report by January 15th. This report shall describe
   i. Key program success and accomplishments during the period
   ii. Key program barriers and challenges
   iii. Staffing changes and trainings received
   iv. Needs to training or technical assistance from the Agency’s FPP.
i. Facilitators must complete end-of-year narrative reports and submit to the Agency within four weeks of the program end date, no later than June 30;
j. Facilitator agrees to announced and unannounced site visits by the FPP

J. Provide the FPP with resumes of all staff involved in the prevention program, i.e. Director, Coordinator, Facilitators.
K. Provide the FPP with current and working contact information of all staff involved in the program, to include business phone, email address, and mailing address.

L. Provide monthly updates of proposed changes made to the project to include: location, new staff resumes, and changes to curriculum. These changes are subject to the approval of the FPP.

M. Participate, by sending the Project Coordinator and Facilitator, to the Annual Contractor Conference held by the FPP, as well as other related training activities supported by the FPP for teen pregnancy contractors (dates, times, and locations to be announced at a later time).

N. Submit additional reports by specified deadlines as requested by the FPP.

O. Identify Agency/Public Health Division (PHD)/Family Health Bureau (FHB)/FPP in any published documents, media presentations, training programs, training materials, brochures, and any other materials and programs which are developed under the Scope of Work or through the budget of this contract.

P. Obtain and maintain current written agreement of participation with all program sites at which education services will be provided through June 30, 2022, regarding implementation of program activities.

**General Provisions**

Q. Performance will be monitored and evaluated by periodic on-site work reviews, review of annual data reports, review of monthly documentation requirements, and scheduled consultations with the FPP.

<table>
<thead>
<tr>
<th>TOP Program</th>
<th>FY23 Budget</th>
<th>FY24 Budget</th>
<th>FY25 Budget</th>
<th>FY26 Budget</th>
<th>Grand Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Club 1- Programming for a minimum of 8 participants up to a maximum of 25 participants in TOP® curriculum and Community Service Learning at $41,400 per club that completes a full unit. A full unit includes participation in weekly TOP® curriculum lesson, and a minimum of 20 hours of Community Service Learning per program year.</td>
<td></td>
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<tr>
<td>Stipends and incentives</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Club 1-Stipends or incentives for up to 25 students at $200.00 per student distributed as 2 Stipends</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
The AGENCY will pay the Contractor based upon deliverables completed after receipt and approval of deliverables and monthly invoices. The AGENCY reserves the right to conduct program audits to verify program compliance, quality and completeness and to request periodic progress reports.

The CONTRACTOR may make adjustments or changes not to exceed the total amount payable under the contract with written prior approval of the AGENCY.

The CONTRACTOR will be responsible for paying employer and employee portions of Federal Insurance Contributions Act (FICA), as well as other applicable federal, state and local taxes.

The CONTRACTOR agrees to submit invoices for services provided within fifteen days of the month in which services were delivered. In addition, notwithstanding the provisions of Article 2, Section B, the CONTRACTOR agrees to submit the final invoice for services provided in June within the first week of the following July.

Services will be performed in North Santa Fe and Rio Arriba Counties.

**Performance Measures.**
1. Population Performance Measure:
   Objective: Increase the capacity of the Health Department to decrease disparities.
2. Program Performance Measure – Family Planning Program:
   80 percent of participants in TOP club (up to 25) successfully complete programming.

| Club 1-Graduation ceremony for participants and guests @ $750 per event. |
| Club 1-Parent/Guardian orientation(s) per program with a minimum of 8, maximum of 25 unduplicated participants for a total of $500.00. |
| Adult educational session(s) per program with a minimum of 8, maximum of 25 unduplicated participants for a total of $500.00. |
| Club 1-Complete evaluation process |
| Grand Total |

or incentives at $100.00 each ($200 total).

Community Training

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| Club 1-Graduation ceremony for participants and guests @ $750 per event. |

| Club 1-Parent/Guardian orientation(s) per program with a minimum of 8, maximum of 25 unduplicated participants for a total of $500.00. |

| Adult educational session(s) per program with a minimum of 8, maximum of 25 unduplicated participants for a total of $500.00. |

| Club 1-Complete evaluation process |
| Grand Total |
2. **Compensation.**

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables in FY23. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FY23.**

The Agency shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables in FY24. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FY24.**

The Agency shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables in FY25. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FY25.**

The Agency shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables in FY26. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FY26.**

B. Payment in FY23, FY24, FY25, and FY26 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 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. \textit{THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.}

   D. **Termination Management.** If this agreement is terminated pursuant to its provisions, or if the parties mutually agree to discontinue their contractual relationship, or upon expiration of the term of the AGREEMENT, immediately upon expiration or receipt by either the Agency or the Contractor of notice of termination of this agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this agreement without written approval of the Agency, except as provided in part (4) of this paragraph, below; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this agreement, and 4) if providing health services or client support as part of the scope of work of this agreement, continue to provide essential services and supports to ensure the health and safety of individual clients as directed by the Agency during the period of termination management. This requirement is not avoided by an inadvertent expiration of term for the agreement. In this event the Agency may temporarily extend the term, enter into a new short term agreement or otherwise enter
into an agreement, consistent with the New Mexico Procurement Code until all transition of services are completed. As of the date of termination of this agreement, the Contractor shall furnish to the Agency: (a) a complete detailed inventory of nonexpendable Agency property or equipment provided to or purchased by the Contractor with agreement funds as defined in Article 31 (Property) of this agreement, and (b) a final closing of the financial records and books of accounts which were required to be kept by the Contractor under the provisions of this agreement regarding financial records. Any non-expendable personal property or equipment provided to or purchased by the Contractor with agreement funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

5. **Appropriations.**
   The terms of this Agreement are contingent upon sufficient 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.**
A. All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

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

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

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

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

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

3) in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;
4) this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase 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. From time to time and in accordance with changes in state and Agency policy, this agreement shall be amended to comport with current policy, rules, regulations, and law.

