

Early Childhood Education and Care Department

REQUEST FOR PROPOSALS (RFP)



NEW MEXICO

Early Childhood Education & Care Department

**Incentive Payment Services
RFP# 2021-0004**

RFP Release Date: April 13, 2021

Proposal Due Date: May 21, 2021

ELECTRONIC-ONLY PROPOSAL SUBMISSION

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit proposals to establish a contract through competitive negotiations for the procurement of incentive payment services. The Early Childhood Education and Care Department (“ECECD” or the Agency) is requesting proposals from qualified firms that have demonstrated past excellence and knowledge in providing payment services.

B. BACKGROUND INFORMATION

The New Mexico Early Childhood Education and Care Act was signed into law in March 2019 by Governor Michelle Lujan Grisham and created the Early Childhood Education and Care Department (ECECD). *See* NMSA 1978, § 9-29-1, *et seq.* (2019). ECECD’s mission is to ensure that all New Mexican families and young children have access to high-quality and safe early child care opportunities. Specifically, ECECD seeks to provide quality care and education to infants and young children, believing that early intervention, care, and monitoring are New Mexico’s best tools to address systemic issues such as juvenile justice, social and economic inequality, and generational poverty.

C. SCOPE OF PROCUREMENT

ECECD is seeking a contractor for a multi-year contract for fiscal year 2022 (July 1, 2021 to June 30, 2022) and fiscal year 2023 (July 1, 2022 to June 30, 2023) to provide one-time incentive payments to qualifying early childhood education and care professionals providing care in ECECD licensed centers and homes, and registered homes, including Tribal and military providers as further described in Section IV.A. This procurement will result in a contractual agreement between two parties; the procurement may **ONLY** be used by those two parties exclusively.

D. PROCUREMENT MANAGER

ECECD has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and Email address are listed below:

Name: Renada Peery-Galon, Procurement Manager
Telephone: 505-901-8207
Email: Renada.Peery-Galon@state.nm.us

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

2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.12.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, **ONLY protests delivered directly to the Protest Manager in writing and in 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 SUBMISSION

Submissions of all proposals must be accomplished via ececd.rfa@state.nm.us. **Refer to Section III.B.1 for instructions.**

F. DEFINITION OF TERMINOLOGY

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

1. **“Agency”** means the Early Childhood Education and Care Department.
2. **“Award”** means the final execution of the contract document.
3. **“Business Hours”** means 8:00 AM thru 5:00 PM Mountain Standard Time (MST) or Mountain Daylight Time (MDT), whichever is in effect on the date given.
4. **“Close of Business”** means 5:00 PM MST or MDT, whichever is in use at that time.
5. **“Confidential”** means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978. See also NMAC 1.4.1.45. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
6. **“Contract”** means any agreement for the procurement of items of tangible personal property, services, or construction.
7. **“Contractor”** means any business having a contract with a state agency or local public body.
8. **“Department”** means the Early Childhood Education and Care Department. This term is used interchangeably with “Agency”.
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. **“DFA”** means the Department of Finance and Administration for the State of New Mexico.
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 that the Original and Hard Copy proposals contain. The digital form may be submitted through Email.
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 and written evaluations 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. **“FY”** means Fiscal Year.
18. **“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.
19. **“IT”** means Information Technology.
20. **“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.
21. **“Minor Irregularities”** means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
22. **“Offeror”** is any person, corporation, or partnership who chooses to submit a proposal.
23. **“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.

24. **“Procuring Agency”** means all State of New Mexico agencies, commissions, institutions, political subdivisions, and local public bodies allowed by law to entertain procurements.
25. **“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.
26. **“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.
27. **“Request for Proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.
28. **“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.
29. **“Responsive Offer”** 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.
30. **“Sealed”** means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.
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.

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

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule. These dates are subject to change at the discretion of ECECD.

Action	Responsible Party	Due Dates
1. Issue RFP	ECECD	April 13, 2021
2. Acknowledgement of Receipt Form	Potential Offerors	April 23, 2021
3. Deadline to submit Written Questions	Potential Offerors	April 23, 2021
4. Response to Written Questions	ECECD	April 30, 2021
5. Submission of Proposal	Potential Offerors	May 21, 2021
6. Proposal Evaluation	Evaluation Committee	May 24 – June 4, 2021
7. Selection of Finalists	Evaluation Committee	June 7, 2021
8. Best and Final Offers	Finalist Offerors	June 8, 2021 (Optional)
9. Oral Presentation(s)	Finalist Offerors	June 8, 2021 (Optional)
10. Finalize Contractual Agreements	ECECD/Finalist Offerors	June 9 – June 30, 2021
11. Contract Awards	ECECD/ Finalist Offerors	July 1, 2021
12. Protest Deadline	ECECD	15 days after awarding of contract.

B. EXPLANATION OF EVENTS

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

1. Issue RFP

This RFP is being issued on behalf of the Early Childhood Education and Care Department (ECECD) on April 13, 2021.

2. Acknowledgement of Receipt Form

Potential Offerors may Email the Acknowledgement of Receipt Form (APPENDIX A), to the Procurement Manager at Renada.Peery-Galon@state.nm.us, to have their organization placed on the procurement Distribution List. The form must be returned to the Procurement Manager by 3:00 pm MST/ MDT on the date indicated in Section II.A, Sequence of Events

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror’s representative shall not be included on the distribution list.

