

# **ECONOMIC DEVELOPMENT DEPARTMENT**

## **REQUEST FOR PROPOSALS (RFP)**

### **State Small Business Credit Initiative 2.0 Technical Assistance (SSBCI 2.0 TA)**

- Technical Assistance – Financial Advisory
  - Technical Assistance - Legal
  - Technical Assistance - Accounting
- Technical Assistance – Venture Capital and Emerging Fund Managers



## **RFP # EDD-SSBCI-2.0-TA**

RFP Release Date: February 19, 2024

Proposal Due Date: March 18, 2024

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# **I. INTRODUCTION**

## **A. PURPOSE OF THIS REQUEST FOR PROPOSALS**

The purpose of this Request for Proposals (RFP) is to solicit proposals to establish four (4) contracts through competitive negotiations with a qualified organization, group of organizations, or person to develop, manage and provide tailored business technical assistance trainings and one to one direct hours of support for businesses eligible for US Treasury's State Small Business Credit Initiative 2.0 Technical Assistance program (SSBCI 2.0 TA). The four awards are for technical assistance services in the areas of: (1) Financial Advisory, (2) Legal, (3) Accounting, and (4) Venture Capital and Emerging Fund Managers.

## **B. BACKGROUND INFORMATION**

The Federal Grant from US Treasury, the Small Business Credit Initiative 2.0 Technical Assistance program (SSBCI 2.0 TA) seeks to help Very Small Businesses (VSBs) and Socially Economically Disadvantaged Businesses (SEDI) with direct technical assistance in the areas of financial advisory, legal, and accounting.

For the program's implementation in New Mexico, a four-part, or four award Request for Proposals (RFP) has been designed to address these areas of need. It is intended to be for VSB or SEDI businesses who are seeking funding or capital, and VSB SEDI qualifying emerging venture capital and equity fund managers, and those qualifying businesses interested in venture capital, who may be seeking SSBCI capital or other funding to support their funds or businesses.

RFP applicants should keep in mind that they will have to track this information to show and confirm that businesses receiving and participating in the training and one to one hours are qualified VSBs or SEDI businesses. A software program or platform funded by the agency will be the central reporting mechanism for this information and other federal and state mandated reporting requirements. The platform will include a SEDI business self-certification form.

Additionally, to promote language access and the support of those businesses in New Mexico where Spanish is the primary language, this RFP requires part of each awards' technical assistance instruction to be offered in full Spanish without the use of interpretation or translation.

In order to help businesses and eligible recipients fully utilize and benefit from the technical assistance offered by this funding, one to one business assistance hours with qualified professionals are required to be offered to businesses attending trainings/workshops.

For each part of this RFP, twelve training courses or workshops must be offered on each scope or part (legal, financial advisory, accounting, and fund management), with a minimum of twelve hours of one-to-one hours available for each of the twelve training's. A minimum of eighty qualified beneficiaries must be assisted between training and one-to-ones, per award.

Please review EXHIBIT F for a sample cost breakdown of how funds *could* be allocated to meet the requirements.

Funding for this program is only meant to serve those businesses that can qualify as VSB or SEDI as described by US Treasury’s Eligible Beneficiaries guidelines. Those **DEFINITIONS OF VSB AND SEDI** are as follows:

1. A VSB is: a business with fewer than 10 employees and includes independent contractors and sole proprietors.
2. A SEDI-owned business is: a business enterprise that self-certifies that it is owned and controlled by individuals who have had their access to credit on reasonable terms diminished compared to others in comparable economic circumstances, due to (1) membership of a group that has been subjected to racial or ethnic prejudice or cultural bias within American society, (2) gender, (3) veteran status, (4) limited English proficiency, (5) disability, (6) long-term residence in an environment isolated from the mainstream of American society, (7) membership of a Federally or state-recognized Indian Tribe, (8) long-term residence in a rural community, (9) residence in a U.S. territory, (10) residence in a community undergoing economic transitions (including communities impacted by the shift towards a net-zero economy or deindustrialization), or (11) membership of an underserved community. (Underserved communities are populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the definition of equity. Equity is consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.);
  - a. a business enterprise that self-certifies that it is owned and controlled by individuals whose residences are in Community Development Financial Institution (CDFI) Investment Areas, as defined in 12 C.F.R. § 1805.201(b)(3)(ii);
  - b. a business enterprise that self-certifies that it will build, open, or operate a location in a CDFI Investment Area, as defined in 12 C.F.R. § 1805.201(b)(3)(ii); or a business enterprise that self-certifies that it is located in a CDFI Investment Area, as defined in 12 C.F.R. § 1805.201(b)(3)(ii).
  - c. For purposes of the definition of “SEDI-owned business,” a business is “owned and controlled” by applicable individuals:
    - i. if privately owned, 51 percent or more is owned by such individuals;
    - ii. if publicly owned, 51 percent more or of the stock is owned by such individuals; and
    - iii. in the case of a mutual institution, if a majority of the board of directors, account holders, and the community which the institution services is predominantly comprised of such individuals.