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


This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.
15. **Penalties for violation of law.**
   The Procurement Code, NMSA 1978 §§ 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

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

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

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

19. **Records and Financial Audit.**
   A. The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the agreement’s term and effect and retain them for a period of three (3) years from the date of final payment under this agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

   B. The Contractor receiving state or federal funds from the Agency shall comply, if applicable, with auditing requirements under the Single Audit Act (31 U.S.C. §7501, et seq.) and the New Mexico State Auditor's rules and regulations. If the Contractor is determined to be a sub recipient and not a vendor under the federal Single Audit Act, the Contractor shall comply with the audit requirements of the Single Audit Act. This includes the Contractor retaining its financial records for a period five years after the time the audit was released.
C. If the Contractor receives more than $750,000 in federal funding, or more than $750,000 from the Agency, in any single fiscal year, the Contractor shall prepare annual financial statements and obtain an audit of, or an opinion on, the financial statements from an external Certified Public Accountant.

D. The Contractor shall maintain the financial statements for a period of no less than six years and shall make the financial statements and the CPA’s audit or opinion available to the Agency upon request.

E. Applicable annual financial reports shall be submitted to the Agency no later than six months following the close of the Contractor’s fiscal year.

F. To ensure proper delivery and receipt, the Contractor shall submit their annual audit report or financial reports (if no audit was required to):

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

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

20. **Indemnification.**

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

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

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

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

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

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

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

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

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

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

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.

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

27. **Liability Insurance.**
   The Contractor shall maintain professional and general liability insurance, as required, for all services provided under this agreement and Contractor shall supply evidence of such coverage upon the Agency’s request.

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

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

   C. **Political Activity.** No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.
D. Grantor and Contractor Information.
1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:
   i. CFDA Number – XXX___________. OR N/A
   ii. Program Title – XXX___________. OR N/A
   iii. AGENCY/OFFICE – XXX___________. OR N/A
   iv. GRANT NUMBER – XXX___________. OR N/A
2. CONTRACTOR’S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) is XXX___________. OR N/A

E. Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013)[Federal Grant funded projects only].
1. This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L.112-239) and FAR 3.908.
2. The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
3. The Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.

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

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

H. For agreements that involve the expenditure of federal funds, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory
level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

29. **Governing Bodies.**

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

30. **Property.**

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

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

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

(1) Federal Award Identification.

(i) Contractor name (the name associated with its unique entity identifier: __________________________________________.

(ii) Contractor’s unique entity identifier: __________________________________________.

(iii) Federal Award Identification Number (FAIN): __________________________________________.

(iv) Federal award date (2 C.F.R. §200.39 and/or 45 C.F.R. §75.2 Federal award date) of award to the Agency by the awarding agency: ________________________.

(v) Subaward Period of Performance Start and End Dates: ________________________.

(vi) Amount of federal funds obligated by this action by the Agency to the Contractor: ________________________.

(vii) Total amount of federal funds obligated to the Contractor by the Agency including the current obligation: ________________________.

(viii) Total amount of the federal award committed to the Contractor by the Agency: ________________________.

(ix) Federal award project description, responsive to the Federal Funding Accountability and Transparency Act (FFATA): __________________________________________.

(x) Name of awarding agency, Agency, and contact information for awarding official of the Agency: __________________________________________.

(xi) CFDA Number and Name; identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement: ________________________.

(xii) Identification of whether the award is R&D: ________________________.

(xiii) Indirect cost rate for the federal award (including if the de minimis rate is charged per 2 C.F.R. 200.414 and/or 45 C.F.R. §75.414): ________________________.

(2) The Contractor shall use the federal award in accordance with all requirements imposed by federal statutes, regulations and the terms and conditions of the federal award.

(3) The Contractor shall comply with any additional requirements needed in order for the Agency to meet its own responsibility to the awarding agency including identification of any required financial and performance reports, as specified in the notice of grant opportunity, the Agency’s grant application, and the notice of federal award.
(4) An approved federally recognized indirect cost rate negotiated between the Contractor and the federal government or, if no such rate exists, either a rate negotiated between the Agency and the Contractor (in compliance with 2 C.F.R. Part 200 and/or 45 C.F.R. Part 75), or a de minimis indirect cost rate as defined in 2 C.F.R. §200.414(f) and/or 45 C.F.R. §75.414(f) is listed in this Agreement.

(5) The Contractor shall permit the Agency and its auditors to have access to the Contractor’s records and financial statements as necessary for the Agency to meet the requirements of 2 C.F.R. Part 200 and/or 45 C.F.R. Part 75.

(6) The Contractor shall comply with the appropriate terms and conditions concerning closeout of the subaward as applicable pursuant to 2 C.F.R. §200.343 and/or 45 C.F.R. §75.381.

(7) In order to evaluate the Contractor’s risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of 2 CFR §200.331 and/or 45 C.F.R. §75.352, the Agency is authorized to consider such factors as:

   (i) The Contractor’s prior experience with the same or similar subawards;

   (ii) The results of previous audits including whether or not the Contractor received a Single Audit in accordance with 2 C.F.R. Part 200 and/or 45 C.F.R. Part 75, subpart F, and the extent to which the same or similar subaward has been audited as a major program; (iii) Whether the Contractor has new personnel or new or substantially changed systems; and

   (iv) The extent and results of awarding agency monitoring (e.g., if the Contractor also receives federal awards directly from an awarding agency).

(8) The Agency is authorized to consider imposing specific subaward conditions upon the Contractor if appropriate as described in 2 C.F.R. §200.207 and/or 45 C.F.R. §75.207.