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 3:00 pm 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 Email, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A).

5. Submission of Proposal

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

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN **3:00 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.

Proposals must be submitted electronically through ececd.rfa@state.nm.us. Refer to Section III.B.1 for instructions. Proposals submitted by facsimile, or other electronic means other than through the Email, will not be accepted.

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

6. Proposal Evaluation

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

7. Selection of Finalists

The Evaluation Committee will select, and the Procurement Manager will notify the finalist Offerors as per schedule Section II.A, Sequence of Events or as soon as possible thereafter. A schedule for Oral Presentation, if any, will be determined at this time.

8. Best and Final Offers

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

9. Oral Presentations

Finalist Offerors, as selected per Section II.B.7 above, may be required to conduct an oral presentation at a location to be determined as per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. If oral presentations are held, Finalist Offerors may be required to make their presentations through electronic means (GoToMeeting, Zoom, etc.). The Agency will provide Finalist Offerors with applicable details. 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, 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 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Protest Manager:
Michelle Montoya
Chief Procurement Officer
MichelleE.Montoya@state.nm.us

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 E.

2. Incurring Cost

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

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

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

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., shall be submitted containing the blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

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

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

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such 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

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

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

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

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

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process

prior to selection as successful Offeror) is an **explicit agreement** by the Offeror that the contractual terms and conditions contained herein are **accepted** by the Offeror.

16. Offeror's Terms and Conditions

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

17. Contract Deviations

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

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

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

20. Change in Contractor Representatives

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

21. Notice of Penalties

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

22. Agency Rights

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

23. Right to Publish

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

24. Ownership of Proposals

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

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.

Contractor agrees to take all reasonable and commercially accepted measures to ensure the security and confidentiality of such information, including but not limited to password protection of all confidential data stored and transmitted. Agency data shall be protected in flight and at rest by encryption best practices and Contractor agrees such encryption shall be used on every device where the Agency data may be stored or transmitted.

26. Electronic mail address required

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

27. Use of Electronic Versions of this RFP

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

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 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 E), 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 Email 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 differs from the individual identified in A*);
3. Identify sub-contractors, if any, anticipated to be utilized in the performance of any resultant contract award;
4. 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
5. 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.

31. Disclosure Regarding Responsibility

- A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
 1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
 2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers; or
 - c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
 3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;

4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Contractor shall provide immediate written notice to the Agency 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 Agency. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the

Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

32. New Mexico Preferences

To ensure adequate consideration and application of §13-1-21, NMSA 1978 (as amended), Offerors **must** include a copy of their preference certificate with their proposal. Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue <http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx>.

A. New Mexico Business Preference

A copy of the certification must accompany Offeror's proposal.

B. New Mexico Resident Veterans Business Preference

A copy of the certification must accompany Offeror's proposal.

An agency shall not award a business both a resident business preference and a resident veteran business preference.

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 SUBMISSION ONLY Responses (eceed.rfa@state.nm.us)

Proposals in response to this RFP must be submitted through ECECD's Email – eceed.rfa@state.nm.us ONLY, the Offeror need only submit one single electronic copy of each portion of its proposal (Technical and Cost) as outlined below. *EXCEPTION: Single electronic files that exceed 20mb may be Emailed as multiple Emails, which must be the least number of Emails necessary to fall under the 20mb limit.* Separate the proposals as described below into separate electronic files for submission.

Proposals must be submitted in the manner outlined below. Technical and Cost portions of Offerors proposal **must** be submitted in separate Emails as indicated below in this section, and **must** be prominently identified as “Technical Proposal,” or “Cost Proposal,” on the front page of each Email.

- a) **Technical Proposals** – One (1) ELECTRONIC Email 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 Emailing**. *EXCEPTION: Single electronic files that exceed 20mb may be submitted as multiple Emails, which must be the least number of Emails necessary to fall under the 20mb limit.* 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.34) versions for evaluation purposes; and
 - One (1) **redacted** (def. Section I.F.25) ELECTRONIC. for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal. Redacted versions **must** be clearly marked as “REDACTED” or “CONFIDENTIAL” on the first page of the electronic file;
 - b) **Cost Proposals** – One (1) ELECTRONIC Email of the proposal containing **ONLY** the Cost Proposal. All information for the cost proposal **must be combined into a single file/document for Emailing**. *EXCEPTION: Single electronic files that exceed 20mb may*

be submitted as multiple Emails, which must be the least number of Emails necessary to fall under the 20mb limit.

For technical support issues contact the Procurement Manager.

The ELECTRONIC proposal submission must be emailed to ECECD by the submission deadline in Section II.B.5.

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

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Organization of files for electronic copy proposals:

1. Proposal Content and Organization

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

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

- 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. Organization Background
 2. Detailed Organization Information
 3. Organization References
 4. Financial Stability –(Financial information considered confidential, as defined in Section I.F.5. and detailed in Section II.C.8, should be placed in the **Confidential Information** file, per Section III.B.1.a.i., as applicable)
 5. New Mexico Preferences (if applicable)
- H. Other Supporting Material (if applicable)

Cost Proposal:

1. Completed Cost Response Form (APPENDIX D)

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.**

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 SCOPE OF WORK

Objective One: One-Time Incentive Payment

Task One: Market Research

The contractor shall also be responsible for providing one-time incentive payments to qualifying early childhood education and care professionals providing care in ECECD licensed centers and homes, and registered homes, including Tribal and military providers. Approximately 8,000 early childhood education and care professionals will receive the one-time incentive payment.

