

**STATE PURCHASING DIVISION
OF THE
GENERAL SERVICES DEPARTMENT
AND
Developmental Disability and Planning Council**

REQUEST FOR PROPOSALS (RFP)

Office of Guardianship – Treatment Guardianship Services



RFP#

647-P737-07-01-20-FY21-Treatment

MARCH 28, 2020

APRIL 15, 2020

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of The New Mexico Developmental Disabilities Planning Council, Office of Guardianship, (DDPC) invites private or public entities and individuals (Offerors) familiar with and experienced in court-appointed treatment guardian services in New Mexico to submit proposals in accordance with the specifications contained in this Request for Proposal (RFP). DDPC may contract with more than one Offeror for the services described in this RFP. Successful Offeror(s) will provide court-appointed treatment guardian services as defined in the Scope of Work and in the sample contract.

BACKGROUND INFORMATION

Statutorily, DDPC is the state entity responsible for administration of providing mental health treatment guardianship services throughout New Mexico to individuals diagnosed by a licensed mental health care professional as having a mental health condition.

DDPC provides a flat rate monthly payment to the Contractor for each protected person served. Contractors are required to be trained mental health treatment guardians.

DDPC is issuing this RFP to solicit proposals to contract with DDPC, Office of Guardianship, for providing mental health treatment guardianship services.

QUALIFICATIONS FOR PROFESSIONAL GUARDIANS/CONTRACTORS

Contractor must be a trained mental health treatment guardian.

Contractor shall employ or contract with trained mental health treatment guardians who, as determined by education and experience, are competent to perform the contracted mental health treatment guardianship services, and who have completed the mandatory mental health treatment guardianship training as required within the Professional Services Contract Scope of Work.

Contractor and its mental health treatment guardians and/or subcontractors shall comply with the Caregiver's Criminal History Screening Act (NMSA 1978, § 29-17-5) and the Contractor shall comply with the requirements of the Act and the Caregiver's Criminal History Screening Requirements (7.1.9 NMAC).

Contractor shall not employ any person who has been excluded from the Medicare or Medicaid Programs.

Contractor shall ensure that trained mental health guardians do not carry a caseload of more than thirty (30) individuals unless they provide services to individuals residing at the New Mexico Behavioral Health Institute (NMBHI), in which case they may carry a caseload of up to thirty-five (35) individuals.

Contractors shall ensure that at least one in-person individual face-to-face visit per month is conducted and documented.

Contractor shall ensure that the individual receives services that are of the highest degree possible and are designed to enhance, promote and expand independence, self-sufficiency, self-esteem, and the quality of life of an individual.

MINIMUM QUALIFICATIONS:

Meet DDPC, Office of Guardianship, requirements, including but not limited to:

1. Comply with all terms of one's contract;
2. Agree to be paid at the State approved rate;
3. Comply with the Caregivers Criminal History Screening Act (See NMSA 1978 § 29-17-5);
4. Must be a trained mental health treatment guardian prior to award of contract;
5. Assure the civil rights of the individual;
6. Guarantee access to all records individuals.
7. Must have written policy and procedures; and
8. Comply with the following legal authority and guardianship practices, including but not limited to the:
 - a. Uniform Probate Code (NMSA 1978 § 45-5-101 to 315);
 - b. Office of Guardianship Act (NMSA 1978 § 28-16B-1 to 6);
 - c. Uniform Health-Care Decisions Act (NMSA 1978 § 24-7A-1 to 18);
 - d. Mental Health Care Treatment Decisions Act (NMSA 1978 § 24-7B-1 to 6);
 - e. Adult Protective Services Act (NMSA 1978 § 27-7-1 to 31);
 - f. Rules of the Office of Guardianship (9.4.21 NMAC);
 - g. National Guardianship Association: Standards of Practice; Ethical Principles for Guardians; and Standards for Agencies and Programs Providing Guardianship Services; and
 - h. Scope of the order appointing Contractor as treatment guardian.

B. SCOPE OF PROCUREMENT

DDPC contracts with entities, companies and organizations (Contractors) to provide mental health treatment guardianship services. Contractor shall provide mental health treatment guardianship services to individuals diagnosed by a licensed mental health care professional as having a mental health condition. Contractor shall also provide mental health treatment outreach activities, education, and training for interested persons.

Contractor shall promote effective and responsible mental health treatment guardianships and facilitate publicly funded mental health treatment guardianship appointments in areas as determined jointly by DDPC and Contractor. Upon appointment by a court, Contractor shall provide treatment guardians to individuals in either an inpatient or outpatient setting.

A court will appoint Contractor as the primary treatment guardian to assist with making mental health decisions for an individual and may appoint another person as an alternate treatment guardian. Contractor shall train persons to be treatment guardians.

C. PROCUREMENT MANAGER

1. Developmental Disabilities Planning Council has assigned Kathleen Coates Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: Kathleen Coates, Procurement Manager
Address: Developmental Disabilities Planning Council
625 Silver SW, Suite 100
Albuquerque, New Mexico 87102

Telephone: (505) 841-4554
Email: Kathleen.coates@state.nm.us

2. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** Kathleen Coates, 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 mail to the Protest Manager.** As A Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Emailed protests will not be considered as properly submitted nor will protests delivered to the Procurement Manager be considered properly submitted.

D. DEFINITION OF TERMINOLOGY

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

“**Agency**” means the State Purchasing Division of the General Services Department or that State Agency sponsoring the Procurement action.

(Ensure definition is appropriately placed in sample contract pro-forma as required).

“**Authorized Purchaser**” means an individual authorized by a Participating Entity to place orders against this contract.

“**Award**” means the final execution of the contract document.

“**Business Hours**” means 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“**Close of Business**” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.

“**Confidential**” means confidential financial information concerning offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7. See NMAC 1.4.1.45. As one example, no information that could be obtained from a source outside this request for proposals can be considered confidential information.

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

“**CRB**” Contract Review Bureau

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

“**DFA**” means Department of Finance and Administration

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

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

“**Electronic Version/Copy**” means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (cd) or USB flash drive. The electronic version/copy can NOT be emailed.

“**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.

“**Evaluation Committee Report**” means a report prepared by the Procurement Manager and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.

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

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

“**IT**” means Information Technology.

“**Mandatory**” – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

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

“**Procurement Manager**” means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.

“**Procuring Agency**” means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.

“**Redacted**” means a version/copy of the proposal with the information considered confidential as defined by NMAC 1.4.1.45 and defined herein and outlined in Section II.C.8 of this RFP blacked out BUT NOT omitted or removed.

“**Request for Proposals (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 means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.

“**Sealed**” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a

determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

“**SPD**” means State Purchasing Division of the New Mexico State General Services Department.

“**Staff**” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

“**State (the State)**” means the State of New Mexico.

“**State Agency**” means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the purchasing division of the general services department and the state purchasing agent but does not include local public bodies.

“**State Purchasing Agent**” means the director of the purchasing division of the general services department.

“**Statement of Concurrence**” means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (E.g. “We concur”, “Understands and Complies”, “Comply”, “Will Comply if Applicable” etc.)

“**Unredacted**” means a version/copy of the proposal containing all complete information including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.

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

E. 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 and scheduling an appointment. The library contains information listed below:

Procurement Regulations and Request for Proposal – RFP instructions:

<https://www.generalservices.state.nm.us/statepurchasing/active-procurements.aspx>.

<http://www.nmddpc.com>

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:

Action	Responsible Party	Due Dates
1. Issue RFP	SPD	March 28, 2020
2. Distribution List	Agency	April 3, 2020
3. Pre-Proposal Conference	Agency	N/A
4. Deadline to submit Questions	Potential Offerors	April 7, 2020
5. Response to Written Questions	Procurement Manager	April 9, 2020
6. Submission of Proposal	Potential Offerors	April 15, 2020
7. Proposal Evaluation	Evaluation Committee	April 20-22, 2020
8. Selection of Finalists	Evaluation Committee	April 27, 2020
9. Best and Final Offers	Finalist Offerors	N/A
10. Oral Presentation(s)	Finalist Offerors	N/A
11. Finalize Contractual Agreements	Agency/Finalist Offerors	June 1, 2020
12. Contract Awards	Agency/ Finalist Offerors	July 1, 2020
13. Protest Deadline	Agency	May 1, 2020

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 State Developmental Disabilities Planning Council, March 28, 2020.

Acknowledgement of Receipt

Potential Offerors should hand deliver, email or registered or certified mail 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 Kathleen Coates, Procurement Manager **by 3:00 pm MST or MDT Thursday April 2, 2020.**

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.

2. Pre-Proposal Conference

N/A

3. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until **April 7, 2020, 3:30 pm** Mountain Standard Time/Daylight Time as indicated in the sequence of events. All written questions must be addressed to Kathleen Coates, 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.

4. Response to Written Questions

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 Offeror's that provide Acknowledgement of Receipt Forms described in II.B.2 before the deadline. Additional copies will be posted to: <http://www.nmddpc.com>.

5. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY KATHLEEN COATES, PROCUREMENT MANAGER NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON APRIL 15, 2020.

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 delivered to Kathleen Coates, Procurement Manager at the address listed in Section I, Paragraph D2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the Office of Guardianship – Treatment Guardianship Services (RFP # 647-P737-07-01-20-FY21-Treatment). Proposals submitted by facsimile, or other electronic means will not be accepted.

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 DDPC signature on the contract(s) resulting from the procurement has been obtained.

6. Proposal Evaluation

A DDPC 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, Kathleen Coates, Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

7. Selection of Finalists

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

Best and Final Offers
N/A

8. Oral Presentations

N/A

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 State Purchasing Division or relevant 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 DDPC Evaluation Committee Report and the signed contractual agreement, DDPC 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 State Purchasing Division or relevant DDPC Procurement office.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the State of New Mexico and Developmental Disabilities Planning Council, Office of Guardianship 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. As Kathleen Coates, Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Mountain Standard Time/Daylight Time 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:

Developmental Disabilities Planning Council
Kathleen Coates, Procurement Manager
625 Silver SW, Suite 100
Albuquerque, NM 87102

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. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

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

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The DDPC 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 for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

8. Disclosure of Proposal Contents

A. Proposals will be kept confidential until negotiations and the award are completed by the DDPC. 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, Kathleen Coates 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 State Purchasing Division or DDPC 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 DDPC 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 effected by sending written notice to the contractor. The DDPC decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The DDPC 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 DDPC through Kathleen Coates, 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 DDPC and a contractor will follow the format specified by the DDPC and contain the terms and conditions set forth in the Sample Contract Appendix C. However, the contracting DDPC 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 DDPC 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 DDPC (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 C) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The DDPC 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 DDPC 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 DDPC. 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 DDPC and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

The DDPC Evaluation Committee reserves the right to waive minor irregularities. The DDPC 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 DDPC reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of the DDPC, adequately meeting the needs of the DDPC.