(9) The Agency is authorized to monitor the activities of the Contractor as necessary to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Agency monitoring of the Contractor may include:

   (i) Reviewing financial and performance reports required by the Agency;

   (ii) Following-up and ensuring that the Contractor takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the Contractor from the Agency detected through audits, on-site reviews, and other means;

   (iii) Issuing a management decision for audit findings pertaining to the federal award provided to the Contractor from the Agency as required by 2 C.F.R. §200.521 and/or 45 C.F.R. §75.521.
(10) Depending upon the Agency’s assessment of risk posed by the Contractor (as described in paragraph (7) of this section Appendix), the Agency is authorized to utilize the following monitoring tools to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(i) Providing Contractors with training and technical assistance on program-related matters; and

(ii) Performing on-site reviews of the Contractor’s program operations;

(iii) Arranging for agreed-upon-procedures engagements as described in 2 C.F.R. §200.425 and/or 45 C.F.R. §75.425;

(11) The Agency is authorized to verify that the Contractor is audited as required by 2 C.F.R. Part 200 and/or 45 C.F.R. Part 75, subpart F when it is expected that the Contractor’s federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. §200.501 and/or 45 C.F.R. §75.501.

(12) The Agency is authorized to consider whether the results of the Contractor’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the Agency’s own records.

(13) The Agency is authorized to consider taking enforcement action against noncompliant Contractors as described in 2 C.F.R. §200.338 and/or 45 C.F.R. §75.371 and in program regulations.
APPENDIX I (continued)

SAMPLE TEEN CONNECTION PROJECT CONTRACT
STATE OF NEW MEXICO

(DEPARTMENT OF HEALTH)

PROFESSIONAL SERVICES CONTRACT #________________________

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

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work**

2. The Contractor shall perform the following work:

   A. Implement four groups using the Teen Connection Project ® (TCP®) curriculum. Programming will consist of two groups of 6 to 15 high-school aged youth during fall semester and two groups during spring semester.

   B. Implement all 12 lessons from the curriculum with each group, in order, each semester.

   C. Identify a Coordinator who is responsible for oversight of the implementation and communication with FPP (Family Planning Program) and Wyman.

   D. Identify two highly-skilled facilitators, already trained in the Teen Outreach Program® (TOP®), who will implement the program in alignment with High Quality Facilitation (HQF) standards.
   a. All Facilitators must be trained by Wyman certified Trainers, utilizing Wyman Training of Facilitator materials and methods standards, either by Wyman certified Trainers.

   E. Document all TCP® related activities on Wyman’s TCP® database.

   F. Maintain on-going communication regarding the progress of the project and discuss any concerns in a timely manner.

   G. Within the first 4 weeks of programming, provide a TCP® Orientation with participants and their family to discuss the program and encourage family involvement and support.
General Provisions

H. Performance will be monitored on a monthly basis utilizing a variety of methods including but not limited to review of Activity Reports, attendance records, monitoring of online data base entries, as well as reports required at the beginning, midpoint, and end of programming. Phone calls and or meetings may be scheduled throughout programming.

DOH will pay the Entity based upon deliverables completed after receipt and approval of deliverables and monthly invoices. DOH reserves the right to conduct program audits to verify program compliance, quality and completeness and to request periodic progress reports.

The Entity may make adjustments or changes not to exceed the total amount payable under the contract with written prior approval of DOH.

The Entity will be responsible for paying employer and employee portions of Federal Insurance Contributions Act (FICA), as well as other applicable federal, state and local taxes.

The Entity agrees to submit invoices for services provided within fifteen days of the month in which services were delivered. In addition, notwithstanding the provisions of Article 4, Section B, the Entity agrees to submit the final invoice for services provided in June within the first week of the following July. and all supporting backup documentation for services provided by June 15th, or the date specified by FPP.

Performance Measures
1. Population Performance Measure:
   Objective: Increase the capacity of the Health Department to decrease disparities.
2. Program Performance Measure – Family Planning Program:
   80 percent of participants successfully complete programming.
### Deliverables | FY23 Budget | FY24 Budget | FY25 Budget | FY26 Budget | Grand Total
--- | --- | --- | --- | --- | ---
**Teen Connection Project**

| Club 1 | Facilitate two groups of 6 to 15 high-school aged youth during the fall semester and two groups during the spring semester. $11,037.50 per group. A full group includes 12 sessions from the “Teen Connection Project” curriculum. A total of 4 groups will be completed in the program year. |
| --- | --- | --- | --- | --- | ---

**Graduation**

<table>
<thead>
<tr>
<th>Club 1</th>
<th>Graduation ceremony upon completion of each group.</th>
</tr>
</thead>
</table>

**Evaluation**

<table>
<thead>
<tr>
<th>Club 1</th>
<th>Complete evaluation process</th>
</tr>
</thead>
</table>

**Total**

2. **Compensation.**

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables in FY23. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FY23.

The Agency shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables in FY24. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FY24.

The Agency shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables in FY25. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FY25.
The Agency shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables in FY26. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FY26.**

B. Payment in FY23, FY24, FY25, and FY26 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 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. If this agreement is terminated pursuant to its provisions, or if the parties mutually agree to discontinue their contractual relationship, or upon expiration of the term of the AGREEMENT, immediately upon expiration or receipt by either the Agency or the Contractor of notice of termination of this agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this agreement without written approval of the Agency, except as provided in part (4) of this paragraph, below; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this agreement, and 4) if providing health services or client support as part of the scope of work of this agreement, continue to provide essential services and supports to ensure the health and safety of individual clients as directed by the Agency during the period of termination management. This requirement is not avoided by an inadvertent expiration of term for the agreement. In this event the Agency may temporarily extend the term, enter into a new short term agreement or otherwise enter into an agreement, consistent with the New Mexico Procurement Code until all transition of services are completed. As of the date of termination of this agreement, the Contractor shall furnish to the Agency: (a) a complete detailed inventory of nonexpendable Agency property or equipment provided to or purchased by the Contractor with agreement funds as defined in Article 31 (Property) of this agreement, and (b) a final closing of the financial records and books of accounts which were required to be kept by the Contractor under the provisions of this agreement regarding financial records. Any non-expendable personal property or equipment provided to or purchased by the Contractor with agreement funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient 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.**

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

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

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

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

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

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

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

   4) this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator’s family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase 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’s representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor’s representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

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

13. Amendment.
   A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories. From time to time and in accordance with changes in state and Agency policy, this agreement shall be amended to comport with current policy, rules, regulations, and law.