Activity One: Develop Application and Verification Process

1. Create an application (in English and Spanish) for the one-time incentive payment. Each application must include a process for verification of employment from a center director or owner. Information from the applications must be entered into a database that can be easily exported and analyzed by ECECD.
2. Work with ECECD team to determine eligibility requirements.
3. Identify the verification documentation necessary to accompany the application.
4. The application must be live no later than August 2021.
5. Review applications and supporting documentation.
6. Payments must be issued within one month of receipt of a complete and verified application.
7. The application process must include an automatic response that an application has been received and status updates when it has been reviewed and accepted for payment.
8. Applicants can submit their information until June 1, 2022 with final payments to be issued by June 30, 2022.
9. Provide general and individual outreach and support to early childhood education and care professionals to help them complete the applications and assist them in submitting necessary documents.

Activity Two: Process Payments

1. Process one-time incentive payments, to include direct deposit and paper checks.
2. Provide online access for address changes, including the ability to produce copies of past payment check stubs and 1099s.
3. Provide timely customer service and assistance to applicants with issues involving the application process, the submission of required documents, issued checks, direct deposits, and 1099s.
4. Garnishment of payment services, if needed.

Activity Three: Reporting Requirements

1. Generate Excel reports to be used for detailed one-time incentive payment information.
2. Provide and/or design other specialized payment reports for recurring needs or special purposes.
3. Research payment issues on request by ECECD.

4. Submit quarterly reports and others as requested by ECECD.

Tax Compliance

The selected contractor will be responsible for complying with all Federal, State and ECECD's requirements and laws in providing services.

1. Tax and compliance reporting, including Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) requirements, and the State of New Mexico issued W-9 and 1099.
2. All payments are to be consistent with applicable federal and state law and reporting requirements.
3. W-9 forms received and processed through a secure online platform.
4. 1099s forms to be mailed by the federal deadline of January 31st or in accordance with federal requirements.

Additional Services

Additional services as may be agreed to by the parties, or as proposed pursuant to this agreement.

General Service – Data Security

The Contractor must comply with ECECD Data Security Policies as defined in Appendix A.

Appendix A – ECECD Data Security Policy

1. Data Security

1.1 Terminology

- 1.1.1 Application – means software that performs a user-facing function, such as a web application
- 1.1.2 Confidential Information or Data – means any personally identifiable information related to ECECD employees, providers, agents and/or volunteers obtained by or furnished to the Vendor; all findings, analysis, data, reports or other information learned or developed and based thereon, whether in oral, written, graphic, or machine-read-able form; and all information marked “confidential” by ECECD. Confidential Information includes, but is not limited to, names, addresses, contact information, financial information, social security numbers or other identifying numbers or codes, date of birth or age, gender, religion, sexual preference, national origin, socio-economic status, race, ethnicity; regardless of whether such information was disclosed prior to, concurrent with or subsequent to this Agreement.
- 1.1.3 Confidential Information does not include any information that is:
 - 1.1.3.1 lawfully in the public domain at the time of receipt or which lawfully comes into the public domain thereafter through no act of the Vendor in breach of this agreement, a
 - 1.1.3.2 demonstrated to have been known to the Vendor prior to disclosure by or through ECECD,
 - 1.1.3.3 disclosed with the prior written approval of ECECD,
 - 1.1.3.4 demonstrated to have been independently developed by the Vendor without reference to the Confidential Information,
 - 1.1.3.5 disclosed to the Vendor by a third party under conditions permitting such disclosure, without breach of this agreement, and/or
 - 1.1.3.6 disclosed as required by court order, subpoena, other validly issued administrative or judicial notice or order and/or as a matter of applicable law; provided, however, that in the event disclosure is required of the Vendor under the provision of any law or court order, the Vendor will
 - 1.1.3.6.1 promptly notify ECECD of the obligations to make such disclosure sufficiently in advance of the disclosure, if possible, to allow ECECD to seek a protective order, and
 - 1.1.3.6.2 disclose such Confidential Information only to the extent allowed under a protective order, if any, or necessary to comply with the law or court order.
- 1.1.4 ECECD – means the New Mexico Early Childhood and Education Department
- 1.1.5 Handle – means (in the context of Confidential Information) to create, view, modify, store, transmit or delete
- 1.1.6 PII – means personally identifiable information, as defined by the NIST.
- 1.1.7 System – means any information technology processing device, including routers, servers, Applications, workstations, and mobile devices.
- 1.1.8 Vendor – means an entity awarded a contract by ECECD to provide a product, service, or work for ECECD.

1.2 Note on Security & Privacy

ECECD systems and Applications may contain sensitive data, and proprietary and confidential internal records concerning ECECD providers and employees, in addition to information that is confidential by law. Failure to protect Confidential Information from unauthorized disclosure or abuse can have severe legal, financial and reputation consequences for ECECD, its providers, employees, and the vendor.