3. Some businesses may qualify as both a SEDI-owned business and a VSB. An eligible recipient can consider these businesses as SEDI-owned businesses, VSBs, or both for all TA Grant Program purposes.

### C. SCOPE OF PROCUREMENT

The resulting RFP will be four awards. The price of these contracts can be amended for an equal value up to two additional years if work is performed satisfactorily at the end of the termination date of the contract. Totals per award will include any applicable gross receipts taxes to be paid by the contractor and shall be completed no later than April 25, 2025.

For each part of this RFP, twelve training courses or workshops must be offered on each scope or part (legal, financial advisory, accounting, and fund management), with a minimum of twelve hours of one-to-one hours available for each of the twelve training's. A minimum of eighty qualified beneficiaries must be assisted between training and one-to-ones, per award

### D. PROCUREMENT MANAGER

The Economic Development Department has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, title, telephone number and e-mail address are listed below:

Name: Shani Harvie – Justice, Equity, Diversity, and Inclusion Coordinator  
Telephone: (505) 699-2809  
Email: [Shani.Harvie@edd.nm.gov](mailto:Shani.Harvie@edd.nm.gov)

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing by email, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other state employees or evaluation committee members do not have the authority to respond on behalf of EDD.
2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.13.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, **ONLY** **protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals.** Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

### E. PROPOSAL DELIVERY

*All deliveries of proposals shall be uploaded to the online portal provided through the agency to be delivered to the Procurement Manager listed above. If the file size sent is very large, it is the responsibility of the Offeror to contact the Procurement Manager to ensure successful upload.*

## F. DEFINITION OF TERMINOLOGY

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

1. “**Agency**” means the Economic Development Department.
2. “**Authorized Purchaser**” means an individual authorized by a Participating Entity to place orders against this contract.
3. “**Award**” means the final execution of the contract document.
4. “**Business Hours**” means 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.
5. “**Close of Business**” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.
6. “**Confidential**” means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978,. See also NMAC 1.4.1.45. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
7. “**Contract**” means any agreement for the procurement of items of tangible personal property, services or construction.
8. “**Contractor**” means any business having a contract with a state agency or local public body.
9. “**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.
10. “**Desirable**” – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.
11. “**Electronic Submission**” means a successful submittal of Offeror’s proposal via email to the EDD Procurement Manager.

12. “**Electronic Version/Copy**” means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content of the proposal. The digital form must be emailed.
13. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
14. “**Evaluation Committee Report**” means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee’s recommendation for contract award. It will contain scores of all responsive Offeror proposals.
15. “**Final Award**” means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.
16. “**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.
17. “**Hourly Rate**” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.
18. “**IT**” means Information Technology.
19. “**Mandatory**” – the terms ”must,” ”shall” ”will,” ”is required,” or ”are required,” identify a mandatory item or factor. Failure to meet a mandatory item or factor may result in the rejection of the Offeror’s proposal.
20. “**Minor Irregularities**” means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
21. “**Multiple Source Award**” means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.
22. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.
23. “**Price Agreement**” means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.
24. “**Procurement Manager**” means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.



25. **“Procuring Agency”** means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.
26. **“Project”** means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.
27. **“Redacted”** means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7, NMSA 1978 and NMAC 1.4.1.45 and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out BUT NOT omitted or removed.
28. **“Request for Proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.
29. **“Responsible Offeror”** means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.
30. **“Responsive Offer”** or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.
31. **“Staff”** means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.
32. **“State (the State)”** means the State of New Mexico.
33. **“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” does not include local public bodies.
34. **“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.)
35. **“Uniform Assessment Documents”** means the forms of county ordinance, special assessment agreement, special assessment lien, special assessment assignable certificate and other model documents prepared by the department pursuant to the Improvement Special Assessment Act for use in the program; provided, however, the department shall

not mandate a form of special financing agreement that shall be supplied by a capital provider.

36. **“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.

## II. CONDITIONS GOVERNING THE PROCUREMENT

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

### A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	Agency	2/19/2024
2. Pre-Proposal Webinar	Agency	2/27/2024 – 12:30 PM MST
3. Acknowledgement of Receipt Form	Potential Offerors	2/28/2024
4. Deadline to submit Questions	Potential Offerors	3/5/2024
5. Response to Written Questions	Procurement Manager	3/8/2024
<b>6. <i>Submission of Proposal</i></b>	<b><i>Potential Offerors</i></b>	<b>3/18/2024</b>
7. * Proposal Evaluation	Evaluation Committee	3/19/2024 to 4/1/2024
8. * Selection of Finalists	Evaluation Committee	4/2/2024
9. * Best and Final Offers	Finalist Offerors	4/3/2024
10. * Oral Presentation(s)	Finalist Offerors	4/4/2024 to 4/5/2024
11. * Finalize Contractual Agreements	Agency/Finalist Offerors	4/8/2024 to 4/12/2024
12. * Contract Awards	Agency/ Finalist Offerors	4/15/2024
13. * Protest Deadline	Agency	4/30/2024 (15 days)

\* Dates indicated in Events 6 through 12 are estimates only and may be subject to change without necessitating an amendment to the RFP.