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

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.

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.**

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

I. The Contractor receiving state or federal funds from the Agency shall comply, if applicable, with auditing requirements under the Single Audit Act (31 U.S.C. §7501, et seq.) and the New Mexico State Auditor's rules and regulations. If the Contractor is determined to be a sub recipient and not a vendor under the federal Single Audit Act, the Contractor shall comply with the audit requirements of the Single Audit Act. This includes the Contractor retaining its financial records for a period five years after the time the audit was released.

J. If the Contractor receives more than $750,000 in federal funding, or more than $750,000 from the Agency, in any single fiscal year, the Contractor shall prepare annual financial statements and obtain an audit of, or an opinion on, the financial statements from an external Certified Public Accountant.

K. The Contractor shall maintain the financial statements for a period of no less than six years and shall make the financial statements and the CPA’s audit or opinion available to the Agency upon request.

L. Applicable annual financial reports shall be submitted to the Agency no later than six months following the close of the Contractor’s fiscal year.

M. To ensure proper delivery and receipt, the Contractor shall submit their annual audit report or financial reports (if no audit was required to):

Department of Health

New Mexico Department of Health – Family Planning Program
Request for Proposals for Youth Development Programs to Prevent Unintended Teen Pregnancy
Page 85
N. The Agency may take corrective action as deemed necessary for Contractor’s failure to comply with 19-A through 19-F above. Corrective action may include, but is not limited to, termination of agreement and preclusion from engaging Contractor in the future.

20. **Indemnification.**

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

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

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

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

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

22. **Invalid Term or Condition.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.
23. **Enforcement of Agreement.**
   A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

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

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

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

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.

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

27. **Liability Insurance.**
   The Contractor shall maintain professional and general liability insurance, as required, for all services provided under this agreement and Contractor shall supply evidence of such coverage upon the Agency’s request.

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

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

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

L. Grantor and Contractor Information.
1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:
   i. CFDA Number – XXX___________. OR N/A
   ii. Program Title – XXX___________. OR N/A
   iii. AGENCY/OFFICE – XXX___________. OR N/A
   iv. GRANT NUMBER – XXX___________. OR N/A

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

M. Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013)[Federal Grant funded projects only].
1. This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the
2. The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
3. The Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.

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

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

P. For agreements that involve the expenditure of federal funds, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

29. **Governing Bodies.**

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

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

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

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

(1) Federal Award Identification.

(i) Contractor name (the name associated with its unique entity identifier: _________________________________.

(ii) Contractor's unique entity identifier: _________________________________.

(iii) Federal Award Identification Number (FAIN): _________________________________.

(iv) Federal award date (2 C.F.R. §200.39 and/or 45 C.F.R. §75.2 Federal award date) of award to the Agency by the awarding agency: ________________________.

(v) Subaward Period of Performance Start and End Dates: ________________________.

(vi) Amount of federal funds obligated by this action by the Agency to the Contractor: ________________________.

(vii) Total amount of federal funds obligated to the Contractor by the Agency including the current obligation: ________________________.

(viii) Total amount of the federal award committed to the Contractor by the Agency: ________________________.

(ix) Federal award project description, responsive to the Federal Funding Accountability and Transparency Act (FFATA): _________________________________________________________________________.

(x) Name of awarding agency, Agency, and contact information for awarding official of the Agency: _________________________________________________________________________.

(xi) CFDA Number and Name; identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement: ________________________

(xii) Identification of whether the award is R&D: ________________________.

(xiii) Indirect cost rate for the federal award (including if the de minimis rate is charged per 2 C.F.R. 200.414 and/or 45 C.F.R. §75.414): ________________________

(2) The Contractor shall use the federal award in accordance with all requirements imposed by federal statutes, regulations and the terms and conditions of the federal award.

(3) The Contractor shall comply with any additional requirements needed in order for the Agency to meet its own responsibility to the awarding agency including identification of any required financial and performance reports, as specified in the notice of grant opportunity, the Agency’s grant application, and the notice of federal award.
(4) An approved federally recognized indirect cost rate negotiated between the Contractor and the federal government or, if no such rate exists, either a rate negotiated between the Agency and the Contractor (in compliance with 2 C.F.R. Part 200 and/or 45 C.F.R. Part 75), or a de minimis indirect cost rate as defined in 2 C.F.R. §200.414(f) and/or 45 C.F.R. §75.414(f) is listed in this Agreement.

(5) The Contractor shall permit the Agency and its auditors to have access to the Contractor’s records and financial statements as necessary for the Agency to meet the requirements of 2 C.F.R. Part 200 and/or 45 C.F.R. Part 75.

(6) The Contractor shall comply with the appropriate terms and conditions concerning closeout of the subaward as applicable pursuant to 2 C.F.R. §200.343 and/or 45 C.F.R. §75.381.

(7) In order to evaluate the Contractor’s risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of 2 CFR §200.331 and/or 45 C.F.R. §75.352, the Agency is authorized to consider such factors as:

(iii) The Contractor’s prior experience with the same or similar subawards;

(iv) The results of previous audits including whether or not the Contractor received a Single Audit in accordance with 2 C.F.R. Part 200 and/or 45 C.F.R. Part 75, subpart F, and the extent to which the same or similar subaward has been audited as a major program; (iii) Whether the Contractor has new personnel or new or substantially changed systems; and

(iv) The extent and results of awarding agency monitoring (e.g., if the Contractor also receives federal awards directly from an awarding agency).

(8) The Agency is authorized to consider imposing specific subaward conditions upon the Contractor if appropriate as described in 2 C.F.R. §200.207 and/or 45 C.F.R. §75.207.