1.3 Information Security Policies

1.3.1 Vendors must have, and upon request by ECECD shall promptly provide ECECD with copies of its, information security policies that cover the following elements:

1.3.1.1 Data classification and privacy

1.3.1.2 Security training and awareness

1.3.1.3 Systems administration, patching and configuration

1.3.1.4 Application development and code review

1.3.1.5 Incident response

1.3.1.6 Workstation management, mobile devices, and antivirus

1.3.1.7 Backups, disaster recovery and business continuity

1.3.1.8 Regular audits and testing

1.3.1.9 Requirements for third-party business partners and contractors

1.3.1.10 Compliance with information security or privacy laws, rules, regulations, or standards

1.3.1.11 Any other information security policies

1.3.2 Policy Requirements: In addition to addressing the elements set forth above:

1.3.3 Vendor must indicate in their policies the date of the most recent revision.

1.3.4 Vendor must include a certification from its Chief Operating Officer, or individual with an equivalent title with authority to represent the Vendor, with Vendor's proposal/response to the RFP that all of the above elements are addressed in Vendor's security policies, and that such policies are at least as rigorous as the policies set forth in this document. If Vendor cannot make such certification for any reason (e.g. Vendor's policies do not address an element listed above), Vendor must notify ECECD of the deficiency in its proposal/response to the RFP.

1.3.5 Vendor shall maintain compliance with such policies and, unless the Vendor receives ECECD's prior written approval, Vendor shall not make any changes to such policies that would result in in such policies

1.3.5.1 not addressing one or more elements set forth above or

1.3.5.2 not being as rigorous as the policies set forth in this document.

1.4 Privacy & Confidentiality

1.4.1 The Vendor must hold Confidential Information in strict confidence and not disclose it to any third parties nor make use of such Data for its own benefit or for the benefit of another, or for any use other than the purpose agreed upon.

1.4.2 The Vendor shall use commercially reasonable efforts to secure and defend any System housing Confidential Information against third parties who may seek to breach the security thereof, including, but not limited to breaches by unauthorized access or making unauthorized modifications to such System.

- 1.4.3 The Vendor shall protect and secure all Confidential Information in transit (collected, copied, and moved) and at rest (stored on the physical servers), including during any electronic data transmission or electronic or physical media transfer.
- 1.4.4 The Vendor shall maintain all copies or reproductions of Confidential Information with the same security it maintains the originals. At the point in which the Confidential Information is no longer useful for its primary or retention purposes, as specified by ECECD, Vendor must destroy such Data, making it unusable and unrecoverable.

1.5 Authentication & Identity Management

- 1.5.1 The Vendor's software systems holding confidential information must:
- 1.5.2 Enforce a one user, one account policy in which shared/ group accounts and duplicate accounts are not permitted
- 1.5.3 Be free of testing, development, and non-production accounts.
- 1.5.4 Maintain accurate legal name, address, phone number information for all users who are permitted to access Confidential Information, and upon request from ECECD, produce lists of users who will have access to Confidential Information.
- 1.5.5 Provide one of the following:
 - 1.5.5.1 Enforce a strong password policy of eight characters minimum, with mixed case and at least one number or special character
 - 1.5.5.2 Enforce MFA to access the system
- 1.5.6 Store all passwords in non-reversible one-way cryptographic hash.
- 1.5.7 Log all successful and failed authentication attempts, including date, time, IP address, and username.
- 1.5.8 Temporarily lock accounts with repeated failed login attempts and provide support to affected users.
- 1.5.9 Keep attributes and group structures that support authorization accurate.

1.6 Confidential Information Authorization

- 1.6.1 Applications that Handle Confidential ECECD Information must have explicitly defined authorization controls that prevent users from exceeding their intended privileges.
- 1.6.2 Applications must perform authorization checks before performing any action that creates, views, updates, transmits, or deletes Confidential Information. Authorization logic must be highly configurable and alterable without code changes.
- 1.6.3 Authorization checks must verify the user has appropriate role to perform the requested action.
- 1.6.4 Accounts must follow the principal of "Least Privileged Access" whereby those user accounts are provided the most restrictive access necessary to perform the required business function. "Super users" (i.e. application administrators) must be avoided unless necessary due to a legitimate administrative need for such access to provide the services.

1.7 Incident Response

- 1.7.1 The Vendor must have a plan for compliance with all applicable breach notification laws.

- 1.7.2 ECECD must be notified in writing within 24 hours of the earliest indication or report of a potential breach or unintended disclosure of Confidential Information or a System that supports it.
- 1.7.3 Response actions to incidents that might affect Confidential Information or Systems must be conducted quickly and with ample resources. Vendor will hire a professional third-party incident response team if in-house resources do not have sufficient skill or availability.
- 1.7.4 ECECD shall have the right to view all incident response evidence, reports, communications, and related materials upon request.
- 1.7.5 If requested by ECECD, or if required by law, the Vendor shall notify in writing all persons affected by the incident, at its own cost and expense.