### B. EXPLANATION OF EVENTS

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

#### 1. Issuance of RFP

This RFP is being issued on behalf of the New Mexico State Economic Development Department on the date shown in Section II.A.1 above.

## 2. Acknowledgement of Receipt

Potential Offerors must email the Procurement Manager to have their organization placed on the procurement Distribution List. The email request must be received by the Procurement Manager by 5:00 pm MST/MDT on the date indicated in Section II.A, Sequence of Events. Subject line must include “RFP SSBCI 2.0 TA – Acknowledgement or Receipt.”

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to submit this request does not prohibit potential Offerors from submitting a response to this RFP. However, by not submitting the email request, the potential Offeror’s representative shall not be included on the distribution list and will be solely responsible for obtaining any amendments to the RFP.

## 3. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 5:00pm MST/MDT as indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Procurement Manager as declared in Section I.D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

## 4. Response to Written Questions

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an email request to be added to the distribution list (Section II.B.2).

## 5. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN **5:00 PM** MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS. **PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE ACCEPTED.** The date and time of receipt will be recorded on each proposal. If an Offeror decides to use a third-party delivery entity to submit its proposal, it is still the responsibility of the Offeror to ensure that the delivery is made on time. An Offeror should take into account all factors regarding the delivery by the third-party entity and ensure that the delivery is made prior to the stated deadline. No reason for a delay will be accepted for failure to make the stated deadline.

*Proposals must be addressed and delivered to the Procurement Manager at the email address identified in Section I.E.* Proposals must clearly indicate in the email subject line

that they are in response to the NM Economic Development Creative Industry Strategies RFP.

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

## **6. Proposal Evaluation**

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

## **7. Selection of Finalists**

The Evaluation Committee will select, and the Procurement Manager will notify the finalist Offerors as per schedule Section II.A, Sequence of Events or as soon as possible thereafter. A schedule for Oral Presentation, if any, will be determined at this time. The Economic Development Department shall select up to three (3) finalists per award based on the highest combined scores according to Section V.

## **8. Best and Final Offers**

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

## **9. Oral Presentations**

Finalist Offerors, as selected per Section II.B.8 above, may be required to conduct an oral (most likely via Zoom or other web platform selected by EDD) presentation per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. Whether or not Oral Presentations will be held is at the discretion of the Evaluation Committee.

## **10. Finalize Contractual Agreements**

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), taking into consideration the evaluation factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not

have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

## **11. Contract Awards**

Upon receipt of the signed contractual agreement, the Agency Procurement office will award as per Section II.A., Sequence of Events, or as soon as possible thereafter. The award is subject to appropriate Department and State approval.

## **12. Protest Deadline**

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

Mark Roper, Acting Cabinet Secretary, EDD  
[Mark.Roper@edd.nm.gov](mailto:Mark.Roper@edd.nm.gov)

**PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.**

## **C. GENERAL REQUIREMENTS**

### **1. Acceptance of Conditions Governing the Procurement**

Potential Offerors must indicate their acceptance of these Conditions Governing the Procurement, Section II.C, by completing and signing the Letter of Transmittal form, pursuant to the requirements in Section II.C.30, located in APPENDIX D.

### **2. Incurring Cost**

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

### **3. Prime Contractor Responsibility**

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

### **4. Subcontractors/Consent**

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

### **5. Amended Proposals**

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

### **6. Offeror's Rights to Withdraw Proposal**

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

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

### **7. Proposal Offer Firm**

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

### **8. Disclosure of Proposal Contents**

The contents of all submitted proposals will be kept confidential until the final award has been completed by the Agency. At that time, all proposals and documents pertaining to the

proposals will be available for public inspection, *except* for proprietary or confidential material as follows:

- a. ***Proprietary and Confidential information is restricted to:***
  1. confidential financial information concerning the Offeror's organization; and
  2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7, NMSA 1978.
- b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Sections III.B.1.a.i and III.B.2.a.i, shall be submitted containing the blacked-out proprietary or confidential information, to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

**IMPORTANT:** The price of products offered, or the cost of services proposed **SHALL NOT** be designated as proprietary or confidential information.

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

## **9. No Obligation**

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

## **10. Termination**

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

## **11. Sufficient Appropriation**

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

## **12. Legal Review**

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

## **13. Governing Law**

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



#### **14. Basis for Proposal**

Only information supplied in writing by the Procurement Manager or contained in this RFP shall be used as the basis for the preparation of Offeror proposals.

#### **15. Contract Terms and Conditions**

Should an Offeror object to any of the terms and conditions as set forth in the COST RESPONSE FORM (APPENDIX C) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The Agency may or may not accept the alternative language.

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

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

#### **16. Offeror's Terms and Conditions**

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

#### **17. Contract Deviations**

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

#### **18. Offeror Qualifications**

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

#### **19. Right to Waive Minor Irregularities**

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.F.20. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that **all** of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

## **20. Change in Contractor Representatives**

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

## **21. Notice of Penalties**

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

## **22. Agency Rights**

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

## **23. Right to Publish**

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

## **24. Ownership of Proposals**

All documents submitted in response to the RFP shall become property of the State of New Mexico. If the RFP is cancelled, all responses received shall be destroyed by the Agency or SPD unless the Offeror either picks up, or arranges for pick-up, the materials within three (3) business days of notification of the cancellation. Offeror is responsible for all costs involved in return mailing/shipping of proposals.

## **25. Confidentiality**

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

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

## **26. Electronic mail address required**

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

## 27. Use of Electronic Versions of this RFP

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

## 28. New Mexico Employees Health Coverage

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

## 29. Campaign Contribution Disclosure Form

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

## 30. Letter of Transmittal

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

The Letter of Transmittal MUST:

1. Identify the submitting business entity (its Name, Mailing Address and Phone Number).
2. Identify the Name, Title, Telephone, and E-mail address of the person authorized by the Offeror's organization to (A) contractually obligate the business entity providing the Offer, (B) negotiate a contract on behalf of the organization; and/or (C) provide clarifications or answer questions regarding the Offeror's proposal content (*A response to B and/or C is only required if the responses differ from the individual identified in A*).
3. Describe any relationship with any other entity (such as State Agency, reseller, etc., that is not a sub-contractor identified in #3), if any, which will be used in the performance of this awarded contract; and
4. Be signed and dated by the person identified in #2 above; attesting to the veracity of the information provided and acknowledging (a) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (b) the organizations acceptance of the Section V Evaluation Factors, and (c) receipt of any and all amendments to the RFP.

**Failure to respond to ALL items as indicated above, will result in Offeror's disqualification.**

### **31. Disclosure Regarding Responsibility**

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

administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

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

### III. RESPONSE FORMAT AND ORGANIZATION

#### A. NUMBER OF RESPONSES

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

#### B. NUMBER OF COPIES

##### 1. Electronic Responses

The Offeror must submit one single electronic copy of each portion of its proposal (Technical and Cost) as outlined below. Separate the proposal as described below into separate electronic files for submission. Proposals must be submitted in the manner outlined below. Technical and Cost portions of Offerors proposal **must** be submitted as separate files attached to a single email as indicated below in this section, and **must** be prominently identified as “Technical Proposal,” or “Cost Proposal,” on the front page of each file.

- a) **Technical Proposals** – One (1) ELECTRONIC attachment must be organized in accordance with **Section III.C.1. Proposal Format**. All information for the Technical Proposal must be combined into a single file/document for attaching to the email submission. The Technical Proposals **SHALL NOT** contain any cost information.
  - i. **Confidential Information**: If Offeror’s proposal contains confidential information, as defined in Section I.F.6 and detailed in Section II.C.8, Offeror **must** submit **two (2) separate ELECTRONIC technical files**:
    - One (1) ELECTRONIC version of the requisite proposals identified in Section III.B.1.a above as **unredacted** (def. Section I.F.38) versions for evaluation purposes; and
    - One (1) **redacted** (def. Section I.F.27) ELECTRONIC version for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror’s proposal. Redacted versions **must** be clearly marked as “REDACTED” or “CONFIDENTIAL” on the first page of the electronic file.
  - b) **Cost Proposals** – One (1) ELECTRONIC attachment of the proposal containing **ONLY** the Cost Proposal. All information for the cost proposal **must be combined into a single file/document for attaching to the email**.

**The ELECTRONIC submission of the proposals must be received no later than the time and date indicated in Section II.B.6, Sequence of Events, Submission of Proposals.**

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

## C. PROPOSAL FORMAT

All proposals must be submitted as follows:

### 1. Proposal Content and Organization

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

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

- A. Signed Letter of Transmittal
- B. Signed Campaign Contribution Form
- C. Table of Contents
- D. Proposal Summary (Optional)
- E. Response to Contract Terms and Conditions (from Section II.C.15)
- F. Offeror's Additional Terms and Conditions (from Section II.C.16 )
- G. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal**)
  1. Organizational Experience
  2. Mandatory Specification
  3. Organizational References
  4. Oral Presentation
- H. Other Supporting Material (if applicable)

#### **Cost Proposal:**

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. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in the Cost Proposal file.**

A Proposal Summary may be included in Offeror's Technical Proposal to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal. **DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.**

## IV. SPECIFICATIONS

### A. DETAILED SCOPES OF WORK

The purpose of this RFP is to select four contractors to offer a minimum of twelve training courses or workshops per scope/part (legal, financial advisory, accounting, and fund management), with a minimum of twelve hours of one-to-one assistance available for each of the twelve training's. A minimum of eighty qualified beneficiaries must be assisted between training and one-to-ones, per award.

The ideal contractor has skills and experience including but not limited to the following:

1. Language Proficiency
2. Professional Qualifications in financial advisory services, legal, and accounting as per the award applied for
3. Knowledge and Expertise in VSB and SEDI business challenges, experiences and opportunities
4. Communication and Instructional Skills
5. Cultural Competence
6. Data and Reporting Experience
7. Individualized Consultation Experience
8. Strategic Advice and Guidance
9. Timely and Responsive Support
10. Documentation and Follow-up

The following information lists each of the four (4) project scopes, and their deliverables:

If selected for an award the contractor must be registered with New Mexico Taxation and Revenue-Business Tax ID # and SAMS.GOV to receive DUNS and UEI numbers.