(9) The Agency is authorized to monitor the activities of the Contractor as necessary to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Agency monitoring of the Contractor may include:

(i) Reviewing financial and performance reports required by the Agency;

(ii) Following-up and ensuring that the Contractor takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the Contractor from the Agency detected through audits, on-site reviews, and other means;

(iii) Issuing a management decision for audit findings pertaining to the federal award provided to the Contractor from the Agency as required by 2 C.F.R. §200.521 and/or 45 C.F.R. §75.521.
(10) Depending upon the Agency’s assessment of risk posed by the Contractor (as described in paragraph (7) of this section Appendix), the Agency is authorized to utilize the following monitoring tools to ensure proper accountability and compliance with program requirements and achievement of performance goals:

   (i) Providing Contractors with training and technical assistance on program-related matters; and

   (ii) Performing on-site reviews of the Contractor’s program operations;

   (iii) Arranging for agreed-upon-procedures engagements as described in 2 C.F.R. §200.425 and/or 45 C.F.R. §75.425;

(11) The Agency is authorized to verify that the Contractor is audited as required by 2 C.F.R. Part 200 and/or 45 C.F.R. Part 75, subpart F when it is expected that the Contractor’s federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. §200.501 and/or 45 C.F.R. §75.501.

(12) The Agency is authorized to consider whether the results of the Contractor’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the Agency’s own records.

(13) The Agency is authorized to consider taking enforcement action against noncompliant Contractors as described in 2 C.F.R. §200.338 and/or 45 C.F.R. §75.371 and in program regulations.
APPENDIX J

SUBSTITUTE FORM W-9
### APPENDIX J

**SUBSTITUTE FORM W-9**

![SUBSTITUTE FORM W-9](image)

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New Mexico Department of Health – Family Planning Program
Request for Proposals for Youth Development Programs to Prevent Unintended Teen Pregnancy
Page 96
APPENDIX J

SUBSTITUTE FORM W-9 (continued)

Instructions for Completing this Form

This form substitutes for the IRS W-9 form. Complete this form if you will receive payment from the State of New Mexico and/or you are a vendor who provides goods and services to the State of New Mexico. To comply with the Internal Revenue Service (IRS) regulations regarding 1099 reporting, the State of New Mexico is required to collect the following information to be completed on the Substitute W-9 form. The information collected on this form will allow the State to confirm that our records contain the official name of your business, the Tax Identification Number (TIN) that the IRS has on file for your business and business type.

Check the appropriate box(s) that this form is to be utilized and fill in the corresponding section(s) indicated next to the box(s) checked.

PART I: VENDOR INFORMATION
1. Legal Business Name Enter the legal name as registered with the IRS or Social Security Administration.
2. DBA/Trade Name Individuals leave blank. Sole Proprietorships: Enter DBA (doing business as) name. All Others: Complete only if business name is different than Legal Name.
3. Entity Type Check ONE box which describes business entity. If a current, past, or becoming a state employee, please also mark the State of New Mexico Employee box and enter the Business Unit number for the agency. Also, provide the 6 digit employee ID as assigned in SHARE HCM in the Part II Taxpayer Identification Number (TIN) & Taxpayer Identification Type section and mark the Employee ID box.
4. 1099 Reporting Check the appropriate box that applies to the type of services being provided to the State. If the type of service is not specifically stated, enter the type of service in the Other box.

PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE
1. Taxpayer Identification Number Enter TIN with no dashes in the boxes provided
   a. TIN is always a 9-digit number. Provide the Social Security Number (SSN) assigned by the Social Security Administration (SSA) or the Federal Employer Identification Number (FEIN) assigned to the business or other entity by the Internal Revenue Service (IRS).
   b. Employee ID is always a 6-digit number. Provide the employee ID assigned by the State of New Mexico for payroll processing in SHARE HCM.
2. TIN Identification Type Mark the appropriate box for the TIN provided above.

PART III: ADDRESS
1. Address Where correspondence, payment(s), purchase order(s) or 1099s should be sent.
   a. Employees if a current employee, please provide this following:
      i. Address Line #1: State Agency Name
      ii. Address Line #2: Field Office Mailing Address
      iii. Address Line #3: N/A
      b. CDBG When providing a Community Development Block Grant (CDBG) remittance address, enter CDBG on line #1 and entities remittance address in address line #2
2. Remittance Address If different than Address
3. Zip Code and Phone Number The 5 + 4 code will be required to be entered for all zip codes. If the last 4 digits are unknown, then 4 zeros (0) can be entered. Do not enter the 5 before the 4 as part of the zip code. When entering the phone number, only enter the 10 digit number. Do not enter the ( ) or - as part of the phone number.

PART IV: CERTIFICATION
By signing this document you are certifying that all information provided is accurate and complete. The person signing this document should be the partner in the partnership, an officer of the corporation, the individual or sole proprietor noted under legal name above, or the New Mexico State Employee for which the vendor account is established.

Identifying information is required of the person signing the form.

PART V: OPTIONAL DIRECT DEPOSIT (ACH) You may elect to receive payments from the State of New Mexico through Automated Clearing House (ACH) direct deposit. Please provide a copy of a voided check or letter from financial institution with the banking information. Without one of the two items, ACH information WILL NOT be entered and payments will be made by warrant. Select the type of account being provided.

I Acknowledge Print name and sign to acknowledge the IAT warning and to authorize the State of New Mexico to initiate direct deposit of funds to your financial institution provided.

Privacy Act Notice Section 6109 requires you to furnish your correct TIN to persons who must file information
APPENDIX K

HIPAA BUSINESS ASSOCIATE AGREEMENT
This Business Associate Agreement and 42 C.F.R. Part 2 Qualified Service Organization Agreement ("Agreement") is entered into between the New Mexico Department of Health ("Department") and ________________, hereinafter referred to as "Business Associate.", in order to comply with 42 U.S.C. Section 290dd-2 and 290ee-3, the Confidentiality of Alcohol and Drug Abuse Patient Records, and the related regulations at 42 CFR Sections 2.1 to 2.67; and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), including the Standards of the Privacy of Individually Identifiable Health Information and the Security Standards at 45 CFR Parts 160 and 164.