1.8 Audit & Inspection

- 1.8.1 The Vendor shall allow ECECD, upon reasonable notice, to perform security assessments or audits of Systems that Handle or support Confidential Information. Such an assessment shall be conducted by an independent 3rd party agreed upon by the Vendor and ECECD, and at ECECD's own expense, provided that the Vendor cooperate with any such assessment/audit and shall, at its own expense, provide all necessary support, personnel and information needed to ensure the successful completion of the assessments or audits.
- 1.8.2 The Vendor shall provide ECECD, upon ECECD's request, with a report for critical business processes relating to protection of Confidential Information and safeguards implemented in its organization.
- 1.8.3 Vendors must engage an independent third party annually to assess the practical security of Vendor's Systems. These reviews must include penetration tests from the perspective of an external attacker and an internal user with common privileges. The penetration tests must include all Systems exposed to the internet and any Systems, internal or external, that Handle Confidential Information. Such annual assessment shall be at Vendor's sole expense.
- 1.8.4 Audit logs must be implemented for all Systems that Handle Confidential Information. All attempted violations of System security must generate an audit log. Audit logs must be secured against unauthorized access or modification.
- 1.8.5 In the event of adverse findings through a ECECD or Vendor audit, the Vendor shall cooperate with ECECD in remediating any risks to Confidential Information, including complying with request to temporarily taking the system offline or otherwise limiting access to the system, and any other follow up actions reasonably necessary to secure the Confidential Information.

1.9 Availability

- 1.9.1 The Vendor shall make plans for colocation, backups, and any other Systems necessary to ensure continuity.
- 1.9.2 Vendor must notify and obtain agreement from ECECD for any planned interruptions in service, except for emergency security updates. Vendor must notify ECECD immediately of any unintended service interruption.

1.10 Encryption

- 1.10.1 All Systems that Handle Confidential Information must encrypt ECECD data that include Confidential Information in transit using algorithms and key lengths consistent with the most recent NIST guidelines.
 - 1.10.2 For HTTP and other protocols that use SSL/TLS, Vendor shall use the TLS 1.2 or later protocol with 128-bit or larger key size and shall make previous protocols and smaller keys unavailable.
 - 1.10.3 Vendor shall utilize a third-party provider that is a recognized and trusted authority in the industry to generate any certificates that are used for authentication between two parties (e.g., Vendor and ECECD or Vendor and any other party).
 - 1.10.4 Web Applications that contain Confidential Information must be available only over Transport Layer Security (“TLS”). Attempts to use the Application without encryption shall be rejected. Encrypted and non-encrypted content shall not be mixed.
 - 1.10.5 Data at rest that is stored outside of hardened Application or database production Systems must be protected by encryption consistent with NIST recommendations.
 - 1.10.6 The vendor shall keep private keys confidential, implement key lifecycle management and protect all keys in storage or in transit.
 - 1.10.7 The Vendor shall choose keys randomly from the entire key space and ensure that encryption keys allow for retrieval for administrative or forensic use.
 - 1.10.8 Encryption of ECECD data in production databases is required. Any database encryption system must be approved by ECECD, which approval shall not be unreasonably withheld. All ECECD data must be recoverable.
 - 1.10.9 In the event that Vendor will store ECECD data outside of the United States, Vendor shall notify ECECD of the locations outside the U.S. by providing notice either in its proposal to the RFP if known by Vendor prior to award, or if known after award, to ECECD-Security@state.nm.us; provided that ECECD reserves the right to require that the use, storage, or handling of ECECD data occur within the contiguous United States or similar regional boundary as defined by ECECD.
- 1.11 Data retention
- 1.11.1 Record retention systems must comply with all security and privacy controls set forth in this document.
 - 1.11.2 The vendor shall retain records and backups for at least 3 years.
- 1.12 System Configuration & Maintenance
- 1.12.1 All operating Systems, servers, and network devices that support ECECD Systems or Confidential Information must be kept hardened and patched.
 - 1.12.2 Vendors must maintain technical best security practices configuration guidelines for all such Systems and update them at least twice per year.
 - 1.12.3 All security-related patches must be installed on Systems within 2 weeks of their release.
- 1.13 Subcontractors
- 1.13.1 In addition to the subcontracting provisions in the agreement with ECECD (which require ECECD approval of all subcontractors), in the event that a Vendor utilizes subcontractors to support a System that Handles Confidential Information (each a

“subcontractor”), such subcontractors shall be subject to, and Vendor must require that each subcontractor comply with, the requirements set forth herein.

B. TECHNICAL SPECIFICATIONS

1. Organizational Background

- a) Give a brief history of the organization including, but not limited to, the month and year the firm began offering payment services. Describe the nature of the organization’s ownership and specific details with regard to any affiliated companies or joint ventures. Describe the material developments in your organization (change in ownership, personnel, business, etc.) over the past three (3) years. Describe any anticipated change in ownership, personnel, business, etc. that would occur during the term of the contract.
- b) List all key professional staff to be assigned to the performance of the contract and the specific responsibilities of each person. Include the following information: person’s name; position in the organization; total years with the organization; and experience with payment services.
- c) Describe your organization’s backup procedures in the event that key professional(s) assigned to this contract should leave the organization or be transferred to other projects and/or duties.
- d) Describe the levels of professional liability coverage that your organization carries. Is the coverage on a per occurrence basis, or is the dollar amount applied to the organization as a whole? List the insurance carrier(s) providing the coverage(s). **(Attach proof of liability insurance coverage to the proposal.)**
- e) Over the past five (5) years, has your organization, your parent organization or any of its affiliates or any management been involved in any business litigation or regulatory proceedings? If so, provide an explanation and indicate the current status.

2. Payment Services Experience

- a) Describe your payment service procedures, including technical plans and related time estimates, staffing plan and approach for planning and conducting work efforts.
- b) Discuss in detail how your organization would communicate results, issues, and recommendations to ECECD leadership pertaining to the incentive payments.
- c) Does your organization have experience in developing a web-based application? If so, what process and timeline in instituting the application? How were technical issues and complaints regarding the application handled and resolved by your organization?