#### 1. PROJECT SCOPE – SSBCI FINANCIAL ADVISORY TECHNICAL ASSISTANCE

Seeking community partner(s) to provide technical assistance trainings as well as dedicated one to one business assistance hours on financial advisory topics including but not limited to:

1. Assisting with the establishment of banking relationships or other financial services
2. Assisting with applications for government small business programs, including preparing financial analyses
3. Identifying sources of credit, capital, grants, and other financing
4. Advising on factors that may impede access to financing for businesses
5. Advising on financial management
6. Developing presentations to potential investors, financial models, and business plans

#### **High-Level Requirements**



1. Ability to contract with qualified financial professionals who may deliver the topics of interest.
2. Ability to prepare all marketing materials for training sessions.
3. Ability to report back to Economic Development on attendance and other metrics from training sessions.
4. Ability to maintain and gather reporting metrics required by US Treasury SSBCI program when they become available.
5. Ability to hold training sessions in both English and Spanish with full instruction occurring without the use of interpretation or translation.

**Deliverables**

1. To provide 12 training sessions on the accounting topics outlined above.
  - a. A minimum of 4 (four) of those sessions should be held in full Spanish instruction and minimum of 4 (four) should be held in English.
  - b. Spanish instruction must be provided without the use of interpretation or translation.
  - c. training courses must be taught by a licensed or certified professional with a minimum of two years of experience in the corresponding training field. It is recommended to subcontract with local professionals who possess the needed skills and experience to lead a training course in the aforementioned topics
2. Twelve one-to-one business assistance hours with qualified professionals are required to be offered per training (One hundred forty four hours in total over one year).
3. A minimum of eighty qualified beneficiaries must be assisted between training and one-to-ones, per award.
4. A timeline and scope of the trainings to be held will need to be signed off by the agency before commencing the trainings or workshops.
5. All training sessions must fulfill the technical assistance and reporting requirements of the SSBCI Grant.
  - a. Including but not limited to reporting on attendance and other metrics as required by US Treasury and the state using assigned software.

**High-Level Timeline/Schedule**

Reporting timeline will be provided after awards are finalized.

**2. PROJECT SCOPE – SSBCI LEGAL TECHNICAL ASSISTANCE**

Seeking community partner(s) to provide technical assistance trainings as well as dedicated one to one business assistance hours on legal topics including but not limited to:

1. Assisting with business formation or adopting corporate governance documents.
2. Obtaining needed registrations, licenses, filings, and certifications.
3. Advising on, or preparing documents for, the business to enter into contracts.
4. Legal services related to the business obtaining capital from investors, such as the development of financial instruments, investment term sheets, purchase agreements, and shareholder rights agreements.
5. Legal services related to a transfer of ownership interests in a business, in the case of employee stock ownership plans (ESOPs).

### **High-Level Requirements**

1. Ability to contract with legal professionals who may deliver the topics of interest.
2. Ability to prepare all marketing materials for training sessions.
3. Ability to report back to Economic Development on attendance and other metrics from training sessions.
4. Ability to hold training sessions in both English and Spanish with full instruction occurring without the use of interpretation or translation.

### **Deliverables and Outcomes**

1. To provide 12 training sessions on the accounting topics outlined above.
  - a. A minimum of 4 (four) of those sessions should be held in full Spanish instruction and minimum of 4 (four) should be held in English.
  - b. Spanish instruction must be provided without the use of interpretation or translation.
  - c. training courses must be taught by a licensed or certified professional with a minimum of two years of experience in the corresponding training field. It is recommended to subcontract with local professionals who possess the needed skills and experience to lead a training course in the aforementioned topics
2. Twelve one-to-one business assistance hours with qualified professionals are required to be offered per training (One hundred forty-four hours in total over one year).
3. A minimum of eighty qualified beneficiaries must be assisted between training and one-to-ones, per award.
4. A timeline and scope of the trainings to be held will need to be signed off by the agency before commencing the trainings or workshops.
5. All training sessions must fulfill the technical assistance and reporting requirements of the SSBCI Grant.
  - a. Including but not limited to reporting on attendance and other metrics as required by US Treasury and the state using assigned software.

### **High-Level Timeline/Schedule**

Reporting timeline will be provided after awards are finalized.

### **3. PROJECT SCOPE – SSBCI ACCOUNTING TECHNICAL ASSISTANCE**

Seeking community partner or partners to provide technical assistance trainings as well dedicated one to one business assistance hours on financial topics, including but not limited to:

1. Preparing audits, financial statements, or business records
2. Advisory services or training regarding accounting practices, recordkeeping, bookkeeping or accounting software
3. Digitizing financial records

### **High-Level Requirements**

1. Ability to contract with qualified financial professionals who may deliver the topics of interest.

2. Ability to prepare all marketing materials for training sessions.
3. Ability to report back to Economic Development on attendance and other metrics from training sessions.
4. Ability to maintain and gather reporting metrics required by US Treasury SSBCI program when they become available.
5. Ability to hold training sessions in both English and Spanish with full instruction occurring without the use of interpretation or translation.

**Deliverables and Outcomes**

1. To provide 12 training sessions on the accounting topics outlined above.
  - a. A minimum of 4 (four) of those sessions should be held in full Spanish instruction and minimum of 4 (four) should be held in English.
  - b. Spanish instruction must be provided without the use of interpretation or translation.
  - c. training courses must be taught by a licensed or certified professional with a minimum of two years of experience in the corresponding training field. It is recommended to subcontract with local professionals who possess the needed skills and experience to lead a training course in the aforementioned topics
2. Twelve one-to-one business assistance hours with qualified professionals are required to be offered per training (One hundred forty-four hours in total over one year).
3. A minimum of eighty qualified beneficiaries must be assisted between training and one-to-ones, per award.
4. A timeline and scope of the trainings to be held will need to be signed off by the agency before commencing the trainings or workshops.
5. All training sessions must fulfill the technical assistance and reporting requirements of the SSBCI Grant.
  - a. Including but not limited to reporting on attendance and other metrics as required by US Treasury and the state using assigned software.

**High-Level Timeline/Schedule**

Reporting timeline will be provided after awards are finalized

**4. PROJECT SCOPE – SSBCI VENTURE CAPITAL AND EMERGING EQUITY FUND MANAGER TECHNICAL ASSISTANCE**

Seeking community partner(s) to provide technical assistance trainings, and dedicated one to one business assistance on legal, financial advisory, and accounting topics for emerging fund managers, and local small businesses interested in accessing venture capital and other sources of small business financing to grow small businesses in New Mexico. The goal is to prepare fund managers and local small businesses with tools to help them access capital.

Topics, including but not limited to:

1. Technical assistance for emerging fund managers.
2. Technical assistance for companies and businesses looking to scale or pitch for funds/venture capital equity groups.

3. Legal considerations for fund managers and equity firms, following federal requirements, creating contract agreements, etc.
4. Assisting with the establishment of banking relationships or other financial services
5. Assisting with applications for government small business programs, including preparing financial analyses
6. Identifying sources of credit, capital, grants, and other financing
7. Advising on factors that may impede access to financing for businesses
8. Advising on financial management
9. Developing presentations to potential investors, financial models, and business plans
10. Preparing audits, financial statements, or business records
11. Advisory services or training regarding accounting practices, recordkeeping, or accounting software.
12. Digitizing financial records, assisting with business formation or adopting corporate governance documents.
13. Obtaining needed registrations, licenses, filings, and certifications.
14. Advising on, or preparing documents for, the business to enter into contracts.
15. Legal services related to the business obtaining capital from investors, such as the development of financial instruments, investment term sheets, purchase agreements, and shareholder rights agreements.
16. Legal services related to a transfer of ownership interests in a business, in the case of employee stock ownership plans (ESOPs).
17. Financial considerations for fund managers , performing due diligence on companies, how to pitch for matching capital, how to raise matching capital

#### **High-Level Requirements**

1. Ability to contract with qualified financial advisory, legal, and accounting professionals who may deliver the topics of interest.
2. Ability to prepare all marketing materials for training sessions.
3. Ability to report back to Economic Development on attendance and other metrics from training sessions.
4. Ability to maintain and gather reporting metrics required by US Treasury SSBCI program when they become available.

#### **Deliverables and Outcomes**

1. To provide 12 training sessions on the accounting topics outlined above.
  - a. training courses must be taught by a licensed or certified professional with a minimum of two years of experience in the corresponding training field. It is recommended to subcontract with local professionals who possess the needed skills and experience to lead a training course in the aforementioned topics.
  - b. A minimum of one session should be completed in full Spanish instruction without the use of interpreters or translation.
2. Twelve one-to-one business assistance hours with qualified professionals are required to be offered per training (One hundred forty-four hours in total over one year).

3. A minimum of eighty qualified beneficiaries must be assisted between training and one-to-ones, per award.
4. A timeline and scope of the trainings to be held will need to be signed off by the agency before commencing the trainings or workshops.
5. All training sessions must fulfill the technical assistance and reporting requirements of the SSBCI Grant.
  - a. Including but not limited to reporting on attendance and other metrics as required by US Treasury and the state using assigned software.

**High-Level Timeline/Schedule**

Reporting timeline will be provided after awards are finalized

The resulting contracts will be four awards. The price of these contracts can be amended for an equal value up to two additional years if work is performed satisfactorily at the end of the termination date of the contract.

This procurement will result in a contractual agreement between two parties for each award; the procurement may ONLY be used by those two parties exclusively, per award.

## **B. TECHNICAL SPECIFICATIONS**

### **1. Organizational or Individual Experience**

Offeror **must**:

- a) Provide a detailed description of relevant experience with state government and/or private sector. 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.
- b) Provide a brief resume/bio of all personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. The offer must include personnel education, work experience, and any other relevant information. If the subcontractors, or providers have not been determined, please indicate confirmed parties to date, and the expectations of future partners in your proposal. Any provider/qualified professional confirmed after the award will need to submit the above information as part of reporting standards to the agency, using the platform provided.
- c) Describe at least one project success and one failure of a similar project. Include how each experience improved or changed the Offeror's services and if the resulting strategy was put into effect and is currently in use.

### **2. Mandatory Specification**

**Mandatory specifications for business technical assistance providers in the areas of financial advisory, legal, and accounting, for instruction in English and Spanish:**

1. Language Proficiency:
  - a. Fluency in both English and Spanish.
  - b. Ability to effectively communicate complex legal, financial, and accounting concepts in both languages.
2. Professional Qualifications:
  - a. For Financial Advisory Services: Certification or relevant degree in finance, accounting, or a related field, with demonstrated experience in providing financial advice to businesses.
  - b. For Legal Services: A licensed attorney with expertise in business law and regulations in the relevant jurisdiction(s).
  - c. For Accounting Services: Certified Public Accountant (CPA) or equivalent qualification with experience in business accounting practices.
3. Knowledge and Expertise in VSB and SEDI business challenges, experiences and opportunities:
  - a. For Financial Advisory Services: Up-to-date knowledge of relevant regulations, and industry standards pertaining to business finances, and compliance.
  - b. For Legal Services: Up-to-date knowledge of relevant laws, regulations, and industry standards pertaining to business operations, taxation and compliance
  - c. For Accounting Services: Up-to-date knowledge of relevant regulations, and industry standards pertaining to business operations, taxation, and compliance.
4. Communication and Instructional Skills:
  - a. Strong communication skills to effectively convey complex concepts and procedures to business owners and stakeholders.
  - b. Experience delivering training sessions, workshops, or seminars in both English and Spanish.
5. Cultural Competence:
  - a. Sensitivity to cultural nuances and differences in business practices between English and Spanish-speaking communities, as well as communities of color.
  - b. Ability to adapt instructional materials and approaches to suit the cultural context of the target audience.
6. Data and Reporting Experience
  - a. Ability to track, report and enter data as required by the Federal grant and State requirements, including but not limited to: date, time, topics, attendance numbers, objectives, any referrals made, outcomes, and next steps, for both training/workshop sessions, and hours of one-to-one assistance.

**One-to-one hours for professional services for legal, accounting, and financial advisory services:**

7. Individualized Consultation Experience:
  - a. Experience offering personalized consultation sessions tailored to the specific needs and circumstances of the client.
  - b. Assessment of the client's business goals, challenges, and legal/accounting/financial advisory requirements.
8. Strategic Advice and Guidance:

- a. Demonstrated expertise in providing strategic advice and guidance tailored to the specific needs and challenges of businesses.
  - b. Development of customized strategies and action plans to address the client's business needs and objectives.
9. Timely and Responsive Support:
- a. Prompt responsiveness to client inquiries, concerns, and requests for assistance.
  - b. Availability for scheduled one-to-one sessions to provide ongoing support and guidance as allowed by budget.
10. Documentation and Follow-up:
- a. Preparation of relevant documentation for specialized assistance such as: contracts, financial statements, or legal agreements as required.
  - b. Follow-up communication to ensure that clients have understood and implemented the recommended strategies or solutions effectively.

### **3. Organizational References**

Offeror must provide a list of a minimum of three (3) references from similar projects/programs performed for private, state or large local government clients within the last three (3) years.

Offeror shall include the following Business Reference information as part of its proposals:

- a) Client name;
- b) Project description;
- c) Project dates (starting and ending);
- d) Staff assigned to reference engagement that will be designated for work per this RFP; and
- e) Client project manager name, telephone number, fax number if available and e-mail address.

## **C. BUSINESS SPECIFICATIONS**

### **1. 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 an applicable contribution has been made. (See APPENDIX B). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

### **2. Oral Presentation**

If selected as a finalist, Offerors agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the Agency. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications.

### 3. Cost

Offerors must complete the Cost Response Form in APPENDIX C.

## 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.

<b>Evaluation Factors</b> <i>(Correspond to section IV.B, IV C)</i>	<b>Points Available</b>
<b>B. Technical Specifications</b>	
B. 1. Organizational Experience	100
B. 2. Mandatory Specification – see Section IV B. 2.	
B. 2. 1. Language Proficiency	50
B. 2. 2. Professional Qualifications in financial advisory services, legal, and accounting as per the award applied for	50
B. 2. 3. Knowledge and Expertise in VSB and SEDI business challenges, experiences and opportunities	50
B. 2. 4. Communication and Instructional Skills	50
B. 2. 5. Cultural Competence	50
B. 2. 6. Data and Reporting Experience	50
B. 2. 7. Individualized Consultation Experience	50
B. 2. 8. Strategic Advice and Guidance	50
B. 2. 9. Timely and Responsive Support	50
B. 2. 10. Documentation and Follow-up	50
B. 3. Organizational References	100
<b>C. Business Specifications</b>	
C. 1. Campaign Contribution Disclosure Form	Pass/Fail
C. 2. Oral Presentations	300
C. 3. Cost	100
<b>TOTAL POINTS AVAILABLE</b>	<b>1,100</b>

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



Value: 100 points

**2. B.2 Mandatory Specifications (See Table 1)**

Points will be awarded based on the thoroughness and clarity of Offeror’s response in each part of this Section. Attention to the offers ability to demonstrate the desired skill and experience will be considered heavily.

Value: 500 points (50 points per section)

**3. B.3 Organizational References (See Table 1)**

Points will be awarded based on the thoroughness and clarity of Offeror’s response in this Section. The Evaluation Committee will also weigh the relevancy and extent of previous projects reference in terms of outcomes and professional relationship experience.

Value: 100 points

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

Pass/Fail only. No points assigned.

**5. C.2 Oral Presentation (See Table 1)**

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

Value: 300 points

**6. C.3 Cost (See Table 1)**

The evaluation of each Offeror’s cost proposal will be conducted using the following formula:

Value: 100 points

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

**C. EVALUATION PROCESS**

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

2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. In accordance with 13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the State taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.12). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

# APPENDIX A: Acknowledgement of Receipt

## REQUEST FOR PROPOSAL

### SSBCI 2.0 TA

## ACKNOWLEDGEMENT OF RECEIPT

An Acknowledgement of Receipt email should be submitted no later than 5:00pm Mountain Standard Time on the date shown in Section II.A.2. Only potential Offerors who elect to return an Acknowledgement of Receipt email will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

By sending an acknowledgement of receipt email for this Request for Proposal, the undersigned/sending party agrees that he or she has received a complete copy of the RFP, beginning with the title page, and ending with the APPENDICES.

In the acknowledgement of receipt email, provide all information below:

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

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

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

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

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

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

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

### Submit Acknowledgement of Receipt to:

To: Shani Harvie

E-mail: [Shani.Harvie@edd.nm.gov](mailto:Shani.Harvie@edd.nm.gov)

Subject Line: SSBCI 2.0 TA RFP

## **APPENDIX B : Campaign Contribution Disclosure Form**

### **CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

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

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

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

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

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

The following definitions apply:

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

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

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

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

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

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

**Name(s) of Applicable Public Official(s) if any: Governor Michelle Luhan Grisham**

**DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_  
\_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_

---

(Attach extra pages if necessary)

---

Signature

---

Date

---

Title (position)

**--OR--**

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

---

Signature

---

Date

---

Title (Position)

## APPENDIX C: Cost Response Form

### COST RESPONSE FORM

Offerors must complete the table below with all required and optional costs associated with the response to the RFP including any gross receipts taxes. Please include the type of cost (direct costs, indirect costs, travel, materials, labor, etc.).

Description	Type	Required/ Optional	Cost per Item
<i>Any Relevant GRT</i>			
<b>Total Cost</b>			

All amounts provided must include all labor, materials, equipment, transportation, configuration, installation, training and profit to provide the goods and/or services described in Section IV.A, (as amended by any current RFP amendments for the period specified).

## APPENDIX D : Letter of Transmittal Form

### *Letter of Transmittal Form*

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

**RFP: SSBCI 2.0 TA**

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_, 20\_\_\_\_\_  
 Authorized Signature and Date (*Must be signed by the individual identified in item #2.A, above.*)



# Appendix E: Sample Contract

STATE OF NEW MEXICO  
(NAME OF AGENCY)  
PROFESSIONAL SERVICES CONTRACT # \_\_\_\_\_

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

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall perform the following work:

2. **Compensation.**

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

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

(—OR—)

(CHOICE – MULTI-YEAR)

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

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

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

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

### 3. Term.

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

### 4. Termination.

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

B. Notice; Agency Opportunity to Cure.

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

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the

Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

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

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

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

## 5. Appropriations.

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

## 6. Status of Contractor.

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

tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

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

**8. Subcontracting.**

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

**9. Release.**

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

**10. Confidentiality.**

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

**11. Product of Service -- Copyright.**

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

**12. Conflict of Interest; Governmental Conduct Act.**

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

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

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

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

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

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

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

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

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

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

**13. Amendment.**

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

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

**14. Merger.**

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

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

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

**16. Equal Opportunity Compliance.**

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

**17. Applicable Law.**

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

**18. Workers Compensation.**

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

**19. Records and Financial Audit.**

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

**20. Indemnification.**

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

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

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

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

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

**22. Invalid Term or Condition.**

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

**23. Enforcement of Agreement.**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other

provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**24. Notices.**

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

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

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

**25. Authority.**

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

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

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

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

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

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

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

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

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

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



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: \_\_\_\_\_  
Taxation and Revenue Department

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

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

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

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

# Appendix F: Sample Cost Breakdown

## SAMPLE COST BREAK DOWN FOR A 1-PART AWARD IN A 12 MONTH PERIOD