BUSINESS ASSOCIATE, by a related agreement identified by number as _______________________ (the "Related Agreement"), has agreed to provide services to, or on behalf of, Department (referred to in such Related Agreement as Department or the "Procuring Agency") which may involve the disclosure by Department to Business Associate (referred to in such Related Agreement as “CONTRACTOR”) of Protected Health Information. This Business Associate Agreement is intended to supplement the obligations of the Department and CONTRACTOR as set forth in the Related Agreement and is hereby incorporated therein.

THE PARTIES acknowledge HIPAA, as amended by the HITECH Act, requires that Department and Business Associate enter into a written agreement that provides for the safeguarding and protection of all Protected Health Information which Department may disclose to the Business Associate, or which may be created or received by the Business Associate on behalf of the Department.

THE PARTIES additionally acknowledge the Confidentiality of Alcohol and Drug Abuse Patient Records statute and regulations require that Department and Business Associate enter into a written agreement that provides for the safeguarding and protection of all drug and/or alcohol abuse information that is individually identifiable to the patient, which the Business Associate may receive, store, process or otherwise deal with from the Department.

1. **Definition of Terms**
   a. **Breach.** "Breach" has the meaning assigned to the term breach under 42 U.S.C. § 17921(1) [HITECH Act § 13400 (1)] and 45 CFR § 164.402.
   b. **Business Associate.** "Business Associate", herein being the same entity as CONTRACTOR in the Related Agreement, shall have the same meaning as defined by New Mexico Department of Health – Family Planning Program Request for Proposals for Youth Development Programs to Prevent Unintended Teen Pregnancy.
under the HIPAA standards as defined below, including without limitation Contractor acting in the capacity of a Business Associate as defined in 45 CFR § 160.103.

c. **Department.** "Department" shall mean in this agreement the State of New Mexico Department of Health.

d. **Individual.** "Individual" shall have the same meaning as in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502 (g).

e. **HIPAA Standards.** “HIPAA Standards” shall mean the legal requirements as set forth in the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009, and the regulations and policy guidance, as each may be amended over time, including without limitation:

   i. **Privacy Rule.** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information in 45 CFR Part 160 and Part 164, Subparts A and E.

   ii. **Breach Notification Rule.** “Breach Notification” shall mean the Notification in the case of Breach of Unsecured Protected Health Information, 45 CFR Part 164, Subparts A and D

   iii. **Security Rule.** “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 164, Subparts A and C, including the following:

    A. **Security Standards.** “Security Standards” hereinafter shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.306.

    B. **Administrative Safeguards.** “Administrative Safeguards” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.308.

    C. **Physical Safeguards.** “Physical Safeguards” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.310.

    D. **Technical Safeguards.** “Technical Safeguards” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.312.

    E. **Policies and Procedures and Documentation Requirements.** “Policies and Procedures and Documentation Requirements” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.316.

f. **Protected Health Information.** "Protected Health Information" or “PHI” shall have the same meaning as in 45 CFR §160.103, limited to the information created, maintained, transmitted or received by Business Associate, its agents or subcontractors from or on behalf of Department.

g. **Required By Law.** "Required By Law" shall have the same meaning as in 45 CFR §164.103.

**h. Secretary.** "Secretary" shall mean the Secretary of the U. S. Department of Health and Human Services, or his or her designee.
i. **Covered Entity.** "Covered Entity" shall have the meaning as the term “covered entity” defined at 45 CFR §160.103, and in reference to the party to this agreement, shall mean the State of New Mexico Department of Health.

j. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Standards. All terms used, and all statutory and regulatory references shall be as currently in effect or as subsequently amended.

2. **Obligations and Activities of Business Associate**

   a. **General Rule of PHI Use and Disclosure.** The Business Associate may use or disclose PHI it creates for, receives from or on behalf of, the Department to perform functions, activities or services for, or on behalf of, the Department in accordance with the specifications set forth in this Agreement, or the Related Agreement; provided that such use or disclosure would not violate the HIPAA Standards if done by the Department; or as Required By Law.

   i. Any disclosures made by the Business Associate of PHI must be made in accordance with HIPAA Standards and other applicable laws.

   ii. Notwithstanding any other provision herein to the contrary, the Business Associate shall limit uses and disclosures of PHI to the “minimum necessary,” as set forth in the HIPAA Standards.

   iii. The 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 and as delineated in the Related Agreement(s), except where a “limited data set” is not practicable in order to accomplish those activities.

   iv. Except as otherwise limited by this Agreement or the Related Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

   v. Except as otherwise limited by this Agreement or the Related Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate provided that the disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

   vi. Business Associate may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR § 164.502(j).

   vii. Business Associate may use PHI to provide Data Aggregation services to the Department as permitted by the HIPAA Standards.

   b. **Safeguards.** The Business Associate agrees to implement and use appropriate Security, Administrative, Physical and Technical Safeguards, and comply where applicable with subpart C of 45 C.F.R. Part 164, to prevent use or disclosure of PHI other than as required by law or as provided for by this Agreement or the Related Agreement. Business Associate
shall identify in writing upon request from the Department all of those Safeguards that it uses to prevent impermissible uses or disclosures of PHI.

c. **Restricted Uses and Disclosures.** The Business Associate shall not use or further disclose PHI other than as permitted or required by this Agreement, the Related Agreement, the HIPAA Standards, or otherwise as permitted or required by law. The Business Associate shall not disclose PHI in a manner that would violate any restriction which has been communicated to the Business Associate.

i) The Business Associate shall not directly or indirectly receive remuneration in exchange for any of the PHI unless a valid authorization has been provided to the Business Associate that includes a specification of whether the PHI can be further exchanged for remuneration by CONTRACTOR receiving the PHI of that individual, except as provided for under the exceptions listed in 45 C.F.R. §164.502 (a)(5)(ii)(B)(2).

ii) Unless approved by the Department, Business Associate shall not directly or indirectly perform marketing to individuals using PHI.