- d) How many times did your organization provide payment services for over the past five years? Do you have experience with one-time only payments? Do you have any payment services experience with government entities in New Mexico? Provide a list of all payment services your organization provided in the past five years, include client's name, scope of the payments (volume), and start and end date of services.
- e) What can your organization offer that others cannot regarding payment services? What does your organization provide that makes you different from your competition regarding the processing of payments?

3. Organizational References

Offeror must provide a list of a minimum of three (3) references from similar payment services performed within the last three (3) years.

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

- a) Client name;
- b) Staff assigned to reference engagement that will be designated for work per this RFP; and
- c) Client project manager name, telephone number, fax number and Email address.

Offeror is required to submit APPENDIX F, Organizational Reference Questionnaire ("Questionnaire"), to the business references it lists. **The business references must submit the Questionnaire directly to the designee identified in APPENDIX F. The business references must not return the completed Questionnaire to the Offeror.** It is the Offeror's responsibility to ensure the completed forms are submitted on or before the date indicated in Section II.A, Sequence of Events, for inclusion in the evaluation process.

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

C. BUSINESS SPECIFICATIONS

1. Financial Stability

Offerors must submit copies of the most recent years independently audited financial statements, as well as financial statements for the preceding three years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D & B report).

2. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX E. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to respond to ALL items, as indicated in Section II.C.30 and APPENDIX E, and to return a signed, unaltered form will result in Offeror's disqualification.**

3. Campaign Contribution Disclosure Form

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

4. Cost

Cost Response Form must be submitted for a multi-year proposal of two (2) years. Offerors must complete the Cost Response Form in APPENDIX D. All amounts represented in the cost proposal will be considered as "not to exceed" amounts. All charges listed on APPENDIX D must be justified and evidence of need documented in the proposal.

5. Resident Business or Resident Veterans Preference

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **MUST** include a copy, in this section, of its NM Resident Business or Veterans Preference Certificate, as issued by the New Mexico Taxation and Revenue Department.

V. EVALUATION

A. EVALUATION POINT SUMMARY

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

Factors – correspond to section IV.B and IV.C	Points Available
B. Technical Specifications	
B. 1. Organizational Background	150
B. 2. Payment Services Experience	200
B. 3. Organizational References	50
C. Business Specifications	
C.1. Financial Stability	Pass/Fail
C.2. Letter of Transmittal	Pass/Fail
C.3. Signed Campaign Contribution Disclosure Form	Pass/Fail
C.4. Cost	100
TOTAL	500 points
C.5. New Mexico Preference - Resident Vendor Points per Section IV C. 6	
C.5. New Mexico Preference - Resident Veterans Points per Section IV C.6	

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

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

Points will be awarded based on the thoroughness and clarity of Offeror’s response in this Section. Lack of a response will be awarded zero (0) points. Agencies must include evaluation criteria based on Section IV.B.

2. B.2 Detailed Organizational Information (See Table 1)

Points will be awarded based on the thoroughness and clarity of Offeror’s response in this Section. Lack of a response will be awarded zero (0) points. Agencies must include evaluation criteria based on Section IV.B.

3. B.3 Organizational References

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix F). Offeror will be evaluated on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Lack of a response will receive zero (0) points.

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

Pass/Fail only. No points assigned.

5. C.2 Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

6. C.3 Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

7. C.4 Cost (See Table 1)

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

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

8. C.5. New Mexico Preferences

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

A. New Mexico Resident Business Preference

If the Offeror has provided a copy of their Preference Certificate the Preference Points for a New Mexico Resident Business is 5% of the total points available in this RFP.

B. New Mexico Resident Veterans Business Preference

If the Offeror has provided a copy of their Preference Certificate the Preference Points for a New Mexico Resident Veteran Business is 10% of the total points available in this RFP.

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.6.
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.10). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

APPENDIX A
REQUEST FOR PROPOSAL

Incentive Payment Services
RFP #: 2021-0004

ACKNOWLEDGEMENT OF RECEIPT FORM

This Acknowledgement of Receipt Form should be signed and submitted no later than 3:00 pm MST/MDT on April 23, 2021. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

In acknowledgement of receipt of this Request for Proposal, the undersigned agrees that he or she has received a complete copy of the RFP, beginning with the title page, and ending with APPENDIX F.

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

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

EMAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:
To: Renada Peery-Galon, Procurement Manager
Email: Renada.Peery-Galon@state.nm.us
Subject Line: Incentive Payment Services RFP #: 2021-0004

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

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

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

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

The following definitions apply:

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

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

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

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

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

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

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

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

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s)

(Attach extra pages if necessary)

Signature

Date

Title (position)

--OR--

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

Signature

Date

Title (Position)

APPENDIX C
SAMPLE CONTRACT

STATE OF NEW MEXICO

EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT**, hereinafter referred to as the “Agency,” and **Contractor Name** 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.

Contractor shall perform the work outlined in the **Scope of Work - Attachment 1**.

2. Compensation.

A. The Agency shall pay to the Contractor for services satisfactorily performed as outlined in the budget which is made part of this Agreement as **Attachment 2 – Budget**. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed **(\$XXX.00)**. 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**.

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 by the Agency Cabinet Secretary or Designee. No such subcontract shall relieve the primary Contractor from any obligations and liabilities under this Agreement, nor shall subcontract obligate direct payment from the Agency. Contractor must notify subcontractors that they are subject to Paragraph 19, Records and Financial Audit of this agreement.