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. DDPC Rights

The DDPC 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 DDPC written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or DDPC 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 DDPC.

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 DDPC'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 DDPC, the Offeror acknowledges that the version maintained by the DDPC shall govern. Please refer to: <https://www.generalservices.state.nm.us/statepurchasing/active-procurements.aspx>.

28. New Mexico Employees Health Coverage

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

29. Campaign Contribution Disclosure Form

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

30. Letter of Transmittal

Offeror's proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX E which must be completed and signed by an individual person authorized to obligate the company. 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 (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 para 2 above.

31. Disclosure Regarding Responsibility

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

required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

- c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or DDPC or local public body.)
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Contractor shall provide immediate written notice to the State Purchasing Agent or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
- D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the State Purchasing Agent or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

32. New Mexico Preferences

The New Mexico Preferences does not apply as DDPC receives federal funding.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES

1. Hard Copy Responses

Offeror's proposal must be clearly labeled and numbered and indexed as outlined in **Section III.C. Proposal Format**. Proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the binder. Each portion of the proposal (technical/cost) must be submitted in separate binders and must be prominently displayed on the front cover. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

Offerors should deliver:

1. **Proposals** – One (1) ORIGINAL, Two (2) HARD COPIES, and one (1) electronic copy of the proposal containing ONLY the Technical Proposal; ORIGINAL and COPY shall be in separate labeled binders. **The electronic version/copy can NOT be emailed.**
 - Proposals containing confidential information **must** be submitted as two separate binders:
 - **Unredacted** version for evaluation purposes
 - **Redacted** version (information blacked out and not omitted or removed) for the public file
2. **Cost Proposals** – One (1) ORIGINAL, Two (2) HARD COPIES, and one (1) electronic copy of the proposal containing ONLY the Cost Proposal; ORIGINAL and COPY of Cost Proposal shall be in separate labeled binders from the Technical Proposals. **The electronic copy can NOT be emailed.**

The electronic version/copy of the proposal **must** mirror the physical binders submitted (i.e. One (1) **unredacted cd/usb**, one (1) **redacted cd/usb**). **The electronic version can NOT be emailed.**

3. The original, hard copy and electronic copy information **must** be identical. In the event of a conflict between versions of the submitted proposal, the Original hard copy shall govern.

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

OR IN THE ALTERNATIVE TO THE SUBMISSION FORMAT AND REQUIREMENTS OF SECTION III.B.1:

2. Electronic Responses (SPD’s E-procurement System eProNM)

If the proposal is submitted through State Purchasing’s electronic procurement system, the Offeror need only submit a single electronic copy of each portion of the proposal, outlined below. Please separate the proposal as described below into separate “envelopes” (files) for your submission.

Each “envelope” (file) location for each portion as outlined in Section III.C Proposal Format of the RFP will be specified in the upload section of the Offeror’s electronic submission. If you submit your response through our electronic procurement system, submit only one hard copy of your proposal to the physical address indicated in Section I.D.

1. **Technical Proposals** – One (1) electronic upload and one (1) ORIGINAL hard copy (submitted to the physical address indicated in Section I.D) must be submitted in the sequence described in Section III. C.1. All information for the technical proposal must be combined into a single file/document for uploading
 - Proposals containing confidential information **must** be submitted as two separate files:
 - **Unredacted** version for evaluation purposes.
 - Upload unredacted version in “Unredacted Technical Proposal Envelope 1.1”
 - **Redacted** version (information blacked out and not omitted or removed) for the public file.
 - Upload redacted version in “Redacted Technical Proposal Envelope 1.3”
2. **Cost Proposals** – One (1) electronic upload and one (1) ORIGINAL hard copy (submitted to the physical address indicated in Section I.D). All information for the cost proposal must be combined into a single file/document for uploading.
 - Upload cost proposal in “Cost Proposal Envelope 1.2”

For technical support issues contact (505) 827-0467 or (505) 827-0472 or GSD.SPDeProcurement@state.nm.us

Both the electronic submission and the original proposal 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 Response Format and Organization** may be deemed non-responsive and rejected on that basis.

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Hard copies must be typewritten on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

Organization of folders/envelopes for hard copy proposals and electronic copy proposals and proposals submitted via eProNM:

1. Proposal Content and Organization

The Proposal must be organized, tabbed, paginated and labeled/indexed in the Table of Contents in the following format and must contain, at a minimum, all listed items in the sequence indicated. (Every item that appears in bold below is to have a separate tab and be listed in the Table of Contents with a corresponding page number).

Proposal (Binder 1):

- A. Signed Letter of Transmittal**
- B. Cover Sheet Form (Appendix C)**
- C. Table of Contents**
- D. Proposal Summary (Optional)**
- E. Response to Mandatory Specifications**
 - Factor I. Organizational Experience and Performance (35 Points)**
 - Factor II. Other Administrative Responsibilities (30 Points)**
 - Factor III. Quality Assurance and Program Integrity (15 Points)**
 - Factor IV. Cost Proposal Budget and Justification (20 Points)**

F. Other Supporting Documentation

Cost Proposal (Binder 2):

1. Completed Cost Response Form

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. All discussion of proposed costs, rates or expenses must occur only in Binder #2 on the cost response form.

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

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

A. DETAILED SCOPE OF WORK

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the following work:

A. Definitions. For purposes of this Agreement,

(1) “Contractor” means the entity or individual contracting with Agency to provide mental health treatment guardianship services pursuant to this Agreement;

(2) “Agent” means an entity or individual approved by Agency’s Executive Director to represent or act on behalf of Agency;

(3) “Mental health care professional” means a physician or other professional who by training or experience is qualified to work with persons with a mental health diagnosis or condition, or persons with an intellectual or developmental disability;

(4) “Office of Guardianship” means Agency’s statutory program that provides for treatment guardian services, including the contracting, recruitment and training of persons to serve as mental health treatment guardians;

(5) “Protected Person” means any individual who is requesting or receiving treatment guardianship services pursuant to this Agreement;

(6) “Reasonable attempt” means that the individual treatment guardian acts in a manner that is rational and appropriate under the circumstances, and that is in the best interests of the Protected Person; and

(7) “Treatment Guardian” means the individual serving the Protected Person pursuant to this Agreement, and who is an employee or independent contractor of Contractor. If Contractor does not employ or contract with individual treatment guardians, then “Contractor” and “Treatment Guardian” are the same.

B. Contractor Obligations.

Contractor shall administer a program that provides mental health treatment guardianship to individuals diagnosed by a licensed mental health care professional as having a mental health condition.

(1) Upon appointment by a court, Contractor shall provide Treatment Guardians to individuals in either an inpatient or outpatient setting. A court may appoint Contractor as the primary Treatment Guardian for a Protected Person and may appoint another person as an alternate Treatment Guardian.

(2) Contractor shall promote effective and responsible mental health treatment guardianships and facilitate mental health treatment guardianship appointments as determined jointly by Agency and Contractor.

(3) Contractor shall ensure that their Treatment Guardian(s) are properly trained.

(4) Contractor shall provide Agency, in writing, all information regarding any allegations of abuse, neglect, or exploitation made against Contractor regarding a Protected Person.

C. Guardianship Practices. Mental Health Treatment Guardianship Services shall be provided in accordance with the terms of this Agreement and all applicable laws and policies, including but not limited to the:

- (1) Mental Health and Developmental Disabilities Code (NMSA 1978, §§ 43-1-1 to -25);
- (2) Mental Health Care Treatment Decisions Act (NMSA 1978, §§ 24-7B-1 to -16);
- (3) Uniform Health-Care Decisions Act (NMSA 1978, §§ 24-7A-1 to -18);
- (4) Adult Protective Services Act (NMSA 1978, §§ 27-7-1 to -31); and
- (5) Rule of the Office of Guardianship (9.4.21.1 NMAC).

D. Certification and Criminal History Screening Requirements.

(1) Contractor shall employ or contract with competent Treatment Guardians as determined by education, experience, and competence to perform the contracted services, including mental health treatment guardian training by a qualified treatment guardian entity.

(2) Within ten (10) calendar days after hiring or contracting with a Treatment Guardian, Contractor shall provide Agency with: (a) the employee or contractor's name and date of hire or contract, (b) a statement verifying the Treatment Guardian's training, and (c) a color photograph of and contact information (including telephone number and email address) for each Treatment Guardian. Contractor shall update such contact information within five (5) business days of learning of the change. Agency shall have full authority to communicate with any of Contractor's Treatment Guardians regarding Contractor and Contractor's Protected Persons.

(3) Contractor and its Treatment Guardians shall comply with the Caregivers Criminal History Screening Act (NMSA 1978, § 29-17-5) and Screening Requirements (7.1.9 NMAC). No Treatment Guardian shall perform any direct mental health treatment guardianship services under this Agreement until they have received a Notification of Clearance from the New Mexico Department of Health. Contractor shall provide Agency with the Notification of Clearance for each Treatment Guardian within five (5) calendar days of receipt.

(4) Contractor shall not employ or contract with any person who has been excluded from the Medicare or Medicaid Programs.

(5) If Contractor fails to comply with any of the terms of this paragraph, Agency may terminate the Agreement and, at Contractor's sole expense, transfer its appointed mental health treatment guardianships to other qualified Treatment Guardians.

E. Caseload. No Treatment Guardian shall carry a caseload of more than thirty (30) Protected Persons unless they provide services to Protected Persons residing at the New Mexico Behavioral Health Institute, in which case they may carry a caseload of up to thirty-five (35) Protected Persons. In rare circumstances, Agency may agree to an exception for an increased caseload.

F. Partnership with Protected Person. Contractor shall ensure that:

(1) A Protected Person receiving services is, to the highest degree possible, involved in individual planning, decision-making, implementation, and evaluation of those services;

(2) All Services provided are designed to enhance, promote, and expand the recovery, independence, self-sufficiency, self-esteem, and quality of life of the Protected Person; and

(3) The Treatment Guardian will make reasonable attempts to conduct at least one in-person, individual face-to-face monthly visit with each Protected Person.

G. Protected Person's Civil Rights. A Protected Person for whom a Treatment Guardian has been appointed retains all legal and civil rights except those that have been expressly limited by court order. Contractor shall notify Protected Person annually of their civil rights in a language and communication style that the Protected Person best understands. The Protected Person or someone, other than the Contractor or Treatment Guardian, who knows the Protected Person well, must acknowledge in writing annually that the Contractor reviewed the Protected Person's civil rights with them. Contractor shall ensure that Protected Person's civil rights are protected, which rights include, but are not limited to, the following:

- (1) The right to be free from unlawful discrimination, including age, disability, ethnicity, gender, marital status, national origin, race, religion, and sexual orientation;
- (2) The right to be treated humanely, with dignity and respect, and be protected against emotional or psychological abuse, physical abuse, sexual abuse, neglect and exploitation;
- (3) The right to be served in the most integrated setting appropriate to Protected Person's needs;
- (4) The right to practice the religion of their choice, or abstain from the practice of religion;
- (5) The right to receive visitors and communicate with others;
- (6) The right to privacy;
- (7) The right to participate in the political process, including the right to vote in accordance with NMSA 1978, § 45-5-109;
- (8) The right to voice grievances and complaints without interference, coercion or reprisal;
- (9) The right to counsel and access to available advocacy services;
- (10) The right to have access to the courts;
- (11) The right to receive services to which they are entitled;
- (12) The right to be restored to capacity at the earliest possible time;
- (13) The right to have review of the need for restriction of rights;
- (14) The right to have a qualified guardian;
- (15) The right to remain as independent as possible;
- (16) The right to determine their place of residency, or have their preference honored;
- (17) The right to own, use and control their property, or have their property managed prudently and have timely information about how their property is being managed;
- (18) The right to consent to or refuse medical treatment, unless that authority has been granted to a guardian, or if a Treatment Guardian has been appointed to make mental health treatment decisions pursuant to the Mental Health and Developmental Disabilities Code (NMSA 1978, § 43-1-15);
- (19) The right to seek or retain employment;
- (20) The right to travel; and

(21) The right to notice and to attend all proceedings relating to their capacity.

H. Treatment Guardian Duties. When appointed by a court to make substitute decisions for a Protected Person, a Treatment Guardian shall make reasonable attempts to perform the following:

- (1) Make mental health care decisions on behalf of Protected Person:
 - (a) If the treatment appears to be in Protected Person's best interest and is the least restrictive means for accomplishing the treatment objective;
 - (b) After consulting with Protected Person and considering Protected Person's expressed opinions, if any;
 - (c) After considering Protected Person's previous decisions in similar circumstances when Protected Person was able to make treatment decisions; and
 - (d) After reasonable consultation with the mental health care professional who is proposing treatment, Protected Person's attorney, and interested friends, relatives or other agents or guardians.
- (2) Communicate all pertinent information to Protected Person, unless reasonably certain that substantial harm will result;
- (3) If notified in advance, participate in the preparation of, and revision to, the Protected Person's individualized treatment plan, and monitor the Protected Person's progress in attaining their goals and objectives;
- (4) If notified in advance, participate in the preparation of Protected Person's discharge plan, if any;
- (5) Apply to the court for an Enforcement Order for Protected Person who is not a resident of a medical facility and for whom a Treatment Guardian has been appointed but refuses to comply with the Treatment Guardian's decisions. An Enforcement Order may authorize a peace officer to take Protected Person into custody and transport Protected Person to an evaluation facility, and may authorize the facility to forcibly administer treatment;
- (6) Attempt to have at least one in-person, individual face-to-face visit per month with each Protected Person. Each reasonable attempt and visit shall be documented either by signatures of both the Treatment Guardian and Protected Person, or by the Treatment Guardian and a witness.
- (7) Communicate at least once a month with Protected Person's family members, caregivers, and professional service providers (i.e. psychiatrist, psychologist, etc.), if any;
- (8) Immediately notify Agency of Protected Person's death, incarceration, residing on Tribal land, or other significant event;
- (9) Maintain detailed records of all contacts with Protected Person, family members and mental health care professionals regarding Protected Person's treatment, and other pertinent information; and
- (10) If Protected Person cannot be contacted or located, search custody lists of New Mexico correctional facilities and contact the facility having custody of Protected Person.

I. Case File Management. Contractor shall oversee all Treatment Guardians whose services are provided pursuant to this Agreement. Contractor shall ensure that each Protected Person's case file contains all relevant information, including, but not limited to:

- (1) Protected Person's residence;
- (2) Details of each Treatment Guardian's contacts with Protected Person, including dates, times and nature of contacts, and details, if any, of the Treatment Guardian's inability to contact Protected Person;
- (3) Treatment Guardian's opinion as to whether Protected Person is capable of making their own mental health decisions, and whether this opinion has been discussed with appropriate mental health care professionals or reported to the court;
- (4) Process by which Protected Person, family members, caregivers, service providers and others may report problems to the Treatment Guardian;
- (5) Procedure to allow Protected Person to contact their attorney;
- (6) Documentation of Protected Person's individualized Treatment Plan or Discharge Plan, including any revisions thereto; and
- (7) Documentation of any complaints about the Treatment Guardian or its services received from or on behalf of Protected Person and attempts to address and resolve the complaints.

Contractor shall maintain detailed records specifying the date, nature of all services rendered and identification of the person(s) providing the specific services to each Protected Person. Contractor shall maintain these records for a period of seven (7) years from the date of final payment under this Agreement.

A. J. Contractor's Records.

(1) Contractor shall maintain detailed records of each Protected Person's visit, specifying the date, amount of time (in quarter hour increments), nature of all services rendered, and identification of the person(s) providing the services. Contractor shall maintain these records for a period of seven (7) years from the date of final payment under this Agreement.

(2) All billing and case file records shall be subject to immediate inspection and copying by Agency or its agents, the Department of Finance and Administration (DFA), and the State Auditor. Agency shall have the right to audit all billings and monthly reports both before, and for seven (7) years after payment is made. Payment pursuant to this Agreement shall not foreclose Agency's right to recover any excessive, illegal or improper payments made to Contractor.

K. Complaint Procedures.

Contractor shall establish and implement internal written procedures available to all Protected Persons to present complaints relating to Contractor's services. Complaint procedures shall comply with the Office of Guardianship Rules, 9.4.21.14 NMAC, *Complaints against a Contracted Provider*, and shall include, at a minimum, the following:

(1) Contractor shall notify Protected Person of the complaint procedures annually in a language and communication style that they best understand. The Protected Person or their representative must acknowledge that the Contractor reviewed its internal written complaint procedures;

- (2) Within thirty (30) calendar days after receipt of the complaint, Contractor shall:
 - (a) Meet in person with Protected Person and, if applicable, their representative, and attempt to reach a written resolution;
 - (b) Document in writing the resolution or non-resolution of the complaint, signed and dated by all parties to the attempted resolution;
 - (c) Explain the complaint resolution to Protected Person and document this explanation, including date, time, and person communicating with Protected Person; and
 - (d) Provide the written complaint resolution to Protected Person and, if applicable, their representative, and maintain a copy in Protected Person's case file.
- (3) Contractor shall forward to Agency either the:
 - (a) Written complaint resolution within five (5) business days, or
 - (b) Unresolved complaint within two (2) business days after the thirty (30) day deadline for complaint resolution; and
- (4) If the complaint cannot be resolved with Contractor, Protected Person or their representative may submit the written complaint to the Office of Guardianship, with a copy given to Contractor.

L. Incident Reporting. Within five (5) business days of learning of an allegation, Contractor shall provide Agency, in writing, the following information regarding any allegations of abuse, neglect, or exploitation made against Contractor in regard to a Protected Person:

- (1) When received by Contractor, copies of all documents received from Department of Health's Division of Health Improvement (DHI) and Aging and Long-Term Services Department's Adult Protective Services (APS); and
- (2) Copies of all complaints, reports, and correspondence made to DHI Licensing and Certification, APS, or Attorney General's Medicaid Fraud and Elder Abuse Division involving the Protected Person.

M. Insurance.

Contractors with a contract of \$60,000 or less in compensation shall obtain and maintain professional liability insurance in an amount no less than \$500,000 per occurrence and \$1 million in the aggregate. Contractors with a contract over \$60,000 in compensation shall obtain and maintain professional liability insurance in an amount no less than \$1 million per occurrence and \$3 million in the aggregate. Insurance shall cover acts of misconduct, violations of fiduciary duties, and civil and criminal misconduct by Contractor, its Treatment Guardian, and its employees and subcontractors. Insurance shall be obtained through a company licensed to do business in New Mexico and in good standing. The State of New Mexico Developmental Disabilities Planning Council shall be identified as an Additional Insured. Contractor shall disclose, in writing, proof of professional liability insurance coverage and the amount of coverage within thirty (30) days after the effective date of this Agreement. The policy shall require that Agency is immediately notified by the insurance company, in writing, if insurance coverage lapses or is terminated.

N. Access to Records.

- (1) Agency shall have access to the Protected Person's case records, including but not limited to: copies of court filings and reports, financial records, and all other records

maintained by the Contractor related to contracted services provided and the scope of the court orders, unless specifically sequestered by the courts.

(2) When requested, or during Agency's visit with Protected Person, Contractor shall immediately produce all records and files of Protected Person.

(a) If Contractor cannot produce the records immediately, it shall produce those records on or before the close of business the day after the request.

(b) Contractor's failure or refusal, without good cause shown, to timely produce the records, shall constitute a breach of this Agreement and Agency may deny payment to Contractor for that Protected Person for the month(s) the records are not timely produced.

(3) When transferring guardianship to a successor guardian, Contractor shall transmit the contents of the original Protected Person's case file and an inventory list of personal property of Protected Person to the successor guardian at the court hearing on the transfer.

(a) If the transfer is ordered without a hearing, Contractor shall transmit this client case file and the Protected Person's personal property to the successor guardian within twenty-four (24) hours after entry of a court order.

(b) Contractor's failure or refusal, without good cause shown, to timely transfer the complete client case file shall constitute a breach of this Agreement and Agency may impose any sanction it deems appropriate and may deny payment to Contractor for that Protected Person for the month(s) the records are not timely transferred.

O. Audits. Agency may utilize outside contractors, including certified public accountants, to audit Contractor's services funded pursuant to this Agreement. Agency shall provide Contractor at least two (2) weeks advance written notice of such an audit. Contractor shall cooperate fully with Agency and outside contractors acting as agents of Agency.

P. Monitoring Review. Agency may periodically conduct a review to ensure the delivery of quality services consistent with this Agreement. These reviews may include, but are not limited to, an examination of the following:

(1) Protected Persons are receiving services that are least restrictive, promote independence and autonomy and are appropriate to their needs;

(2) Contractor establishes and implements an adequate internal complaint procedure, available to all Protected Persons;

(3) Protected Persons' civil and legal rights are adequately safeguarded;

(4) Staff is qualified by education, training and experience to perform the duties of Treatment Guardian;

(5) Contractor maintains an internal quality assurance mechanism;

(6) Contractor complies with all terms and conditions of this Agreement;

(7) Contractor maintains adequate billing and accounting records sufficient to verify compliance with this Agreement;

(8) Termination of Protected Person's services is appropriate under the circumstances;

(9) All Treatment Guardians shall be available for any Agency comprehensive services review

(10) All court-endorsed pleadings and reports; and

(11) Services in accordance with this Agreement and within the scope of the order granted by the courts.

Q. Corrective Action Plan/Sanctions.

If Agency determines that Contractor failed to comply with any terms of this Agreement, statutory obligation, or court order, or fails to timely address a Protected Person's needs or grievances, Agency may provide Contractor with a *Written Notification of Deficiencies* and may require Contractor to develop and submit to Agency a proposed *Corrective Action Plan (CAP)* that timely addresses and resolves these deficiencies.

If required by Agency, Contractor shall develop and submit to Agency a proposed *CAP* within thirty (30) business days after receipt of the *Written Notification of Deficiencies*. If necessary, Contractor may request additional time to submit their proposed *CAP*, but Agency reserves the right to decline an extension.

The *CAP* shall include, at a minimum:

- (a) Identification of the deficiencies;
- (b) Specific corrective action steps Contractor shall take to resolve the deficiencies;
- (c) Timeframe necessary to complete each corrective action step;
- (d) Anticipated date of completion of *CAP*; and
- (e) Names of the persons responsible for each corrective action step.

Agency shall provide Contractor a written acceptance or rejection of the proposed *CAP* within fifteen (15) business days of receiving the proposed *CAP* from Contractor.

When all identified deficiencies are resolved to Agency's satisfaction, Agency shall provide Contractor with a Statement of Compliance.

If Contractor cannot resolve the identified deficiencies to Agency's satisfaction within 120 days after the date of Agency-approved *CAP*, Agency has the right to:

- (a) Take such other actions as it deems appropriate
- (b) Withhold payment from Contractor a. Thirty (30) days after Contractor's receipt of the *Written Notification of Deficiencies*, Agency shall withhold from Contractor's total monthly contract payment: (a) 15% of Contractor's total monthly contractual payment for the first month of noncompliance, and (b) 20% for the second month of noncompliance.

b. Agency's withholding of payment for any given month shall remain in effect even if Contractor comes into compliance during that month.

- c. Upon Agency's written *Statement of Compliance*, Agency shall resume contract payments.

(c) Seek damages and attorney fees from Contractor for transferring guardianship to another guardian;

(d) Seek reimbursement from Contractor for Agency costs incurred as a result of contract non-compliance;

(e) File a claim with Contractor's insurance and bond providers;

(f) Terminate this Agreement; and

(g) Seek further redress through State and Federal law.

R. Conflict of Interest. Contractor warrants that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its duties and obligations to any Protected Person.

(1) To avoid even the appearance of impropriety, Contractor shall not serve on the board of directors of another service provider contracted by Agency. No state employee whose job functions have a direct impact on the Office of Guardianship shall serve on Contractor's board of directors.

(2) Contractor shall not serve as Treatment Guardian of a particular Protected Person if their spouse, significant other, immediate family member, business partner or employer concurrently serves as probate guardian of the same Protected Person.

(3) Medicaid Waiver or Department of Health (DOH) Services. Contractor shall not provide services to the same Protected Person under both this Agreement and the Medicaid Waiver program of the New Mexico DOH or other similar program. If no alternative service provider is available in a particular community, Contractor shall disclose that information in writing and request Agency's prior written permission to provide both services.

S. Education and Outreach.

(1) Contractor shall serve as an educational resource on issues related to the role and duties of treatment guardians, the law and ethical standards governing treatment guardians, and the process of identifying and acquiring needed mental health services for adults with mental illness or developmental disabilities.

(2) In coordination with institutions of higher education and social and legal organizations, Contractor shall conduct treatment guardian outreach activities, recruit treatment guardians, and ensure education and training for interested persons (e.g., treatment guardians, courts, mental health facilities, attorneys, family members, caregivers, professionals, students).

(3) Contractor shall provide trainings as needed for new Treatment Guardians, as described above during FY 2021 (July 1, 2020-June 30, 2021).

(4) Agency may request Contractor to participate in Pilot/Demonstration Projects involving mental health treatment guardians, including testing a variety of new practices in seeking improvements in services.

T. Prompt Communication. Contractor shall, without exception or excuse, respond to any and all Office of Guardianship communications within two (2) business days

U. Invoicing. Contractor shall invoice for services provided to eligible Protected Persons that have received court-appointed treatment guardianship services through the Office of Guardianship. Contractor shall submit invoices along with a Protected Person roster and the

endorsed orders appointing Contractor as Treatment Guardian to Agency's Contract Specialist by the 5th day of the month for the previous billing month's services. Payment for invoices received after this date may be delayed.

All invoices must be approved by Agency. Agency shall process and submit approved invoices to DFA for payment approval, so long as Contractor is in compliance with all terms and requirements of this Agreement.

For each training provided by Contractor as described in Paragraphs B (*Contractor Obligations*) and (R) (*Education and Outreach*), the Contractor shall submit an invoice to Agency that documents (1) the date of the training, (2) the training agenda, (3) the instructor's name, and (4) the names of all attendees.

Contractor shall be appointed by a court as Treatment Guardian in order to be paid by Agency for guardianship services:

(1) If Adult Protective Services or a court requests Contractor to be Treatment Guardian, before Contractor accepts such appointment, Contractor must request and receive written assignment from Agency in order to be paid by Agency.

(2) Contractor may select a Treatment Guardian to serve the Protected Person but shall consider Agency's criteria and the best interests of the Protected Person (e.g., Protected Person needs a guardian of a specific gender or background).

(3) Agency has the sole discretion to determine assignments.

Contractor shall submit a detailed invoice packet for all services performed and pre-approved expenses incurred. If Agency finds that the services are not acceptable, within thirty (30) calendar days after the date of receipt of written notice from Contractor that payment is requested, it shall provide Contractor a letter explaining the defect or objection to the services, and outlining steps Contractor may take to provide remedial action. Upon certification by Agency that the services have been received and accepted, payment shall be tendered to Contractor within thirty (30) calendar days of the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

V. Extraordinary Costs, Exceptions, and Other Matters Related to Compensation.

(1) Requests for reimbursement of extraordinary costs and exceptions must be approved in advance by Agency Executive Director or designee. Agency may reimburse Contractor, subject to available resources, the current DFA-approved rates for mileage (calculated from www.randmcnally.com, www.nmroads.com, or actual mileage from odometer reading) and per diem (\$85 per 24-hour period) only when Contractor travels an excessive distance in performance of duties pursuant to this Agreement. This is intended to cover non-routine situations and is reserved for extraordinary situations or exceptions requiring extensive cost by the Treatment Guardian to protect the health and safety of the Protected Person. If Agency Executive Director or designee approves

payment in advance for extraordinary costs, Contractor shall invoice these prior-approved extraordinary costs as described above in Paragraph U (*Invoicing*).

(2) After the death of a Protected Person, Contractor may invoice for the month of death and one (1) month thereafter and shall specifically note this on the invoice.

B. TECHNICAL SPECIFICATIONS

N/A

1. Organizational Experience

Offerors **must**:

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

2. Organizational References

Provide three (3) external letters of reference from providers serving clients who have received guardianship or other services similar to those described in the Scope of Work from the Offeror within the last five years. Letters of reference must include the name of the company providing the letter and include a current address, contact person with telephone number, email address and date and description of the services provided by the Offeror. Include the contact information in the main narrative, and submit the letters as a separate appendix.

Client/Individual References that are not received or are not complete, may adversely affect the vendor's score in the evaluation process. The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the DDPC reserves the right to consider any and all information available to it (outside of the Business Reference information required herein), in its evaluation of Offeror responsibility per Section II, Para C.18.

Offerors shall submit the following Business Reference information as part of Offer:

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

3. Oral Presentation

N/A

4. Mandatory Specification

A. Evaluation of Proposals-The DDPC RFP Evaluation Committee will conduct a comprehensive, fair, and impartial evaluation of proposals submitted in response to this RFP. All proposals will be reviewed for compliance with the mandatory requirements stated in the RFP. Proposals which are non-responsive, missing key elements, or received after the deadline will not be considered, and the DDPC will provide a letter stating the reason for the elimination.

2. The Procurement Manager, Kathleen Coates may contact the Offeror for clarification of the response, as noted in Section II.

3. The DDPC RFP Evaluation Committee will serve as the Evaluation Committee and will evaluate each responsive proposal based on its technical merit. DDPC reserves the right to use technical advisors and Subject Matter Experts (SME) in this process. DDPC reserves the right to have other Council members who are not on the Program Committee, as well as any SME, serve on the Evaluation Committee.

4. The Evaluation Committee may use other sources of information to perform the evaluation.

5. Responsive proposals will be evaluated based on the responses to the Factors set forth in Factors I through IV, which have been assigned maximum point values. These point values are summarized in each Factor below.

6. Any serious deficiency in the response to any one factor, not including the required documents listed in Factor III, may be used for deeming the proposal non-responsive and resulting in immediate rejection.

7. The responsive Offerors with the highest scores based upon the proposals submitted will be selected as finalists. Finalists may be asked to or may choose to submit a revised proposal for the purpose of obtaining best and final offers, and will have their points recalculated accordingly.

B. Evaluation

The following is a summary of Section IV Specifications and the points assigned to each factor. These factors will be used in the evaluation of proposals submitted in response to this RFP.

Proposals may be no longer than twenty (20) pages in total. Resumes and appendices are not included in this total.

Factor I. Organizational Experience and Performance (35 Points)

Offerors must respond to this Factor in narrative form, as it relates to their entire agency or organization, using a numbered format.

1. Describe (a) mission (b) goals and (c) values. (3 points)
2. Include the organizational chart for the entire organization. Identify and explain staff functions pertinent to the scope of work detailed in this RFP. (3 points)
3. Provide the names, job titles, job descriptions, and qualifications of all treatment guardian coordinators who will be responsible for completing work related to Mental Health guardianship services outlined in this RFP. (3 points)
4. For all individuals named in item 3, include copies of resumes and appropriate professional certifications. (3 points)
5. Describe the organization will ensure that treatment guardian coordinators assigned to Protected Persons possess sufficient current knowledge of disabilities, including but not limited to developmental disabilities and mental health disabilities and the resources available to Protected Persons. Describe your organization's ability to ensure guardianship coordinators have the ability to meet the requirements of this Scope of Work and to comply with applicable State and Federal regulations. (4 points)
6. Describe your organization's experience in working with similar populations. (3 points)
7. Describe your organization's experience with providing training for new Treatment Guardian and conducting outreach activities for interested person. (3 points)
8. Describe your organization's geographical service area. If your organization plans to expand its geographical service area, please discuss how this will be accomplished. (3 points)
9. Provide evidence of compliance with previous contract requirements, including contracts related to similar services. Evidence of compliance may include a statement of compliance issued by a previous contractor, copies of corrective action plans that were successfully instituted, letters documenting the timely submission of reports, or other compliance documentation. (3 points)
- 10.. List any pending lawsuit or bankruptcy petitions, any lawsuit or bankruptcy concluded within the last five years, any current investigation of your organization or its parent, affiliates, or subsidiaries, and/or any substantiated complaints made against your organization or any individual acting in an official capacity of the organization that may have bearing on the operation of your organization and its capacity to meet the requirements in the Scope of Work. (4 points)
11. Include a signed copy of the "Statement of Assurances" form (Appendix D) and all applicable items listed on the form. (3 points) Those items include:
 - a. Corporate/Non-Profit Organization documents (as applicable)
 - i. Agency article of incorporation, as approved by the New Mexico Public Relation Commission (if applicable)
 - ii. Agency by-laws (if applicable)
 - iii. Annual corporate report, as filed with the New Mexico Public Regulation Commission (if applicable)
 - b. Financial Status documents
 - i. Current fiscal report (if applicable – i.e. profit/loss statement, quarterly reports, etc.)

- ii. Audited financial statements for the three most current years, including the independent auditor's summary of findings (if applicable - management letter)
 - iii. Two most recent internally prepared quarterly financial statements
 - iv. Proof of registration with the New Mexico Taxation and Revenue Department for the payment of gross receipt tax; or proof of grant of an exception from payment of federal income tax under the Internal Revenue Code of 1954, 26 USC Section 501(C)(3) (Required)
 - c. Board of Directors documents (Required - whichever is applicable)
 - i. A complete list of all current members of the agency's board of directors, including name and title; address; date and term on board; and occupation
 - ii. If no board of directors, please describe the governance structure.
 - d. Statement of Compliance Agreement with all Federal and State legal regulations
 - e. Proof of Professional Liability Insurance
 - f. Proof of Surety Bond
 - g. Pay Equity Reporting Form PE10-249 or PE-250, or certification that your organization or company is exempt from pay equity reporting
12. Provide three (3) external letters of reference from Protected Person who have received Mental Health Treatment guardianship or other services similar to those from the Offeror within the last five years. Letters of reference must include the name of the Protected Person providing the letter and include a current address, contact person with telephone number, email address and date and description of the services provided by the Offeror. Include the contact information in the main narrative, and submit the letters as a separate appendix.

Factor II. Other Administrative Responsibilities (30 Points)

13. Describe your organizational capacity, and state your willingness, to comply with all reporting requirements under the contract and to coordinate, as necessary, with the DDPC. (3 points)
14. Describe your organizational capacity, and state your willingness, to attend and participate in DDPC meetings, other meetings as appropriate, and ad hoc conference calls as requested by the DDPC, and to provide input on issues as requested. (3 points)
15. Describe your organizational capacity, and state your willingness, to participate in staff review activities. (3 points)
16. Describe your organization's internal compliance process, and how that program will be able to support DDPC staff review activities. (3 points)
17. Describe your organizational capacity, and state your willingness, to respond in a timely and complete manner to the DDPC. (3 points)
18. Describe your organizational capacity to maintain detailed records that document individual face-to-face contacts with participants and to ensure that these records are readily available for inspection by the DDPC, the DFA, or the State Auditor, in accordance with the DDPC's right to audit billing and payments, to contest billing or portions thereof, and to recover excessive or illegal payments made to the Offeror. (3 points)
19. Describe your organizational capacity, and state your willingness, to ensure that any confidential information provided to your organization in the performance of the Scope of Work described in this RFP will not be made available to any individual or organization without prior written approval by the DDPC. (3 points)
- 20.. Describe your organizational capacity, and state your willingness, to submit reports and Medicaid Reports to the DDPC which will include, but are not limited to, demographic and statistical information. (3 points)
21. Describe your organizational capacity, and state your willingness, to submit other reports to the DDPC as requested. (3 points)
22. Describe your organizational capacity, and state your willingness, to ensure that a bill is submitted monthly to the DDPC, and that this bill reflects only those protected persons assigned to the contractor by the courts.. (3 points)

Factor III. Quality Assurance and Program Integrity (15 Points)

23. Describe your organization's quality of service and commit to maintaining or improving upon that quality of service. (6 points)
24. Describe your organization's capacity and procedures to abide by all Federal and State laws, rules, regulations, and to executive orders of the Governor of the State of New Mexico, that pertain to equal opportunity. Assure the DDPC that no New Mexico citizen shall be denied the benefit of any activity performed under a contract awarded based on this RFP, or be otherwise subjected to discrimination on the grounds of race, color, national origin, gender, sexual orientation, age, disability, or religion; and describe your organization's capacity to carry through on this commitment. (3 points)
25. Describe your organization's capacity, and state your willingness, to comply with all applicable New Mexico regulations, including those promulgated by the DDPC, and with the DDPC's rules and policies. (3 points)
26. Describe your organization's capacity, and state your willingness, to comply with the DDPC program definitions as they pertain to the services provided under the contract. (3 points)

Factor IV. Cost Proposal Budget and Justification (20 Points)

27. How many protected persons do you currently provide court-ordered guardianship services for? (5 points)
28. What is your total capacity for guardianship services (number of certified guardians multiplied by allowed number of protected persons (30) per certified guardian)? (5 points)
29. How many protected persons do you propose to provide services for under this contract? (5 points)
30. If there is a difference between the number of protected persons you propose to provide services for and your total capacity, please explain. (5 points)

Under contracts awarded pursuant to this RFP, the DDPC Office of Guardianship will pay \$325 per month per protected person, or more if the budget allows. Using your proposed service load from IV.28, and the per month amount, determine the total annual contract amount you are applying for, and enter that amount in the "amount requested" line on the cover sheet to this proposal

C. BUSINESS SPECIFICATIONS

1. Financial Stability

Offerors must submit copies of the most recent years independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and,

instead, submit sufficient information (e.g. D & B report) to enable the Evaluation Committee to assess the financial stability of the Offeror.

2. Performance Surety Bond

Offeror(s) must have the ability to secure a Performance Surety Bond in favor of the Agency to insure the Contractor's performance upon any subsequent contract award. Each engagement will be different but the option to require a Performance Surety Bond must be available to the Agencies at time of contract award. **A statement of concurrence must be submitted in the Offeror's proposal.**

3. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX E. The form **must** be completed and must be signed by the person authorized to obligate the company.

4. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B)

V. EVALUATION

A. EVALUATION POINT SUMMARY

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

Factors – correspond to section IV.B and IV C	Points Available
B. Technical Specifications	N/A
B. Factor I. Organizational Experience/Performance	35
B. Factor II. Other Administrative Responsibilities	30
B. Factor III Quality Assurance/Program Integrity	15
B. Factor IV Cost Proposal/Budget Justification	20
C. Business Specifications	
C.1. Financial Stability	Pass/Fail
C.2. Performance Surety Bond	Pass/Fail
C.3. Letter Of Transmittal	Pass/Fail
C.4. Signed Campaign Contribution Disclosure Form	Pass/Fail
C.5. Cost Proposal	
TOTAL	100 points
C.6. New Mexico Preference - Resident Vendor Points per Section IV C. 6	N/A
C.7. New Mexico Preference - Resident Veterans Points per Section IV C.6	N/A

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

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

Points will be awarded based on the thoroughness and clarity of the response of the engagements cited and the perceived validity of the response.

1. Describe (a) mission (b) goals and (c) values. (3 points)
2. Include the organizational chart for the entire organization. Identify and explain staff functions pertinent to the scope of work detailed in this RFP. (3 points)
3. Provide the names, job titles, job descriptions, and qualifications of all treatment guardian coordinators who will be responsible for completing work related to Mental Health guardianship services outlined in this RFP. (3 points)

4. For all individuals named in item 3, include copies of resumes and appropriate professional certifications. (3 points)
5. Describe the organization will ensure that treatment guardian coordinators assigned to Protected Persons possess sufficient current knowledge of disabilities, including but not limited to developmental disabilities and mental health disabilities and the resources available to Protected Persons. Describe your organization's ability to ensure guardianship coordinators have the ability to meet the requirements of this Scope of Work and to comply with applicable State and Federal regulations. (4 points)
6. Describe your organization's experience in working with similar populations. (3 points)
7. Describe your organization's experience with providing training for new Treatment Guardian and conducting outreach activities for interested person. (3 points)
8. Describe your organization's geographical service area. If your organization plans to expand its geographical service area, please discuss how this will be accomplished. (3 points)
9. Provide evidence of compliance with previous contract requirements, including contracts related to similar services. Evidence of compliance may include a statement of compliance issued by a previous contractor, copies of corrective action plans that were successfully instituted, letters documenting the timely submission of reports, or other compliance documentation. (3 points)
- 10.. List any pending lawsuit or bankruptcy petitions, any lawsuit or bankruptcy concluded within the last five years, any current investigation of your organization or its parent, affiliates, or subsidiaries, and/or any substantiated complaints made against your organization or any individual acting in an official capacity of the organization that may have bearing on the operation of your organization and its capacity to meet the requirements in the Scope of Work. (4 points)
11. Include a signed copy of the "Statement of Assurances" form (Appendix D) and all applicable items listed on the form. (3 points) Those items include:
 - a. Corporate/Non-Profit Organization documents (as applicable)
 - i. Agency article of incorporation, as approved by the New Mexico Public Relation Commission (if applicable)
 - ii. Agency by-laws (if applicable)
 - iii. Annual corporate report, as filed with the New Mexico Public Regulation Commission (if applicable)
 - b. Financial Status documents
 - i. Current fiscal report (if applicable – i.e. profit/loss statement, quarterly reports, etc.)
 - ii. Audited financial statements for the three most current years, including the independent auditor's summary of findings (if applicable - management letter)
 - iii. Two most recent internally prepared quarterly financial statements
 - iv. Proof of registration with the New Mexico Taxation and Revenue Department for the payment of gross receipt tax; or proof of grant of an exception from payment of

federal income tax under the Internal Revenue Code of 1954, 26 USC Section 501(C)(3) (Required)

c. Board of Directors documents (Required - whichever is applicable)

i. A complete list of all current members of the agency's board of directors, including name and title; address; date and term on board; and occupation

ii. If no board of directors, please describe the governance structure.

d. Statement of Compliance Agreement with all Federal and State legal regulations

e. Proof of Professional Liability Insurance

f. Proof of Surety Bond

g. Pay Equity Reporting Form PE10-249 or PE-250, or certification that your organization or company is exempt from pay equity reporting

12. Provide three (3) external letters of reference from Protected Person who have received Mental Health Treatment guardianship or other services similar to those from the Offeror within the last five years. Letters of reference must include the name of the Protected Person providing the letter and include a current address, contact person with telephone number, email address and date and description of the services provided by the Offeror. Include the contact information in the main narrative, and submit the letters as a separate appendix.

Factor II. Other Administrative Responsibilities (30 Points)

13. Describe your organizational capacity, and state your willingness, to comply with all reporting requirements under the contract and to coordinate, as necessary, with the DDPC. (3 points)

14. Describe your organizational capacity, and state your willingness, to attend and participate in DDPC meetings, other meetings as appropriate, and ad hoc conference calls as requested by the DDPC, and to provide input on issues as requested. (3 points)

15. Describe your organizational capacity, and state your willingness, to participate in staff review activities. (3 points)

16. Describe your organization's internal compliance process, and how that program will be able to support DDPC staff review activities. (3 points)

17. Describe your organizational capacity, and state your willingness, to respond in a timely and complete manner to the DDPC. (3 points)

18. Describe your organizational capacity to maintain detailed records that document individual face-to-face contacts with participants and to ensure that these records are readily available for inspection by the DDPC, the DFA, or the State Auditor, in accordance with the DDPC's right to audit billing and payments, to contest billing or portions thereof, and to recover excessive or illegal payments made to the Offeror. (3 points)

19. Describe your organizational capacity, and state your willingness, to ensure that any confidential information provided to your organization in the performance of the Scope of

Work described in this RFP will not be made available to any individual or organization without prior written approval by the DDPC. (3 points)

20.. Describe your organizational capacity, and state your willingness, to submit reports and Medicaid Reports to the DDPC which will include, but are not limited to, demographic and statistical information. (3 points)

21. Describe your organizational capacity, and state your willingness, to submit other reports to the DDPC as requested. (3 points)

22. Describe your organizational capacity, and state your willingness, to ensure that a bill is submitted monthly to the DDPC, and that this bill reflects only those protected persons assigned to the contractor by the courts.. (3 points)

Factor III. Quality Assurance and Program Integrity (15 Points)

23. Describe your organization's quality of service and commit to maintaining or improving upon that quality of service. (6 points)

24. Describe your organization's capacity and procedures to abide by all Federal and State laws, rules, regulations, and to executive orders of the Governor of the State of New Mexico, that pertain to equal opportunity. Assure the DDPC that no New Mexico citizen shall be denied the benefit of any activity performed under a contract awarded based on this RFP, or be otherwise subjected to discrimination on the grounds of race, color, national origin, gender, sexual orientation, age, disability, or religion; and describe your organization's capacity to carry through on this commitment. (3 points)

25. Describe your organization's capacity, and state your willingness, to comply with all applicable New Mexico regulations, including those promulgated by the DDPC, and with the DDPC's rules and policies. (3 points)

26. Describe your organization's capacity, and state your willingness, to comply with the DDPC program definitions as they pertain to the services provided under the contract. (3 points)

Factor IV. Cost Proposal Budget and Justification (20 Points)

27. How many protected persons do you currently provide court-ordered guardianship services for? (5 points)

28. What is your total capacity for guardianship services (number of certified guardians multiplied by allowed number of protected persons (30) per certified guardian)? (5 points)

29. How many protected persons do you propose to provide services for under this contract? (5 points)

30. If there is a difference between the number of protected persons you propose to provide services for and your total capacity, please explain. (5 points)

2. C.1 Financial Stability (See Table 1)

Pass/Fail only. No points assigned.

3. C.2 Performance Bond (See Table 1)

If required. Pass/Fail only. No points assigned.

4. C.3 Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

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

Pass/Fail only. No points assigned.

6. C.5 Cost (See Table 1)

7. C.6. New Mexico Preferences – N/A

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Kathleen Coates, Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. The DDPC Evaluation Committee may use other sources of to perform the evaluation as specified in Section II. C.18.
4. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value. 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

REQUEST FOR PROPOSAL Office of Guardianship – Treatment Guardianship Services

647-P737—07-01-20-FY21-Treatment

ACKNOWLEDGEMENT OF RECEIPT FORM

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 Kathleen Coates, Procurement Manager no later than **APRIL 2, 2020; 3:30 PM**. 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.

Kathleen Coates, Procurement Manager
Office of Guardianship – Treatment Guardianship Services

Developmental Disabilities Planning Council
625 Silver SW, Suite 100
Albuquerque, NM 87102

E-mail: Kathleen.coates@state.nm.us

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Campaign Contribution Disclosure Form

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a 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 or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM 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 either 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 spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“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.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a 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.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

—OR—

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

Signature

Date

Title (Position)

**APPENDIX C
COVER PAGE**

SAMPLE CONTRACT

1

DEVELOPMENTAL DISABILITIES PLANNING COUNCIL (DDPC)
PROFESSIONAL SERVICES CONTRACT # 21-647-P737-xxxxx

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

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the following work:

A. Definitions. For purposes of this Agreement:

- (1) “Contractor” means the entity or individual contracting with Agency to provide mental health treatment guardianship services pursuant to this Agreement;
- (2) “Agent” means an entity or individual approved by Agency’s Executive Director to represent or act on behalf of Agency;
- (3) “Mental health care professional” means a physician or other professional who by training or experience is qualified to work with persons with a mental health diagnosis or condition, or persons with an intellectual or developmental disability;
- (4) “Office of Guardianship” means Agency’s statutory program that provides for treatment guardian services, including the contracting, recruitment and training of persons to serve as mental health treatment guardians;
- (5) “Protected Person” means any individual who is requesting or receiving treatment guardianship services pursuant to this Agreement;
- (6) “Reasonable attempt” means that the individual treatment guardian acts in a manner that is rational and appropriate under the circumstances, and that is in the best interests of the Protected Person; and
- (7) “Treatment Guardian” means the individual serving the Protected Person pursuant to this Agreement, and who is an employee or independent contractor of Contractor. If Contractor does not employ or contract with individual treatment guardians, then “Contractor” and “Treatment Guardian” are the same.

B. Contractor Obligations.

Contractor shall administer a program that provides mental health treatment guardianship to individuals diagnosed by a licensed mental health care professional as having a mental health condition.

- (1) Upon appointment by a court, Contractor shall provide Treatment Guardians to individuals in either an inpatient or outpatient setting. A court may appoint Contractor as the primary Treatment Guardian for a Protected Person and may appoint another person as an alternate Treatment Guardian.
- (2) Contractor shall promote effective and responsible mental health treatment guardianships and facilitate mental health treatment guardianship appointments as determined jointly by Agency and Contractor.

- (3) Contractor shall ensure that their Treatment Guardian(s) are properly trained.
- (4) Contractor shall provide Agency, in writing, all information regarding any allegations of abuse, neglect, or exploitation made against Contractor regarding a Protected Person.

C. Guardianship Practices. Mental Health Treatment Guardianship Services shall be provided in accordance with the terms of this Agreement and all applicable laws and policies, including but not limited to the:

- (1) Mental Health and Developmental Disabilities Code (NMSA 1978, §§ 43-1-1 to -25);
- (2) Mental Health Care Treatment Decisions Act (NMSA 1978, §§ 24-7B-1 to -16);
- (3) Uniform Health-Care Decisions Act (NMSA 1978, §§ 24-7A-1 to -18);
- (4) Adult Protective Services Act (NMSA 1978, §§ 27-7-1 to -31); and
- (5) Rule of the Office of Guardianship (9.4.21.1 NMAC).

D. Certification and Criminal History Screening Requirements.

- (1) Contractor shall employ or contract with competent Treatment Guardians as determined by education, experience, and competence to perform the contracted services, including mental health treatment guardian training by a qualified treatment guardian entity.
- (2) Within ten (10) calendar days after hiring or contracting with a Treatment Guardian, Contractor shall provide Agency with: (a) the employee or contractor's name and date of hire or contract, (b) a statement verifying the Treatment Guardian's training, and (c) a color photograph of and contact information (including telephone number and email address) for each Treatment Guardian. Contractor shall update such contact information within five (5) business days of learning of the change. Agency shall have full authority to communicate with any of Contractor's Treatment Guardians regarding Contractor and Contractor's Protected Persons.
- (3) Contractor and its Treatment Guardians shall comply with the Caregivers Criminal History Screening Act (NMSA 1978, § 29-17-5) and Screening Requirements (7.1.9 NMAC). No Treatment Guardian shall perform any direct mental health treatment guardianship services under this Agreement until they have received a Notification of Clearance from the New Mexico Department of Health. Contractor shall provide Agency with the Notification of Clearance for each Treatment Guardian within five (5) calendar days of receipt.
- (4) Contractor shall not employ or contract with any person who has been excluded from the Medicare or Medicaid Programs.
- (5) If Contractor fails to comply with any of the terms of this paragraph, Agency may terminate the Agreement and, at Contractor's sole expense, transfer its appointed mental health treatment guardianships to other qualified Treatment Guardians.

E. Caseload. No Treatment Guardian shall carry a caseload of more than thirty (30) Protected Persons unless they provide services to Protected Persons residing at the New Mexico Behavioral Health Institute, in which case they may carry a caseload of up to thirty-five (35)

Protected Persons. In rare circumstances, Agency may agree to an exception for an increased caseload.

F. Partnership with Protected Person. Contractor shall ensure that:

- (1) A Protected Person receiving services is, to the highest degree possible, involved in individual planning, decision-making, implementation, and evaluation of those services;
- (2) All Services provided are designed to enhance, promote, and expand the recovery, independence, self-sufficiency, self-esteem, and quality of life of the Protected Person; and
- (3) The Treatment Guardian will make reasonable attempts to conduct at least one in-person, individual face-to-face monthly visit with each Protected Person.

G. Protected Person's Civil Rights. A Protected Person for whom a Treatment Guardian has been appointed retains all legal and civil rights except those that have been expressly limited by court order. Contractor shall notify Protected Person annually of their civil rights in a language and communication style that the Protected Person best understands. The Protected Person or someone, other than the Contractor or Treatment Guardian, who knows the Protected Person well, must acknowledge in writing annually that the Contractor reviewed the Protected Person's civil rights with them.

Contractor shall ensure that Protected Person's civil rights are protected, which rights include, but are not limited to, the following:

- (1) The right to be free from unlawful discrimination, including age, disability, ethnicity, gender, marital status, national origin, race, religion, and sexual orientation;
- (2) The right to be treated humanely, with dignity and respect, and be protected against emotional or psychological abuse, physical abuse, sexual abuse, neglect and exploitation;
- (3) The right to be served in the most integrated setting appropriate to Protected Person's needs;
- (4) The right to practice the religion of their choice, or abstain from the practice of religion;
- (5) The right to receive visitors and communicate with others;
- (6) The right to privacy;
- (7) The right to participate in the political process, including the right to vote in accordance with NMSA 1978, § 45-5-109;
- (8) The right to voice grievances and complaints without interference, coercion or reprisal;
- (9) The right to counsel and access to available advocacy services;
- (10) The right to have access to the courts;
- (11) The right to receive services to which they are entitled;
- (12) The right to be restored to capacity at the earliest possible time;
- (13) The right to have review of the need for restriction of rights;
- (14) The right to have a qualified guardian;
- (15) The right to remain as independent as possible;
- (16) The right to determine their place of residency, or have their preference honored;
- (17) The right to own, use and control their property, or have their property managed

prudently and have timely information about how their property is being managed;

(18) The right to consent to or refuse medical treatment, unless that authority has been granted to a guardian, or if a Treatment Guardian has been appointed to make mental health treatment decisions pursuant to the Mental Health and Developmental Disabilities Code (NMSA 1978, § 43-1-15);

(19) The right to seek or retain employment;

(20) The right to travel; and

(21) The right to notice and to attend all proceedings relating to their capacity.

H. Treatment Guardian Duties. When appointed by a court to make substitute decisions for a Protected Person, a Treatment Guardian shall make reasonable attempts to perform the following:

(1) Make mental health care decisions on behalf of Protected Person:

(a) If the treatment appears to be in Protected Person's best interest and is the least restrictive means for accomplishing the treatment objective;

(b) After consulting with Protected Person and considering Protected Person's expressed opinions, if any;

(c) After considering Protected Person's previous decisions in similar circumstances when Protected Person was able to make treatment decisions; and

(d) After reasonable consultation with the mental health care professional who is proposing treatment, Protected Person's attorney, and interested friends, relatives or other agents or guardians.

(2) Communicate all pertinent information to Protected Person, unless reasonably certain that substantial harm will result;

(3) If notified in advance, participate in the preparation of, and revision to, the Protected Person's individualized treatment plan, and monitor the Protected Person's progress in attaining their goals and objectives;

(4) If notified in advance, participate in the preparation of Protected Person's discharge plan, if any;

(5) Apply to the court for an Enforcement Order for Protected Person who is not a resident of a medical facility and for whom a Treatment Guardian has been appointed but refuses to comply with the Treatment Guardian's decisions. An Enforcement Order may authorize a peace officer to take Protected Person into custody and transport Protected Person to an evaluation facility, and may authorize the facility to forcibly administer treatment;

(6) Attempt to have at least one in-person, individual face-to-face visit per month with each Protected Person. Each reasonable attempt and visit shall be documented either by signatures of both the Treatment Guardian and Protected Person, or by the Treatment Guardian and a witness.

(7) Communicate at least once a month with Protected Person's family members, caregivers, and professional service providers (i.e. psychiatrist, psychologist, etc.), if any;

(8) Immediately notify Agency of Protected Person's death, incarceration, residing on Tribal land, or other significant event;

(9) Maintain detailed records of all contacts with Protected Person, family members and mental health care professionals regarding Protected Person's treatment, and other

pertinent information; and

(10) If Protected Person cannot be contacted or located, search custody lists of New Mexico correctional facilities and contact the facility having custody of Protected Person.

I. Case File Management. Contractor shall oversee all Treatment Guardians whose services are provided pursuant to this Agreement. Contractor shall ensure that each Protected Person's case file contains all relevant information, including, but not limited to:

(1) Protected Person's residence;

(2) Details of each Treatment Guardian's contacts with Protected Person, including dates, times and nature of contacts, and details, if any, of the Treatment Guardian's inability to contact Protected Person;

(3) Treatment Guardian's opinion as to whether Protected Person is capable of making their own mental health decisions, and whether this opinion has been discussed with appropriate mental health care professionals or reported to the court;

(4) Process by which Protected Person, family members, caregivers, service providers and others may report problems to the Treatment Guardian;

(5) Procedure to allow Protected Person to contact their attorney;

(6) Documentation of Protected Person's individualized Treatment Plan or Discharge Plan, including any revisions thereto; and

(7) Documentation of any complaints about the Treatment Guardian or its services received from or on behalf of Protected Person and attempts to address and resolve the complaints.

Contractor shall maintain detailed records specifying the date, nature of all services rendered and identification of the person(s) providing the specific services to each Protected Person. Contractor shall maintain these records for a period of seven (7) years from the date of final payment under this Agreement.

A. J. Contractor's Records.

(1) Contractor shall maintain detailed records of each Protected Person's visit, specifying the date, amount of time (in quarter hour increments), nature of all services rendered, and identification of the person(s) providing the services. Contractor shall maintain these records for a period of seven (7) years from the date of final payment under this Agreement.

(2) All billing and case file records shall be subject to immediate inspection and copying by Agency or its agents, the Department of Finance and Administration (DFA), and the State Auditor. Agency shall have the right to audit all billings and monthly reports both before, and for seven (7) years after payment is made. Payment pursuant to this Agreement shall not foreclose Agency's right to recover any excessive, illegal or improper payments made to Contractor.

K. Complaint Procedures.

Contractor shall establish and implement internal written procedures available to all Protected Persons to present complaints relating to Contractor's services. Complaint procedures shall comply with the Office of Guardianship Rules, 9.4.21.14 NMAC, *Complaints against a Contracted Provider*, and shall include, at a minimum, the following:

(1) Contractor shall notify Protected Person of the complaint procedures annually in a language and communication style that they best understand. The Protected Person or their representative must acknowledge that the Contractor reviewed its internal written complaint procedures;

(2) Within thirty (30) calendar days after receipt of the complaint, Contractor shall:

(a) Meet in person with Protected Person and, if applicable, their representative, and attempt to reach a written resolution;

(b) Document in writing the resolution or non-resolution of the complaint, signed and dated by all parties to the attempted resolution;

(c) Explain the complaint resolution to Protected Person and document this explanation, including date, time, and person communicating with Protected Person; and

(d) Provide the written complaint resolution to Protected Person and, if applicable, their representative, and maintain a copy in Protected Person's case file.

(3) Contractor shall forward to Agency either the:

(a) Written complaint resolution within five (5) business days, or

(b) Unresolved complaint within two (2) business days after the thirty (30) day deadline for complaint resolution; and

(4) If the complaint cannot be resolved with Contractor, Protected Person or their representative may submit the written complaint to the Office of Guardianship, with a copy given to Contractor.

L. Incident Reporting. Within five (5) business days of learning of an allegation, Contractor shall provide Agency, in writing, the following information regarding any allegations of abuse, neglect, or exploitation made against Contractor in regard to a Protected Person:

(1) When received by Contractor, copies of all documents received from Department of Health's Division of Health Improvement (DHI) and Aging and Long-Term Services Department's Adult Protective Services (APS); and

(2) Copies of all complaints, reports, and correspondence made to DHI Licensing and Certification, APS, or Attorney General's Medicaid Fraud and Elder Abuse Division involving the Protected Person.

M. Insurance.

Contractors with a contract of \$60,000 or less in compensation shall obtain and maintain professional liability insurance in an amount no less than \$500,000 per occurrence and \$1 million in the aggregate.

Contractors with a contract over \$60,000 in compensation shall obtain and maintain professional liability insurance in an amount no less than \$1 million per occurrence and \$3 million in the aggregate.

Insurance shall cover acts of misconduct, violations of fiduciary duties, and civil and criminal misconduct by Contractor, its Treatment Guardian, and its employees and subcontractors. Insurance shall be obtained through a company licensed to do business in New Mexico and in good standing. The State of New Mexico Developmental Disabilities Planning Council shall be identified as an Additional Insured. Contractor shall disclose, in writing, proof of professional liability insurance coverage and the amount of coverage within thirty (30) days after the effective date of this Agreement. The policy shall require that Agency is immediately notified by the insurance company, in writing, if insurance coverage lapses or is terminated.

N. Access to Records.

(1) Agency shall have access to the Protected Person's case records, including but not limited to: copies of court filings and reports, financial records, and all other records maintained by the Contractor related to contracted services provided and the scope of the court orders, unless specifically sequestered by the courts.

(2) When requested, or during Agency's visit with Protected Person, Contractor shall immediately produce all records and files of Protected Person.

(a) If Contractor cannot produce the records immediately, it shall produce those records on or before the close of business the day after the request.

(b) Contractor's failure or refusal, without good cause shown, to timely produce the records, shall constitute a breach of this Agreement and Agency may deny payment to Contractor for that Protected Person for the month(s) the records are not timely produced.

(3) When transferring guardianship to a successor guardian, Contractor shall transmit the contents of the original Protected Person's case file and an inventory list of personal property of Protected Person to the successor guardian at the court hearing on the transfer.

(a) If the transfer is ordered without a hearing, Contractor shall transmit this client case file and the Protected Person's personal property to the successor guardian within twenty-four (24) hours after entry of a court order.

(b) Contractor's failure or refusal, without good cause shown, to timely transfer the complete client case file shall constitute a breach of this Agreement and Agency may impose any sanction it deems appropriate and may deny payment to Contractor for that Protected Person for the month(s) the records are not timely transferred.

O. Audits. Agency may utilize outside contractors, including certified public accountants, to audit Contractor's services funded pursuant to this Agreement. Agency shall provide Contractor at least two (2) weeks advance written notice of such an audit. Contractor shall cooperate fully with Agency and outside contractors acting as agents of Agency.

P. Monitoring Review. Agency may periodically conduct a review to ensure the delivery of quality services consistent with this Agreement. These reviews may include, but are not limited to, an examination of the following:

(1) Protected Persons are receiving services that are least restrictive, promote independence and autonomy and are appropriate to their needs;

(2) Contractor establishes and implements an adequate internal complaint procedure, available to all Protected Persons;

(3) Protected Persons' civil and legal rights are adequately safeguarded;

(4) Staff is qualified by education, training and experience to perform the duties of Treatment Guardian;

(5) Contractor maintains an internal quality assurance mechanism;

(6) Contractor complies with all terms and conditions of this Agreement;

(7) Contractor maintains adequate billing and accounting records sufficient to verify compliance with this Agreement;

(8) Termination of Protected Person's services is appropriate under the circumstances;

(9) All Treatment Guardians shall be available for any Agency comprehensive services

review

(10) All court-endorsed pleadings and reports; and

(11) Services in accordance with this Agreement and within the scope of the order granted by the courts.

Q. Corrective Action Plan/Sanctions.

If Agency determines that Contractor failed to comply with any terms of this Agreement, statutory obligation, or court order, or fails to timely address a Protected Person's needs or grievances, Agency may provide Contractor with a *Written Notification of Deficiencies* and may require Contractor to develop and submit to Agency a proposed *Corrective Action Plan (CAP)* that timely addresses and resolves these deficiencies.

If required by Agency, Contractor shall develop and submit to Agency a proposed *CAP* within thirty (30) business days after receipt of the *Written Notification of Deficiencies*. If necessary, Contractor may request additional time to submit their proposed *CAP*, but Agency reserves the right to decline an extension.

The *CAP* shall include, at a minimum:

- (a) Identification of the deficiencies;
- (b) Specific corrective action steps Contractor shall take to resolve the deficiencies;
- (c) Timeframe necessary to complete each corrective action step;
- (d) Anticipated date of completion of *CAP*; and
- (e) Names of the persons responsible for each corrective action step.

Agency shall provide Contractor a written acceptance or rejection of the proposed *CAP* within fifteen (15) business days of receiving the proposed *CAP* from Contractor.

When all identified deficiencies are resolved to Agency's satisfaction, Agency shall provide Contractor with a *Statement of Compliance*.

If Contractor cannot resolve the identified deficiencies to Agency's satisfaction within 120 days after the date of Agency-approved *CAP*, Agency has the right to:

- (a) Take such other actions as it deems appropriate
- (b) Withhold payment from Contractor a. Thirty (30) days after Contractor's receipt of the *Written Notification of Deficiencies*, Agency shall withhold from Contractor's total monthly contract payment:
 - (a) 15% of Contractor's total monthly contractual payment for the first month of noncompliance, and
 - (b) 20% for the second month of noncompliance.

b. Agency's withholding of payment for any given month shall remain in effect even if Contractor comes into compliance during that month.

c. Upon Agency's written *Statement of Compliance*, Agency shall resume contract payments.

(c) Seek damages and attorney fees from Contractor for transferring guardianship to another guardian;

- (d) Seek reimbursement from Contractor for Agency costs incurred as a result of contract non-compliance;
- (e) File a claim with Contractor's insurance and bond providers;
- (f) Terminate this Agreement; and

(g) Seek further redress through State and Federal law.

R. Conflict of Interest. Contractor warrants that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its duties and obligations to any Protected Person.

(1) To avoid even the appearance of impropriety, Contractor shall not serve on the board of directors of another service provider contracted by Agency. No state employee whose job functions have a direct impact on the Office of Guardianship shall serve on Contractor's board of directors.

(2) Contractor shall not serve as Treatment Guardian of a particular Protected Person if their spouse, significant other, immediate family member, business partner or employer concurrently serves as probate guardian of the same Protected Person.

(3) Medicaid Waiver or Department of Health (DOH) Services. Contractor shall not provide services to the same Protected Person under both this Agreement and the Medicaid Waiver program of the New Mexico DOH or other similar program. If no alternative service provider is available in a particular community, Contractor shall disclose that information in writing and request Agency's prior written permission to provide both services.

S. Education and Outreach.

(1) Contractor shall serve as an educational resource on issues related to the role and duties of treatment guardians, the law and ethical standards governing treatment guardians, and the process of identifying and acquiring needed mental health services for adults with mental illness or developmental disabilities.

(2) In coordination with institutions of higher education and social and legal organizations, Contractor shall conduct treatment guardian outreach activities, recruit treatment guardians, and ensure education and training for interested persons (e.g., treatment guardians, courts, mental health facilities, attorneys, family members, caregivers, professionals, students).

(3) Contractor shall provide trainings as needed for new Treatment Guardians, as described above during FY 2021 (July 1, 2020-June 30, 2021).

(4) Agency may request Contractor to participate in Pilot/Demonstration Projects involving mental health treatment guardians, including testing a variety of new practices in seeking improvements in services.

T. Prompt Communication. Contractor shall, without exception or excuse, respond to any and all Office of Guardianship communications within two (2) business days

U. Invoicing. Contractor shall invoice for services provided to eligible Protected Persons that have received court-appointed treatment guardianship services through the Office of Guardianship. Contractor shall submit invoices along with a Protected Person roster and the endorsed orders appointing Contractor as Treatment Guardian to Agency's Contract Specialist

by the 5th day of the month for the previous billing month's services. Payment for invoices received after this date may be delayed.

All invoices must be approved by Agency. Agency shall process and submit approved invoices to DFA for payment approval, so long as Contractor is in compliance with all terms and requirements of this Agreement.

For each training provided by Contractor as described in Paragraphs B (*Contractor Obligations*) and (R) (*Education and Outreach*), the Contractor shall submit an invoice to Agency that documents (1) the date of the training, (2) the training agenda, (3) the instructor's name, and (4) the names of all attendees.

Contractor shall be appointed by a court as Treatment Guardian in order to be paid by Agency for guardianship services:

- (1) If Adult Protective Services or a court requests Contractor to be Treatment Guardian, before Contractor accepts such appointment, Contractor must request and receive written assignment from Agency in order to be paid by Agency.
- (2) Contractor may select a Treatment Guardian to serve the Protected Person but shall consider Agency's criteria and the best interests of the Protected Person (e.g., Protected Person needs a guardian of a specific gender or background).
- (3) Agency has the sole discretion to determine assignments.

Contractor shall submit a detailed invoice packet for all services performed and pre-approved expenses incurred. If Agency finds that the services are not acceptable, within thirty (30) calendar days after the date of receipt of written notice from Contractor that payment is requested, it shall provide Contractor a letter explaining the defect or objection to the services, and outlining steps Contractor may take to provide remedial action. Upon certification by Agency that the services have been received and accepted, payment shall be tendered to Contractor within thirty (30) calendar days of the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

V. Extraordinary Costs, Exceptions, and Other Matters Related to Compensation.

(1) Requests for reimbursement of extraordinary costs and exceptions must be approved in advance by Agency Executive Director or designee. Agency may reimburse Contractor, subject to available resources, the current DFA-approved rates for mileage (calculated from www.randmcnally.com, www.nmroads.com, or actual mileage from odometer reading) and per diem (\$85 per 24-hour period) only when Contractor travels an excessive distance in performance of duties pursuant to this Agreement. This is intended to cover non-routine situations and is reserved for extraordinary situations or exceptions requiring extensive cost by the Treatment Guardian to protect the health and safety of the Protected Person. If Agency Executive Director or designee approves payment in advance for extraordinary costs, Contractor shall invoice these prior-approved extraordinary costs as described above in Paragraph U (*Invoicing*).

(2) After the death of a Protected Person, Contractor may invoice for the month of death and one (1) month thereafter and shall specifically note this on the invoice.

2. Compensation.

A. Agency shall pay to Contractor in full payment for services satisfactorily performed at the rate of **\$85.00** per Protected Person, per month. For each training provided by Contractor as described above in Paragraphs B (*Contractor Obligations*) and (S) (*Education and Outreach*), Agency shall pay to Contractor a flat fee of **\$700.00** per training.

The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed AMOUNT. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

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

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE GSD/SPD Contracts Review Bureau. This Agreement shall terminate on (DATE) unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150.

4. Termination.

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

B. Notice; Agency Opportunity to Cure.

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

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

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

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

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

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

9. Release.

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

10. Confidentiality.

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

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the

Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

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

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

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

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

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

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

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

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

13. Amendment.

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

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation,

sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

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

18. Workers Compensation.

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

19. Records and Financial Audit.

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

20. Indemnification.

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

21. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain

for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

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

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

22. Invalid Term or Condition.

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

23. Enforcement of Agreement.

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

24. Notices.

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

Notices to Agency:

Guardianship Program Manager
Developmental Disabilities Planning Council (DDPC)
625 Silver Avenue, SW, Suite 100
Albuquerque, New Mexico 87102
E-mail: Maria.Bourassa@state.nm.us
Fax number: (505) 841-4590

Legal Notices to Agency:

Guardianship Program Manager
Developmental Disabilities Planning Council (DDPC)
625 Silver Avenue, SW, Suite 100
Albuquerque, New Mexico 87102
E-mail: Maria.Bourassa@state.nm.us
Fax number: (505) 841-4590

Contract ID#_21-647-P737-xxxxx_
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Notices to Contractor:

Contractor's Name

Address

City, New Mexico, Zip Code

Email: Contractor's email address

Fax number: (000) 000-0000

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.

(THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY)

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

Contract ID#_21-647-P737-xxxxx_
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By: _____ Date: _____

Agency's Legal Counsel – Certifying legal sufficiency

By: _____ Date: _____

Agency's Chief Financial Officer

By: _____ Date: _____

Contractor's Name

Agency's Name

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 D
COST RESPONSE FORM

Description	Type	Quantity	Cost per Item
Per Protected Person			\$85

Option Year 1: (July 1, 2020 – June 30, 2021) Price: \$85/per protected person_____

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

Option Year 2: (July 1, 2021 – June 30, 2022) Price: \$85/per protected person_____

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

Option Year 3: (July 1, 2022 – June 30, 2023) Price: \$85/per protected person_____

(includes all labor, materials, equipment, transportation, configuration, installation, training, taxes and profit to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

Option Year 4: (July 1, 2023 – June 30, 2024) Price: \$85/per protected person_____

(includes all labor, materials, equipment, transportation, fees and taxes to provide the Services described in Section IV, (as amended by any current RFP amendments for the period specified above)

APPENDIX E

LETTER OF TRANSMITTAL FORM

APPENDIX E
Letter of Transmittal Form

RFP#: _____

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.

_____, 2019
Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

APPENDIX F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The State of New Mexico, as a part of the RFP process, requires Offerors to submit a minimum of three (3) business references as required within this document. The purpose of these references is to document Offeror's experience relevant to the scope of work in an effort to establish Offeror's responsibility.

Offeror is required to send the following reference form to each business reference listed. The business reference, in turn, is requested to submit the Reference Form directly to: **Kathleen Coates, Procurement Manager, DDPC 625 Silver SW, Suite 100, Albuquerque, NM 87102 or via email: Kathleen.coates@state.nm.us** by **April 10, 2020 – 3:30 pm Mountain Standard Time** for inclusion in the evaluation process. The form and information provided will become a part of the submitted proposal. Business references provided may be contacted for validation of content provided therein.

**RFP # 647-P737-07-01-20-FY21-Treatment
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:**

(Name of Offeror)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the State of New Mexico, Kathleen Coates, Procurement Manager via e-mail at:

Name: DDPC, Kathleen Coates, Procurement Manager
 Address: 625 Silver SW, Suite 100
 Albuquerque, NM 87102

Telephone: 505-841-4554
 Email: Kathleen.coates@state.nm.us

no later than **April 10, 2020; 3:30pm Mountain Standard Time** and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the State of New Mexico Procurement Manager listed above. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

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

QUESTIONS:

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

COMMENTS:

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

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

COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?

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

COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?

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

COMMENTS:

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

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

COMMENTS:

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

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

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

COMMENTS:

7. How satisfied are you with the products developed by the vendor?
_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

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

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

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