d. **Agents.** The Business Associate shall ensure that any agents that create, receive, maintain or transmit PHI on behalf of Business Associate, agree in writing to the same restrictions and conditions that apply to the Business Associate with respect to PHI, in accordance with 45 C.F.R. § 164.502(e)(1)(ii), and shall make that agreement available to the Department upon request. Upon the Business Associate’s contracting with an agent for the sharing of PHI, the Business Associate shall provide the Department written notice of any such executed agreement.

e. **Availability of Information to Individuals and the Department.** Business Associate shall provide, at the Department’s request, and in a reasonable time and manner, access to PHI in a Designated Record Set (including an electronic version if required) to the Department or, as directed by the Department, to an Individual in order to meet the requirements under 45 CFR § 164.524. Within three (3) business days, Business Associate shall forward to the Department for handling any request for access to PHI that Business Associate receives directly from an Individual. If requested by the Department, the Business Associate shall make such information available in electronic format as required by the HIPAA Standards to a requestor of such information and shall confirm to the Department in writing that the request has been fulfilled.

f. **Amendment of PHI.** In accordance with 45 CFR § 164.526, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Department directs or agrees to, at the request of the Department or an Individual, to fulfill the Department’s obligations to amend PHI pursuant to the HIPAA Standards. Within three (3) business days, Business Associate shall forward to the Department for handling any request for amendment to PHI that Business Associate receives directly from an Individual.

g. **Internal Practices.** Business Associate agrees to make internal practices, books and records, including policies, procedures and PHI, relating to the use and disclosure of PHI, available to the Department or to the Secretary within seven (7) days of receiving a request from the Department or receiving notice of a request from the Secretary, for purposes of the Secretary’s determining the Department’s compliance with the Privacy Rule.
h. **PHI Disclosures Recordkeeping.** Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for the Department to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with the HIPAA Standards and 45 CFR § 164.528. Business Associate shall provide such information to the Department or as directed by the Department to an Individual, to permit the Department to respond to an accounting request. Business Associate shall provide such information in the time and manner reasonably designated by the Department. Within three (3) business days, Business Associate shall forward to the Department for handling any accounting request that Business Associate directly receives from an individual.

i. **PHI Disclosures Accounting.** Business Associate agrees to provide to the Department or an Individual, within seven (7) days of receipt of a request, information collected in accordance with Section 2 (h) of this Agreement, to permit the Department to respond to a request for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

j. **Security Rule Provisions.** As required by 42 U.S.C. § 17931 (a) [HITECH Act Section 13401(a)], the following sections as they are made applicable to business associates under the HIPAA Standards, shall also apply to the Business Associate: 1) Administrative Safeguards; 2) Physical Safeguards; 3) Technical Safeguards; 4) Policies and Procedures and Documentation Requirements; and 5) Security Standards. Additionally, the Business Associate shall either implement or properly document the reasons for non-implementation of all safeguards in the above cited sections that are designated as “addressable” as such are made applicable to Business Associates pursuant to the HIPAA Standards.

k. **Civil and Criminal Penalties.** Business Associate agrees that it will comply with the HIPAA Standards as applicable to Business Associates and acknowledges that it may be subject to civil and criminal penalties for its failure to do so.

l. **Performance of Covered Entity's Obligations.** To the extent the Business Associate is to carry out the Department's obligations under the HIPAA Standards, Business Associate shall comply with the requirements of the HIPAA Standards that apply to the Department in the performance of such obligations.

m. **Subcontractors.** The Business Associate shall ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of Business Associate, agree in writing to the same restrictions and conditions that apply to the Business Associate with respect to PHI, with 45 C.F.R. § 164.502(e)(1)(ii), and shall make such information available to the Department upon request. Upon the Business Associate’s contracting with an agent for the sharing of PHI, the Business Associate shall provide the Department written notice of any such executed agreement. Upon the Business Associate’s contracting with a subcontractor for the sharing of PHI, the Business Associate shall provide the Department written notice of any such executed agreement.

n. **42 C.F.R. Part 2:** The Business Associate acknowledges that, notwithstanding the other provisions of this agreement:

   i) In receiving, storing, processing or otherwise dealing with any individually identifiable drug or alcohol abuse patient records from the Department, it is fully bound by the regulations at 42 C.F.R. sections 2.1 to 2.67; and,
ii) If necessary, Business Associate shall resist in judicial proceedings any efforts to obtain
access to such patient records except as permitted by those regulations.

3. **Business Associate Obligations for Notification, Risk Assessment, and Mitigation**

During the term of this Agreement and Related Agreement, the Business Associate shall be required
to perform the following pursuant to the Breach Notification Rule regarding Breach Notification,
Risk Assessment and Mitigation:

**Notification**

a. Business Associate agrees to report to the Department Contract Manager or HIPAA Privacy
and Security Officer any use or disclosure of PHI not provided for by this Agreement, the
Related Agreement and HIPAA Standards, including breaches of unsecured PHI as required
by 45 C.F.R. § 164.410, as soon as it (or any employee or agent) becomes aware of the
Breach, and in no case later than three (3) business days after it (or any employee or agent)
becomes aware of the Breach, except when a government official determines that a
notification would impede a criminal investigation or cause damage to national security.

b. Business Associate shall provide the Department with the names of the individuals whose
Unsecured PHI has been, or is reasonably believed to have been, the subject of the Breach
and any other available information that is required to be given to the affected individuals,
as set forth in 45 CFR §164.404(c), and, if requested by the Department, provide information
necessary for the Department to investigate promptly the impermissible use or disclosure.
Business Associate shall continue to provide to the Department information concerning the
Breach as it becomes available to it and shall also provide such assistance and further
information as is reasonably requested by the Department.

**Risk Assessment**

c. When Business Associate determines whether an impermissible acquisition, use or
disclosure of PHI by an employee or agent poses a low probability of the PHI being
compromised, it shall document its assessment of risk in accordance with 45 C.F.R. §
164.402 (in definition of “Breach”, ¶ 2) 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 Department, Business Associate shall make its risk
assessments available to the Department.

d. If the Department determines that an impermissible acquisition, access, use or disclosure of
PHI, for which one of Business Associate’s employees or agents was responsible, constitutes
a Breach, and if requested by the Department, 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 Department about the timeliness, content and
method of notice, and shall receive the Department’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 reported the Breach to the Department.

**Mitigation**

e. In addition to the above duties in this section, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI, by Business Associate in violation of the requirements of this Agreement, the Related Agreement or the HIPAA Standards. Business Associate shall draft and carry out a plan of corrective action to address any incident of impermissible use or disclosure of PHI. If requested by the Department, Business Associate shall make its mitigation and corrective action plans available to the Department.

f. The notice to affected individuals shall be written in plain language and shall include, to the extent possible, 1) a brief description of the Breach, 2) a description of the types of Unsecured PHI that were involved in the Breach, 3) any steps individuals can take to protect themselves from potential harm resulting from the Breach, 4) a brief description of what the Business Associate and the Department are doing to investigate the Breach, to mitigate harm to individuals and to protect against further Breaches, and 5) contact procedures for individuals to ask questions or obtain additional information, as set forth in 45 CFR §164.404(c).

**Notification to Clients**

g. Business Associates shall notify individuals of Breaches as specified in 45 CFR §164.404(d) (methods of individual notice). In addition, when a Breach involves more than 500 residents of a State or jurisdiction, Business Associate shall, if requested by the Department, notify prominent media outlets serving such location(s), following the requirements set forth in 45 CFR §164.406.

### 4. Obligations of the Department to Inform Business Associate of Privacy Practices and Restrictions

a. The Department shall notify Business Associate of any limitation(s) in the Department’s Notice of Privacy Practices, implemented in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

b. The Department shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

c. The Department shall notify Business Associate of any restriction in the use or disclosure of PHI that the Department has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

d. The Department shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Department.

### 5. Term and Termination
a. **Term.** This Agreement shall be effective concurrently with the effective date of Contract No. __________________________ between Business Associate and the Department (the Related Agreement). This Agreement shall also terminate concurrently with the Related Agreement, except that obligations of Business Associate under this Agreement related to final disposition of PHI in this Section 5 shall survive until resolved as set forth immediately below.

b. **Disposition of PHI upon Termination.** Upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI in its possession and shall retain no copies of the PHI. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to the Department notification of the conditions that make return or destruction of PHI not feasible. Upon mutual agreement of the Parties that return, or destruction of the PHI is infeasible, Business Associate shall agree, and require that its agents, affiliates, subsidiaries and subcontractors agree, to the extension of all protections, limitations and restrictions required of Business Associate hereunder, for so long as the Business Associate maintains the PHI.

c. If Business Associate breaches any material term of this Agreement, the Department may either:

i. provide an opportunity for Business Associate to cure the Breach and the Department may terminate this Contract without liability or penalty in accordance with Termination Article of the Related Agreement if Business Associate does not cure the breach within the time specified by the Department; or,

ii. immediately terminate this Contract without liability or penalty if the Department determines that cure is not reasonably possible; or,

iii. if neither termination nor cure are feasible, the Department shall report the breach to the Secretary.

The Department has the right to seek to cure any breach by Business Associate and this right, regardless of whether the Department cures such breach, does not lessen any right or remedy available to the Department at law, in equity, or under this Contract, nor does it lessen Business Associate’s responsibility for such breach or its duty to cure such breach.

6. **Penalties and Training.** Business Associate understands and acknowledges that violations of this Agreement may result in notification by the Department to law enforcement officials and regulatory, accreditation, and licensure organizations. If requested by the Department, Business Associate shall participate in training regarding use, confidentiality, and security of PHI.

7. **Miscellaneous**

a. **Interpretation.** Any ambiguity in this Agreement, or any inconsistency between the provisions of this Agreement and the Related Agreement, shall be resolved to permit the Department to comply with the HIPAA Standards.

b. **Business Associate’s Compliance with HIPAA.** The Department makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Standards.
Standards will be adequate or satisfactory for Business Associate’s own purposes or that any information in Business Associate’s possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

c. **Change in Law.** In the event there are subsequent changes or clarifications of statutes, regulations or rules relating to this Agreement, the Department shall notify Business Associate of any actions it reasonably deems necessary to comply with such changes, and Business Associate shall promptly take such actions. In the event there is a change in federal or state laws, rules or regulations, or in the interpretation of any such laws, rules, regulations or general instructions, which may render any of the material terms of this Agreement unlawful or unenforceable, or which materially affects any financial arrangement contained in this Agreement, the parties shall attempt amendment of this Agreement to accommodate such changes or interpretations. If the parties are unable to agree, or if amendment is not possible, the parties may terminate AGREEMENT pursuant to its termination provisions.

d. **No Third-Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Department, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

e. **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or workforce members assisting Business Associate in the fulfillment of its obligations under this Agreement and the Related Agreement available to the Department, at no cost to the Department, to testify as witnesses or otherwise in the event that litigation or an administrative proceeding is commenced against the Department or its employees based upon claimed violation of the HIPAA standards or other laws relating to security and privacy, where such claimed violation is alleged to arise from Business Associate’s performance under this Agreement or the Related Agreement, except where Business Associate or its agents, affiliates, subsidiaries, subcontractors or employees are named adverse parties.

f. **Additional Obligations.** Department and Business Associate agree that to the extent not incorporated or referenced in any Business Associate Agreement between them, other requirements applicable to either or both that are required by the HIPAA Standards, those requirements are incorporated herein by reference.
IN WITNESS THEREOF, the parties hereto separately acknowledge this Business Associate Agreement in addition to their execution of the Related Agreement.

NEW MEXICO DEPARTMENT OF HEALTH    BUSINESS ASSOCIATE

By: _____________________________  By: __________________________
    Authorized Signature Designee    
    Title: _____________________________

Date: _____________________________  Date: _____________________________

Approved as to form and legal sufficiency:

By: _____________________________
    Office of General Counsel

Date: _____________________________