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:

State of New Mexico

Early Childhood Education and Care Department

Administrative Services Division

PERA Building, Room 205

1120 Paseo De Peralta

Santa Fe, NM 87501

To the Contractor:

CONTRACTOR INFO

25. Authority.

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

26. Background Checks.

Agency contractors that have or could have primary custody of children for at least twenty hours per week are required under NMSA 1978, § 32A-15-1, *et seq.*; NMSA 1978 § 9-29-8(H); NMAC 8.8.3, *et. seq.* and other applicable regulations to have background checks completed on all operators, employees, staff members, volunteers or student interns. All Information Technology (IT) contractors are also required to undergo a background check. The contractor must comply with the fingerprint based criminal background investigation process, as per current ECECD policy. The applicant for the background check is required to pay all related fees. National as well as state abuse and neglect background checks on required individuals will be conducted in accordance with NMAC 8.8.3 and all other applicable state and federal regulations and standards. An eligibility letter must be in the IT contractor, contractor operator, employee, staff member, volunteer or student intern's personnel file prior to that individual having access to data or having any direct contact with children participating in programs delivered by the Agency or any contractor with the Agency.

27. Health Insurance Portability and Accountability Act of 1996.

The Contractor agrees to comply with the Health Insurance Portability and Accountability Act of 1996, and the terms in **Attachment 3, Business Associate Agreement**, which is attached and incorporated by reference.

28. Suspension and Debarment Form

The Contractor agrees to comply with the guidelines set forth in the Suspension and Debarment Form in **Attachment 4, Suspension and Debarment Form**.

29. Federal Award Identification

Federal award information provided to Contractor based on Uniform Grant Guidance requirements, Title 2 Subtitle A Chapter 2 Part 200 Subpart D Section 200.331. This information relates to sub-recipients of Federal award at the time of award in **Attachment 5, Federal Award Identification form**.

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, Secretary of Designee

Date: _____

By: _____
Agency's Legal Counsel – Certifying legal sufficiency

Date: _____

By: _____
Agency's Chief Financial Officer, or designee

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: XXX

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: _____

Attachment 1 – Scope of Work

Attachment 1 – Scope of Work

Attachment 2 – Budget

The Agency shall compensate the Contractor for the services rendered on a monthly basis in accordance to each Activity as outlined above in the Attachment 1-Scope of Work.

Per diem and mileage, and other miscellaneous expenses, will be paid in accordance with the Department of Finance and Administration (DFA) Rule 2.42.2 NMAC.

Federal Funding Information:

Grant Name:

Grant Number:

CFDA No.

Duns No.

Attachment 3 – Business Associate Agreement

This is a business associate agreement in compliance with 45 CFR Section 160.504(e)(2) of the HIPAA privacy rule. Contractor understands that it may be considered a business associate of the Agency under the HIPAA Privacy and Security Rules. Accordingly, the parties agree:

- The disclosures the Agency will make to Contractor of any information that identifies an individual and includes information about the individual's health (protected health information), whether in electronic or physical form, shall be limited to the minimum reasonably necessary for Contractor's delivery of services described in the Scope of Work to which the parties have agreed to in the Contract.
- Any disclosures by Contractor of any individual's protected health information inconsistent with this agreement are strictly prohibited and shall be cause for termination of the Contract. Contractor shall take all reasonable steps to avoid such disclosures, including but not limited to implementation of all practical administrative, physical and technical safeguards.
- After the expiration of this Contract, whether because a party has cancelled it, it is fully executed or for any other cause, Contractor shall return all documents containing any individual's protected health information to the Agency. Contractor also agrees that it shall take reasonable affirmative precautions to avoid any unauthorized disclosures of protected health information to third parties.
- Contractor understands that it is responsible for reporting unauthorized disclosures, including but not limited to electronic security violations, to the Agency's privacy office or the federal Office of Civil Rights. Contractor also understands it is responsible for reporting any other disclosure for purposes other than treatment, payment or operations to the Agency's privacy office.
- Contractor agrees to bind their agents and subcontractors to the terms of this agreement.
- Contractor understands an individual has the right to inspect and request changes to the protected health information the parties use or create and that an appropriate privacy officer and/or the federal Office of Civil Rights has the authority to inspect the parties' procedures for management of the individual's protected health information.

Attachment 4

Early Childhood Education and Care Department

Suspension and Debarment Form

- A. Consistent with either 7 C.F.R. Part 3017, 2 C.F.R. 108 or 45 C.F.R. Part 76, as applicable, and as a separate and independent requirement of this contract with the Early Childhood Education and Care Department [ECECD], known throughout this contract as “Agency”, the Contractor certifies by signing this form, that it and its principals, to the best of its knowledge and belief: (1) are not debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) have not, within a three-year period preceding the effective date of this contract, been convicted of or had a civil judgment rendered against them for: 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; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; (3) have not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with, commission of any of the offenses enumerated above in this Paragraph A; (4) have not, within a three-year period preceding the effective date of this contract, had one or more public agreements or transactions (Federal, State or local) terminated for cause or default; and (5) have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a-7.
- B. The Contractor’s certification in Paragraph A, above, is a material representation of fact upon which the Agency relied when this contract was entered into by the parties. The Contractor’s certification in Paragraph A, above, shall be a continuing term or condition of this contract. As such at all times during the performance of this contract, the Contractor must be capable of making the certification required in Paragraph A, above, as if on the date of making such new certification the Contractor was then executing this contract for the first time. Accordingly, the following requirements shall be read so as to apply to the original certification of the Contractor in Paragraph A, above, or to any new certification the Contractor is required to be capable of making as stated in the preceding sentence:
- (1) The Contractor shall provide immediate written notice to the Agency’s Program Manager if, at any time during the term of this contract, the Contractor learns that its certification in Paragraph A, above, was erroneous on the effective date of this contract or has become erroneous by reason of new or changed circumstances.
 - (2) If it is later determined that the Contractor’s certification in Paragraph A, above, was erroneous on the effective date of this contract or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency, the Agency may terminate the contract.

- C. As required by statute, regulation or requirement of this contract, and as contained in Paragraph A, above, the Contractor shall require each proposed first-tier subcontractor whose subcontract will equal or exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by any Federal department or agency. The Contractor shall make such disclosures available to the Agency when it requests subcontractor approval from the Agency. If the subcontractor, or its principals, is debarred, suspended, or proposed for debarment by any Federal, state or local department or agency, the Agency may refuse to approve the use of the subcontractor.

By: _____
Contractor

Date: _____

Attachment 5

Early Childhood Education and Care Department

Federal Award Identification

As required by UGG Title 2: Grants and Agreements Subpart D §200.331 the following information is being provided:

(i) Sub-recipient name:

(ii) Sub-recipient's Data Universal Numbering System (DUNS) unique number:

(iii) Federal Award Identification Number (FAIN):

(iv) Federal Award Date (§200.39):

(v) Sub-award Period of Performance Start and End Date:

(vi) Amount of Federal Funds Obligated by this action:

(vii) Total Amount of Federal Funds Obligated to the sub-recipient:

(viii) Total Amount of the Federal Award committed to the sub-recipient by the pass-through entity:

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA):

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:

(xi) Catalog of Federal Domestic Assistance (CFDA):

(xii) Identification of whether the award is Research and Development (R&D): Yes No

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs):

(xiv) Requirements imposed by pass-through entity specific to Federal award requirements:

APPENDIX D

COST RESPONSE FORM

ORGANIZATION NAME: _____

The cost response shall include all charges whatsoever that the Contractor intends to charge ECECD for providing the services specified in the Scope of Work, including New Mexico gross receipts taxes and other taxes, travel, and incidental and out-of-pocket expenses of any kind. ECECD shall not pay amounts that are not included in the fee proposal.

	YEAR 1	YEAR 2
Composite Hourly Rate		
Out-of-Pocket Expenses, including Travel		
Other Expenses (specify)		
Subtotal		
Gross Receipts Tax (specify applicable rate)		
Total Fee		

Signature _____

Name _____

Title _____

Date _____

APPENDIX E

LETTER OF TRANSMITTAL FORM

APPENDIX E

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#: 2021-0004

1. Identify the following information for the submitting organization:

Offeror Name	
Mailing Address	
Telephone	
FED ID#	
NM CRS#	

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

	A Contractually Obligate	B Negotiate*	C Clarify/Respond to Queries*
Name			
Title			
Email			
Telephone			

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

3. 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 F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The State of New Mexico, as a part of the RFP process, requires Offerors to list a minimum of three (3) organizational references in their proposals. The purpose of these references is to document Offeror's experience relevant to the Section IV.A, Detailed Scope of Work in an effort to evaluate Offeror's ability to provide services, performance under similar contracts, and ability to provide knowledgeable and experienced staffing.

Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.3. The business reference, if it chooses to respond, is required to submit its response to the Organizational Reference Questionnaire directly to: Renada Peery-Galon at Renada.Peery-Galon@state.nm.us by 3:00 pm MST/MDT on May 21, 2021 for inclusion in the evaluation process. The Questionnaire and information provided will become a part of the submitted proposal. Businesses/Organizations providing references may be contacted for validation of content provided therein.

RFP # 2021-0004
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

(Name of Offeror)

This form is being submitted to your company for completion as a reference for the organization listed above. This Questionnaire is to be submitted to the State of New Mexico, Early Childhood Education and Care Department (ECECD) via e-mail at:

Name: Renada Peery-Galon, Procurement Manager
Email: Renada.Peery-Galon@state.nm.us

Forms must be submitted no later than 3:00 pm MST/MDT on May 21, 2021, and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings.

For questions or concerns regarding this form, please contact the **Procurement Manager** at Renada.Peery-Galon@state.nm.us. When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

Organization providing reference	
Contact name and title/position	
Contact telephone number(s)	
Contact e-mail address	

QUESTIONS:

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

COMMENTS:

2. How would you rate this organization's payment services knowledge and expertise?

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

COMMENTS:

3. What is your level of satisfaction with the payment services produced by the organization?

____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

4. Who are/were the principal staff involved in your payment project and how would you rate them individually? Would you, please, comment on the skills, knowledge, behaviors, or other factors on which you based the rating?

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

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

COMMENTS:

5. With which aspect(s) of this organization's payment services are/were you most satisfied?

COMMENTS:

6. With which aspect(s) of this organization's payment services are/were you least satisfied?

COMMENTS:

7. Would you hire this organization again for payment services?

COMMENTS: