State of New Mexico

Information Technology
Contract Template
For the New Mexico Directory of New Hires
Human Services Department

FOR USE WITH ALL IT PURCHASES INCLUDING, SERVICES, TANGIBLE
PROPERTY AND PROFESSIONAL SERVICES

90-630-00--012124

TEMPLATE ISSUED BY:
THE DEPARTMENT OF INFORMATION TECHNOLOGY

September 2008
State of New Mexico

Human Services Department

Information Technology Agreement
Contract No. PSC 10-630-6000-0013

THIS Information Technology Agreement ("Agreement") is made by and between the State of New Mexico, Human Services Department, hereinafter referred to as the "Procuring Agency" and Policy Studies Inc., hereinafter referred to as the "Contractor" and collectively referred to as the "Parties".

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 et. seq; and Procurement Code Regulations, NMAC 1.4.1 et. seq; the Contractor has he id itself out as expert in implementing the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as the offeror most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of the RFP and the Contractor’s response to such document(s) are incorporated herein by reference; and

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

ARTICLE 1 – DEFINITIONS

A. "Acceptance" shall mean the approval, after Quality Assurance, of all Deliverables by an executive level representative ("Executive Level Representative") of the Procuring Agency.
B. "Change Request" shall mean the document utilized to request changes or revisions in the Scope of Work.
C. "Chief Information Officer ("CIO")" shall mean the Secretary/CIO of the Department of Information Technology for the State of New Mexico or designated representative.
D. "Deliverable" shall mean any verifiable outcome, result, service or product that must be delivered, developed, performed or produced by the Contractor as defined by the Scope of Work.
E. "DoIT" shall mean the Department of Information Technology.
F. "DFA" shall mean the Department of Finance and Administration; "DFA/CRB" shall mean the Department of Finance and Administration, Contracts Review Bureau.
G. "Escrow" shall mean a legal document (such as the software source code) delivered by the contractor into the hands of a third party, to be held by that party until the performance of a condition is accepted; in the event contractor fails to perform, the grantee agency receives the legal document, in this case, source code.
H. "Enhancement" means any modification or addition that, when made or added to the program, materially changes its or their utility, efficiency, functionality, capability, or application, but does not constitute solely an Error Correction. After conferring with Procuring Agency, an Enhancement may be identified as minor or major
I. "Executive Level Representative" shall mean the individual empowered with the authority to represent and make decisions on behalf of the Procuring Agency’s executives.
State of New Mexico

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I. "Executive Level Representative" shall mean the individual empowered with the authority to represent and make decisions on behalf of the Procuring Agency's executives.
J. “Know How” shall mean all technical information, data and knowledge including, but not limited to, all documents, computer storage devices, drawings, flow charts, plans, proposals, records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.

K. “Intellectual Property” shall mean any and all proprietary information developed pursuant to the terms of this Agreement.

L. “Independent Verification and Validation ("IV&V")” shall mean the process of evaluating a project and the project’s product to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an entity independent of the Procuring Agency.

M. “Payment Invoice” shall mean a detailed, certified and written request for payment of services rendered from the Contractor to the Procuring Agency. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the invoice is submitted.

N. “Performance Bond” shall mean a surety bond which guarantees that the contractor will fulfill perform the contract and guarantees against breach of contract.

O. “Project” shall mean 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 approval is given by the Executive Level Representative and verified by the agency CIO to the DoIT. If applicable, under the terms of this Agreement the Project is The New Mexico Directory of New Hires

P. “Project Manager” shall mean a qualified person from the Procuring Agency responsible for all aspects of the Project or the administration of this Agreement. Under the terms of this Agreement, the Project Manager shall be Don Levering or designated representative.

Q. “Quality Assurance” shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.

R. "State Purchasing Agent (SPA)" - shall mean the State Purchasing Agent for the State of New Mexico or designated representative.

S. “State Purchasing Division (SPD)”- shall mean the State Purchasing Division of the General Services Department for the State of New Mexico

**ARTICLE 2 – SCOPE OF WORK**

A. Scope of Work. The Contractor shall perform the work as outlined in Exhibit A., attached hereto and incorporated herein by reference.

B. Performance Measures. Contractor shall substantially perform the Performance Measures set forth in Exhibit A. In the event the Contractor fails to obtain the results described in Exhibit A, the Procuring Agency may provide written notice to the Contractor of the default and specify a reasonable period of time in which the Contractor shall advise the Procuring Agency of specific steps it will take to achieve these results and the proposed timetable for implementation. Nothing in this Section shall be construed to prevent the Procuring Agency from exercising its rights pursuant to Article 6.
C. **Schedule.** The due dates, as set forth in Exhibit A, shall not be altered or waived by the Procuring Agency without prior written approval, through the Change Management process, as defined in Article 15.

D. **License.** N/A

**ARTICLE 3 - COMPENSATION**

A. **Compensation Schedule.** The Procuring Agency shall pay to the Contractor based upon fixed prices for each Deliverable, per the schedule outlined in Exhibit A.III.

B. **Payment.** The total compensation under this Agreement shall not exceed $1,245,823 including New Mexico gross receipts tax.

   The total amount available to the Contract in:

   - State Fiscal year 2010 (Ending June 30, 2010) is: $260,590.
   - State Fiscal year 2012 (Ending June 30, 2012) is: $328,411.
   - State Fiscal year 2013 (Ending June 30, 2013) is: $337,413.

Payment shall be made upon Acceptance of each Deliverable and upon the receipt and acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the Procuring Agency no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

C. **Taxes.**

The Contractor shall be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Contractor by any authority. The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification number(s).

Contractor and any and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the Procuring Agency harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

D. **Retainage.** N/A
E. **Performance Bond.** Contractor shall execute and deliver to Procuring Agency, contemporaneously with the execution of this Agreement, a performance bond in the amount of $200,000 in the name of the Procuring Agency. The bond shall be in effect for the duration of this Agreement and any renewals thereof. The required bond shall be conditioned upon and for the full performance, Acceptance and actual fulfillment of each and every Deliverable, term, condition, provision, and obligation of the Contractor and its officers and employees arising under this Agreement. The Procuring Agency's right to recover from the bond shall include all costs and damages associated with the transfer of services provided under this Agreement to another contractor or to the State of New Mexico as a result of Contractor's failure to perform.

**ARTICLE 4 - ACCEPTANCE**

A. **Submission.** Upon completion of agreed upon Deliverables as set forth in Article 2 and Exhibit A, Contractor shall submit a Payment Invoice with the Deliverable, or description of the Deliverable, to the Project Manager. Each Payment Invoice shall be for the fixed Deliverable price as set forth in Article 2 and Exhibit A.

B. **Acceptance.** In accord with Section 13-1-158 NMSA 1978, the Executive Level Representative shall determine if the Deliverable provided meets specifications. No payment shall be made for any Deliverable until the individual Deliverable that is the subject of the Payment Invoice has been Accepted, in writing, by the Executive Level Representative. In order to Accept the Deliverable, the Executive Level Representative, in conjunction with the Project Manager, will assess the Quality Assurance level of the Deliverable and determine, at a minimum, that the Deliverable:

1.) Complies with the Deliverable requirements as defined in Article 2 and Exhibit A;
2.) Complies with the terms and conditions of the RFP;
3.) Meets the performance measures for the Deliverable(s) and this Agreement;
4.) Meets or exceeds the generally accepted industry standards and procedures for the Deliverable(s); and
5.) Complies with all the requirements of this Agreement.

If the Deliverable is deemed Acceptable under Quality Assurance by the Executive Level Representative or designee, the Executive Level Representative will notify the Contractor of Acceptance, in writing, within fifteen (15) business days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice.

C. **Rejection.** Unless the Executive Level Representative gives notice of rejection within the fifteen (15) day business day Acceptance period, the Deliverable will be deemed to have been accepted. If the Deliverable is deemed unacceptable under Quality Assurance, fifteen (15) days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice, the Executive Level Representative will send a consolidated set of comments indicating issues, unacceptable items, and/or requested revisions accompanying the rejection. Upon rejection and receipt of comments, the Contractor will have ten (10) business days to resubmit the Deliverable to the Executive Level Representative with all appropriate corrections or modifications made and/or addressed. The Executive Level Representative will again determine whether the Deliverable(s) is Acceptable under Quality Assurance and provide a written determination within
fifteen (15) business days of receipt of the revised or amended Deliverable. If the Deliverable is once again deemed unacceptable under Quality Assurance and thus rejected, the Contractor will be required to provide a remediation plan that shall include a timeline for corrective action acceptable to the Executive Level Representative. The Contractor shall also be subject to all damages and remedies attributable to the late delivery of the Deliverable under the terms of this Agreement and available at law or equity. In the event that a Deliverable must be resubmitted more than twice for Acceptance, the Contractor shall be deemed as in breach of this Agreement. The Procuring Agency may seek any and all damages and remedies available under the terms of this Agreement and available at law or equity. Additionally, the Procuring Agency may terminate this Agreement.

ARTICLE 5 – TERM

THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND DFA/CRB. The Contract resulting from this RFP will end on June 30, 2010 unless terminated pursuant to Article 6. The Department shall have the option of extending the Contract annually, or for any portion of a year thereof, for up to three additional years, until June 30, 2013. No contract term, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

ARTICLE 6 – TERMINATION

This Agreement may be terminated as follows:

A. General. By the either Party upon written notice to be delivered to the other party not less than ten (10) business days prior to the intended date of termination.

B. Appropriations. By the Procuring Agency, if required by changes in State or federal law, or because of court order, or because of insufficient appropriations made available by the United States Congress and/or the New Mexico State Legislature for the performance of this Agreement. The Procuring Agency’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency terminates this Agreement pursuant to this subsection, the Procuring Agency shall provide the Contractor written notice of such termination at least fifteen (15) business days prior to the effective date of the termination.

C. Obligations and Waiver. By termination pursuant to this Article, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. THIS ARTICLE IS NOT EXCLUSIVE AND DOES NOT CONSTITUTE A WAIVER OF ANY OTHER LEGAL RIGHTS AND REMEDIES AFFORDED THE PROCURING AGENCY AND THE STATE OF NEW MEXICO CAUSED BY THE CONTRACTOR’S DEFAULT OR BREACH OF THIS AGREEMENT.

ARTICLE 7 – TERMINATION MANAGEMENT

A. Contractor. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Contractor shall:

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1.) Transfer, deliver, and/or make readily available to the Procuring Agency property in which the Procuring Agency has a financial interest and any and all data, Know How, Intellectual Property, inventions or property of the Procuring Agency.
2.) Incure no further financial obligations for materials, services, or facilities under the Agreement without prior written approval of the Procuring Agency;
3.) Terminate all purchase orders or procurements and any subcontractors and cease all work,, except as the Procuring Agency may direct, for orderly completion and transition;
4.) Take such action as the Procuring Agency may direct, for the protection and preservation of all property and all records related to and required by this Agreement;
5.) Agree that the Procuring Agency is not liable for any costs arising out of termination and that the Procuring Agency is liable only for costs of Deliverables Accepted prior to the termination of the Agreement;
6.) Cooperate fully in the closeout or transition of any activities to permit continuity in the administration of Procuring Agency programs;
7.) In the event that this Agreement is terminated due to the Contractor's course of performance, negligence or willful misconduct and that course of performance, negligence, or willful misconduct results in reductions in the Procuring Agency's receipt of program funds from any governmental agency, the Contractor shall remit to the Procuring Agency the full amount of the reduction.
8.) Should this Agreement terminate due to the Contractor's default, the Contractor shall reimburse the Procuring Agency for all costs arising from hiring new contractor/subcontractors at potentially higher rates and for other costs incurred.
9.) In the event this Agreement is terminated for any reason, or upon its expiration, the Contractor shall assist and cooperate with the Procuring Agency in the orderly and timely transfer of files, computer software, documentation, system turnover plan, Know How, Intellectual Property and other materials, whether provided by the Procuring Agency or created by the Contractor under this Agreement, to the Procuring Agency, including but not limited to, user manuals with complete documentation, functional technical descriptions of each program and data flow diagrams. At the request of the Project Manager, the Contractor shall provide to the Procuring Agency a copy of the most recent versions of all files, software, Know How, Intellectual Property and documentation, whether provided by the Procuring Agency or created by the Contractor under this Agreement.

B. **Procuring Agency.** In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Procuring Agency shall 1) Retain ownership of all work products and documentation created pursuant to this Agreement; and 2) Pay the Contractor all amounts due for services Accepted prior to the effective date of such termination or expiration.

**ARTICLE 8—INDEMNIFICATION**

A. **General.** The Contractor shall defend, indemnify and hold harmless the Procuring Agency, the State of New Mexico and its employees from all actions, proceedings, 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, by certified mail, the legal counsel of the Procuring Agency, the Risk Management Division of the New Mexico General Services Department, and the DoIT.

Neither party shall be responsible for liability incurred as a result of the other party’s acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act.

B. The indemnification obligation under this Agreement shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Agreement. Money due or to become due to the Contractor under this Agreement may be retained by the Procuring Agency, as necessary, to satisfy any outstanding claim that the Procuring Agency may have against the Contractor.

ARTICLE 9 – INTELLECTUAL PROPERTY

A. Ownership.

Any and all Intellectual Property, including but not limited to copyright, patentable inventions, patents, trademarks, trade names, service marks, and/or trade secrets created or conceived pursuant to, or as a result of, performance of this Agreement, shall be work made for hire and the Procuring Agency shall be considered the creator and owner of such Intellectual Property. Any and all Know How created or conceived pursuant to, or as a result of, performance of this Agreement, shall be work made for hire and the Procuring Agency shall be considered the creator and owner of such Know How. The Procuring Agency shall own the entire right, title and interest to the Intellectual Property and Know How worldwide, and, other than in the performance of this Agreement, the Contractor, subcontractor(s), officers, agents and assigns shall not make use of, or disclose the Intellectual Property and Know How to any entity or person outside of the Procuring Agency without the express written authorization of the Procuring Agency. Contractor shall notify the Procuring Agency, within fifteen (15) business days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure that ownership of the Intellectual Property vests in the Procuring Agency and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the Procuring Agency. If, by judgment of a court of competent jurisdiction, Intellectual Property, Know How, or Know How Rights are not deemed to be created or owned by the Procuring Agency, Contractor hereby acknowledges and agrees to grant to the Procuring Agency and the State of New Mexico, a perpetual, non-exclusive, royalty free license to reproduce, publish, use, copy and modify the Intellectual Property and Know How.
ARTICLE 10 – INTELLECTUAL PROPERTY INDEMNIFICATION

A. Intellectual Property Indemnification. The Contractor shall defend, at its own expense, the Procuring Agency, the State of New Mexico and/or any other State of New Mexico body against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorneys fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against the Procuring Agency based upon Contractor’s trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the Procuring Agency for all costs, attorneys’ fees and the amount of the judgment. To qualify for such defense and/or payment, the Procuring Agency shall:

1.) Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
2.) Allow the Contractor to control the defense and settlement of the claim; and
3.) Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

B. Procuring Agency Rights. If any product or service becomes, or in the Contractor’s opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

1.) Provide the Procuring Agency the right to continue using the product or service and fully indemnify the Procuring Agency against all claims that may arise out of the Procuring Agency’s use of the product or service;
2.) Replace or modify the product or service so that it becomes non-infringing; or
3.) Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor’s obligation will be void as to any product or service modified by the Procuring Agency to the extent such modification is the cause of the claim.

ARTICLE 11 - WARRANTIES

A. General. The Contractor hereby expressly warrants the Deliverables as being correct and compliant with the terms of this Agreement, Contractor’s official published specification and technical specifications of this Agreement and all generally accepted industry standards. This warranty encompasses correction of defective Deliverables and revision of the same, as necessary, including deficiencies found during testing, implementation, or post-implementation phases.

ARTICLE 12 – CONTRACTOR PERSONNEL

A. Key Personnel. Contractor’s key personnel shall not be diverted from this Agreement without the prior written approval of the Procuring Agency. Key personnel are those individuals considered by the Procuring Agency to be mandatory to the work to be performed under this Agreement. Key personnel shall be:
B. **Personnel Changes.** Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the Procuring Agency. For all personnel, the Procuring Agency reserves the right to require submission of their resumes prior to approval. If the number of Contractor’s personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) business days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to Procuring Agency approval. The Procuring Agency, in its sole discretion, may approve additional time beyond the ten (10) business days for replacement of personnel. The Contractor shall include status reports of its efforts and progress in finding replacements and the effect of the absence of the personnel on the progress of the project. The Contractor shall also make interim arrangements to assure that the project progress is not affected by the loss of personnel. The Procuring Agency reserves the right to require a change in Contractor’s personnel if the assigned personnel are not, in the sole opinion of the Procuring Agency, meeting the Procuring Agency’s expectations.

**ARTICLE 13 – STATUS OF CONTRACTOR**

A. **Independent 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 personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

B. **Subject of Proceedings.** Contractor warrants that neither the Contractor nor any officer, stockholder, director or employee of the Contractor, is presently subject to any litigation or administrative proceeding before any court or administrative body which would have an adverse effect on the Contractor’s ability to perform under this Agreement; nor, to the best knowledge of the Contractor, is any such litigation or proceeding presently threatened against it or any of its officers, stockholders, directors or employees. If any such proceeding is initiated or threatened during the term of this Agreement, the Contractor shall immediately disclose such fact to the Procuring Agency.

**ARTICLE 14 - CHANGE MANAGEMENT**

A. **Changes.** Contractor may only make changes or revisions within the Scope of Work as defined by Article 2 and Exhibit A after receipt of written approval by the Executive Level Representative. Such change may only be made to Tasks or Sub-Task as defined in the Exhibit A. Under no circumstance shall such change affect the:
1) Deliverable requirements;
2) Compensation due under the terms of this Agreement; or
3) Due Date of any Deliverable, as outlined in Exhibit A.

B. **Change Request Process.** In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria: 1) The Project Manager shall draft a written Change Request for Executive Level Representative review and approval to include: the name of the person requesting the change, a summary of the required change, the start date for the change, the reason and necessity for change, the urgency level for the change, the elements to be altered, the impact of the change, the staffing plan associated with the change, the impact on the schedule for implementing the change, the cost impact, the risk assessment and a recommended approach to the change, and 2) The Executive Level Representative shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) working days of receipt of the Change Request. All decisions made by the Executive Level Representative are final. Change requests, once approved, become a part of the contract and become binding as a part of the original contract.

**ARTICLE 15 – INDEPENDENT VERIFICATION AND VALIDATION**

If Independent Validation and Verification (“IV&V”) services are used or required to be used for the Project associated with this Agreement, the Contractor hereby agrees to cooperate with the IV&V vendor. Such cooperation shall include, but is not limited to: 1) Providing project documentation; 2) Allowing the IV&V vendor to sit in on project meetings; and 3) Supplying the IV&V vendor with any other material as directed by the Project Manager.

**ARTICLE 16 – DEFAULT/BREACH**

In case of default and/or breach by the Contractor, for any reason whatsoever, the Procuring Agency and the State of New Mexico may procure the goods or services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the Agency and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity.

**ARTICLE 17 – EQUITABLE REMEDIES**

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the Procuring Agency irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the Procuring Agency, and the Contractor consents to the Procuring Agency’s obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. Procuring Agency’s rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that Procuring Agency may have under applicable law, including, but not limited to, monetary damages.
ARTICLE 18 - LIABILITY

Contractor shall be liable for damages arising out of injury to persons and/or damage to real or tangible personal property before or after Acceptance, delivery, installation and use of the equipment, either at the Contractor’s site or the Procuring Agency’s place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor or defect of the equipment or installation. Contractor shall not be liable for damages arising out of, or caused by, alterations to the equipment (other than alterations performed or caused by Contractor’s officers, employees or agents) made by the Procuring Agency or for losses occasioned by the Procuring Agency’s fault or negligence. Nothing in this Agreement shall limit the Contractor’s liability, if any, to third parties and employees of the Procuring Agency or the State of New Mexico, or any remedy that may exist under law or equity in the event a defect in the manufacture of the equipment, or the negligent acts or omissions of the Contractor, its officers, employees, or agents, is the cause of injury to such person.

ARTICLE 19 – 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 this Agreement’s approval authorities.

ARTICLE 20 – SUBCONTRACTING

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

ARTICLE 21 – RELEASE

The Contractor’s acceptance of final payment of the amount due under this Agreement shall operate as a release of the Procuring Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement. 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.

ARTICLE 22 – CONFIDENTIALITY

Any confidential information provided to the contractor by the agency or, developed by the Contractor based on information provided by the agency 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 Procuring Agency. Upon termination of this Agreement, Contractor shall deliver all confidential material in its possession to the Procuring Agency within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such confidential information to the Procuring Agency will result in direct, special and incidental damages. Contractor agrees to require all employees on the project to sign a copy of the
Confidentiality form in Exhibit B, and to maintain same on file for state inspection. Contractor agrees to abide by all conditions of Exhibit C, IRS Data Safeguarding.

**ARTICLE 23 - CONFLICT OF INTEREST**

The Contractor warrants that it presently has no interest and 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. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer, state employee or former state employee have been followed.

**ARTICLE 24 - RECORDS AND AUDIT**

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during this Agreement’s term and effect and retain them for a period of five (5) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Procuring Agency, CIO, SPA, and DFA. The Procuring Agency shall have the right to audit billings both before and after payment. Payment for services under this Agreement shall not foreclose the right of the Procuring Agency to recover excessive or illegal payments.

**ARTICLE 25 - AMENDMENT**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto. No amendment shall be effective or binding unless approved by all of the approval authorities.

**ARTICLE 26 – 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:

1. Have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

2. Have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $500,000 dollars or;

3. Have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.
B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

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

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees 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, $500,000 or $1,000,000, depending on the dollar value threshold in effect at that time.

ARTICLE 27 - MERGER, SCOPE, ORDER OF PRECEDENCE

A. Severable. The provisions of this Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court or agency or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision.

B. Merger/Scope/Order. This Agreement incorporates any and all agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this Agreement. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents or assignees shall be valid or enforceable unless embodied in this Agreement.

ARTICLE 28 – NOTICES

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail (return receipt requested), when sent by overnight carrier, or upon telephone confirmation by Contractor to the sender of receipt of a facsimile communication that is followed by a mailed hard copy from the sender. Notices shall be addressed as follows:

For PROCURING AGENCY
David Cisneros
HSD-CSED
PO Box 25110
Santa Fe, NM 87504

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Version 09.05.2008
For CONTRACTOR
Eric Ruben
Policy Studies, Inc.
1899 Wynkoop Street, Suite 300
Denver, Colorado 80202

Any change to the Notice individual or the address, shall be effective only in writing.

ARTICLE 29—GENERAL PROVISIONS

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

B. 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 agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, or 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.

C. 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 Procuring Agency.

D. Applicable Law. The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in the county where the Procuring Agency's main office is located. 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 such lawsuits.

E. Waiver. 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 expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

F. Headings. Any and all headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this
Agreement. Numbered or lettered provisions, sections and subsections contained herein, refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

ARTICLE 30 - SURVIVAL

The Articles entitled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties shall survive the expiration or termination of this Agreement. Software License and Software Escrow agreements and other unexpired agreements entered into in conjunction with this Agreement shall survive the expiration or termination of this Agreement.

ARTICLE 31 – TIME

Calculation of Time. Any time period herein calculated by reference to "days" means calendar days; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be the first day following that is not a Saturday, Sunday, or such observed holiday.

ARTICLE 32 – FORCE MAJEURE

Neither party shall be liable in damages or have any right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party who performance is affected.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

ARTICLE 33 - LIQUIDATED DAMAGES

The Contractor’s failure to comply with performance standards in the Scope of Work will result in the following liquidated damages.

A. The Contractor will be assessed liquidated damages on the monthly payment equal to five percent (5%) of the monthly invoiced amount for every work day that the New Mexico Directory of New Hires is unavailable to employers to report in all formats due to action or inaction on the part of the contractor. The Agency Contract Manager may waive these liquidated damages if he or she determines the failure is the result of technical issues not under the contractor’s control for which the contractor made timely and good faith efforts to have corrected.

B. The Contractor will be assessed liquidated damages on the monthly payment equal to five percent (5%) of the monthly invoiced amount for every month for which the contractor’s performance in regards to the employer outreach or employer technical support deliverables is substantially out of compliance as determined by the Agency Contract Manager.
C. The Contractor will be assessed liquidated damages on the monthly payment equal to five percent (5%) of the monthly invoiced amount for each day in which a new hires report is entered more than three business days from the date of receipt by the Contractor.

D. The Contractor will be assessed liquidated damages on the monthly payment equal to five percent (5%) of the monthly invoiced amount for every day in which the data accuracy rate is less than ninety-nine percent (99%).

F. The Contractor will be assessed liquidated damages on the monthly payment equal to 5 percent (5%) of the monthly invoiced amount for every instance of failure to send an agency-designated file to a public agency due to the action or inaction on the part of the contractor. The Agency Contract manager may waive these liquidated damages if he or she determines the failure is the result of technical issues not under the contractor’s control for which the contractor made timely and good faith efforts to have corrected.

**ARTICLE 34 - CAMPAIGN CONTRIBUTIONS**

Contractor acknowledges campaign with Section 13-1-191.1 NMSA 1978, Campaign Disclosure and Prohibition. Contractor will complete and sign Exhibit D of this Contract.

**ARTICLE 35 - NOTICE OF PENALTIES**

The New Mexico Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, as amended, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.

**ARTICLE 36 - DEBARMENT AND SUSPENSION**

A. Pursuant to 45 C.F.R. Part 76, Contractor certifies by signing this PSC, 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 PSC, 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; (4) have not, within a three-year period preceding the effective date of this PSC, 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. Contractor’s certification in Paragraph A is a material representation of fact upon which the HSD relied when this PSC was entered into by the parties. Contractor shall provide immediate written notice to HSD’s Program Manager if, at any time during the term of this PSC, Contractor
learns that its certification in Paragraph A was erroneous on the effective date of this PSC or has become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's certification in Paragraph A was erroneous on the effective date of this PSC or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to HSD, HSD may terminate the PSC.

C. As required by 45 C.F.R. Part 76, Contractor shall require each proposed first-tier sub-Contractor whose subcontract will equal or exceed $25,000, to disclose to HSD, in writing, whether as of the time of award of the subcontract, the sub-Contractor, or its principals, is or is not debarred, suspended, or proposed for debarment by any federal department or agency. Contractor shall make such disclosures available to HSD when it requests sub-Contractor approval from HSD. If the sub-Contractor, or its principals, is debarred, suspended, or proposed for debarment by any federal department or agency, HSD may refuse to approve the use of the sub-Contractor.

The remainder of this page is intentionally left blank.
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: [Signature]  
Date: 7/1/09  
Pamela S. Hyde J.D.  
Secretary of Human Services Department

By: [Signature]  
Date: 7/1/09  
Eric Rubén, Policy Studies, Inc.  
Contractor

By: [Signature]  
Date: 7/1/09  
Terri Gomez  
Chief Information Officer for Human Services Department

Approved for legal sufficiency:

By: [Signature]  
Date: 6/26/09  
Paul R. Ritzma  
Human Services Department General Counsel

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:

CRS ID Number: 08-170000-002

By: [Signature]  
Date: 7/1/09  
Taxation & Revenue Department

Approved as to information technology contractual specifications and compliance with all pertinent statutory laws defining the mission and authority of the Department of Information Technology and all Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico.

By: [Signature]  
Date: 10-30-09  
Marlin Mackey  
Secretary of the Department of Information Technology

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Version 09.05.2008
This Agreement has been approved by the SPA:

By: [Signature]  For  Date: 7/31/09
Purchasing Agent for the State of New Mexico

This Agreement has been approved by the DFA Contracts Review Bureau:

By: [Signature]  Date: 
DFA Contracts Review Bureau
EXHIBIT A – SCOPE OF WORK

I. Performance Measures
Strategic Goal: Improve Health Outcomes and Family Support for New Mexicans
Measure: Percent of current support owed that is collected.
Current Support Percentage: Target = 70%

A. Goals.

The following goals and strategies from the Human Services Department Strategic Plan are supported by this contract:

Goal 1: Insure New Mexico!
Task 1.1: Provide small employers more options for affordable health insurance

A. Continue the marketing campaign for new Insure New Mexico! options (SEIP, premium assistance program) to engage New Mexico employers and eligible individuals.

B. Continue to increase Child Support Enforcement field office outreach to small employers regarding their rights and responsibilities in providing coverage for dependents of employees and how to work within the guidelines governing New Mexico’s use of the National Medical Support Notice

Task 1.2: Provide New Mexicans more opportunities for health insurance.

A. Continue to increase medical support orders to increase the number of children receiving insurance through non-custodial parents’ employer sponsored insurance.

B. Objectives. To assist the agency in continuing to collect information on New Hires in the State of New Mexico.

C. Activities. The services the Contractor is expected to perform are listed in the deliverables.

II. Scope of Work

The following sections describe the required tasks and subtasks to be performed by the Contractor for each Deliverable under the terms of this Agreement. The Contractor must perform each task and/or subtask, but is not limited to performing only the identified task or subtasks in a given project area. The Parties hereby agree that the Deliverables are the controlling items and that the Contractor’s obligation is to perform and deliver the Deliverable as described in the following Sections.

A. Deliverable Number 1 Employer Outreach
<table>
<thead>
<tr>
<th>Task Item</th>
<th>Sub Tasks</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employer Requirements</strong></td>
<td>a.1.A</td>
<td>The Offeror shall establish and maintain a state Directory of New Hires. The office shall be staffed with proposed Key Management Staff, and be equipped for customers contacting the office, document and data processing, technology updates, physical security, operational security, and logical security. This office shall be subject to full inspection by state officials during state business hours. The Offeror will work cooperatively with the outgoing Offeror to transition data and services in a seamless manner.</td>
</tr>
<tr>
<td><strong>Employer Requirements</strong></td>
<td>a.1B</td>
<td>The Offeror shall develop an ongoing employer outreach program approved by the Department to inform employers conducting business within the state of the mandated New Hires and National Medical Support Notice Reporting Requirements. The Offeror shall provide extensive outreach to inform employers of the NMSN reporting requirements in full compliance with the requirements of this RFP. The ongoing employer outreach program must include outreach to increase overall compliance by industry and demographics. Outreach must specifically include encouragement for employers to report optional data elements, especially medical insurance availability. Outreach services shall include: (continued in following rows)</td>
</tr>
<tr>
<td>a.1B 1) through 15)</td>
<td></td>
<td>1) Monthly Proactive Compliance Mailings;</td>
</tr>
<tr>
<td>a.1B 2)</td>
<td></td>
<td>2) Quarterly Wage Compliance Mailings;</td>
</tr>
<tr>
<td>a.1B 3)</td>
<td></td>
<td>3) Annual mailings to selected New Mexico employers who have not reported in the prior six months reminding them of the statutory requirement and informing them of the reporting options;</td>
</tr>
<tr>
<td>a.1B 4)</td>
<td></td>
<td>4) Targeted Industry Code Mailings;</td>
</tr>
<tr>
<td>a.1B 5)</td>
<td></td>
<td>5) Multi-State Employer Mailings;</td>
</tr>
<tr>
<td>a.1B 6)</td>
<td></td>
<td>6) Targeted Contact with Employers Reporting Manually via personal phone calls to employers. Employers will be walked-through registering to use the Web site. Any technical questions they may have will be answered;</td>
</tr>
</tbody>
</table>
| a.1B  | 7) Employer/employer event on-site visits.  
     | A. The Employer Outreach Manager will make 12 trips annually throughout New Mexico to promote the program with employers.  
     | B. These visits will include, but not necessarily be limited to:  
     | i. February Outreach Presentations to Farm Labor Contractors  
     | ii. Visit to Jobs Security Employer Connections  
     | iii. Other Visits, as needed, such as American Payroll Association  
| a.1B  | 8) Production and distribution of New Hire and NMSN brochures, and distribution of Insure New Mexico brochures supplied by the state in the same venues and mailings;  
| a.1B  | 9) New Employer Outreach: The Offeror will supply the New Mexico Workforce Solutions Department a sufficient number of Directory of New Hires and National Medical Support Notice brochures monthly;  
| a.1B  | 10) Notification of Changes: The Offeror will be responsible for updating all employers on any changes in the reporting procedures or if the law or options available are changed within one month of the change;  
| a.1B  | 11) Notifying Employers for Improvements: The Offeror will be responsible for identifying individual employers whose reporting can be improved in specific ways and notifying them of the requested remedial action;  
| a.1B  | 12) Compliance Analysis and Outreach: The Offeror shall conduct quarterly matches of Quarterly Wage files with New Hires data to identify non-compliant employers, analyze the results, and utilize this analysis to target specific employers and industry groups (using industry codes) for outreach;  
| a.1B  | 13) Non-Compliance Notices: In concert with the department Contract Administrator and legal counsel, the Offeror shall develop and mail by certified mail notices advising employers of intent to assess penalties for non-compliance and the actual assessment notices. These notices shall be sequenced so that employers are given ample opportunity to come into compliance before punitive action is taken by the Department. Notices will be sent upon final approval by the Department Contract Administrator;  
| a.1B  | 14) Department Approval: The Offeror shall ensure that all form letters, brochures, pamphlets, notices, web site displays, and press releases created by the Offeror are reviewed and approved by the Department Public Information Officer and the Department Contract Administrator before release. |
15) Mailings: The Offeror is responsible for all costs of production and mailing, including, but not limited to, annual outreach packets, New Mexico Directory of New Hires brochures, National Medical Support Notice brochures, and compliance mailings.

B. Deliverable Number 2 Transaction Activities

<table>
<thead>
<tr>
<th>Transaction Activities</th>
<th>Due Date</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Deliverable Two</strong></td>
<td>7/01/09-6/30/13</td>
<td>See Exhibit A.III.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Task Item</th>
<th>Sub Tasks</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Transaction Activities – Business Requirements</strong></td>
<td>a.2.A</td>
<td>The Offeror shall ensure that employer report data is updated in the New Mexico Directory of New Hires database within three (3) business days of receipt of the information from the employer. The Offeror shall supply proof of compliance with this requirement to the Department.</td>
</tr>
<tr>
<td>a.2.A</td>
<td></td>
<td>The Offeror shall enter the information into a secure web application within three (3) business days of receipt of the information from the employer. The Offeror shall supply proof of compliance with this requirement to the Department. The site will be built to NIST-800-44 Guidelines on Securing Public Web Servers,</td>
</tr>
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<td></td>
<td></td>
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<tr>
<td>a.2.B</td>
<td></td>
<td>The Offeror shall identify, count, and reject all duplicate reports. The duplicates shall be reported to the Department in a monthly report.</td>
</tr>
<tr>
<td>a.2.C</td>
<td></td>
<td>The Offeror shall identify, count, and reject all duplicate reports. The duplicates shall be reported to the Department in a monthly report.</td>
</tr>
<tr>
<td>a.2.D</td>
<td></td>
<td>The Offeror shall contact employers within two (2) working days of receipt of faulty reports to correct incomplete, illegible, or erroneous information.</td>
</tr>
<tr>
<td>a.2.E (1) and 2)</td>
<td></td>
<td>To ensure tracking of the three-day entry requirement, the Offeror shall record the date the report was received and the date entered into the Directory developed by the Offeror. The following information shall be entered when it is supplied by the employer: 1) Mandatory: Employee's name, employee's address, employee's social security number, employer's name, employer's address, employer's Federal Employer Identification number (FEIN). 2) Optional: Payroll processing address, employee's date of hire, employee's date of birth, employee's state of hire, medical insurance availability, employee's salary, employer contact data. When employers send optional data, the offeror must enter this data.</td>
</tr>
<tr>
<td>a.2.F</td>
<td></td>
<td>The Offeror shall document the process used for maintaining the most current, complete, and accurate employer information in the Directory of New Hires.</td>
</tr>
</tbody>
</table>
a.2.G (1) through 2)  
- The offeror shall treat all information reported as private and confidential and shall not be used for any other purpose than New Hires Reporting. The Offeror shall not make such data available to any other person or company in its entirety or any part for any purpose whatsoever except as provided under this Agreement. The Offeror shall not develop, use, or maintain a data list of employers or individuals obtained in performance of this Agreement and shall not distribute any information received or developed except as provided under this Agreement.
- The Offeror shall provide for the appropriate confidential handling and processing of the reports and the magnetic media created under this Agreement. Such safeguards will include:
  - 1) Advising all individuals engaged in the performance of the contract of the confidentiality of the information and the prohibition from copying, transcribing, or releasing data to any non-authorized individual or organization in any manner, and
  - 2) Requiring the attached confidentiality statement, Exhibit B, to be signed by all employees with access or potential access to material developed hereunder. Signed confidentiality statements shall be delivered to the Contract Administrator upon contract execution.

<table>
<thead>
<tr>
<th>Transaction Activities – Technical Requirements</th>
<th>b.1.A</th>
<th>The Offeror must be able to receive new hires reports from employers in all of the following formats: telephone, FAX, voice mail, postal and express mail, CD, web site. The Offeror must inform employers of all reporting mode options available.</th>
</tr>
</thead>
<tbody>
<tr>
<td>b.1.B</td>
<td></td>
<td>The offeror will provide the employers the option of reporting by a W-4 form or, at the employer's option, an equivalent form already in use by the Department. The Offeror must inform employers that the W-4 is sufficient, but that the Directory will supply them optional forms. The optional form shall identify which data elements are optional. The Offeror may recommend to the Department Contract Administrator the inclusion of additional optional data elements based on the Offeror's experience and the needs of the program.</td>
</tr>
<tr>
<td>b.1.C</td>
<td></td>
<td>The Offeror shall identify, count, and reject all duplicate reports. The duplicates shall be reported to the Department in a monthly report.</td>
</tr>
</tbody>
</table>
b.1.D The Offeror shall implement measures to guard against damage caused by computer virus, physical damage or corruption of data, theft, or destruction of data files. The Offeror will insure that all files it stores and transmits to other entities are not corrupted or virus infected.

b.1.E The Offeror shall keep all source documents data entered for a minimum of ninety (90) days, unless instructed otherwise by the Department Contract Administrator.

b.1.F The Offeror shall destroy the source documents after ninety (90) days in a manner consistent with state policy and federal regulations for destruction of private or confidential data. This may include shredding or burning. The Offeror shall also provide to the Department Contract Administrator certification that describes the number of files, batch numbers (if appropriate), time period covered, and a statement indicating all copies of employer records have been destroyed and the automated record deleted.

C. Deliverable Number 3 Customer and Technical Support

<table>
<thead>
<tr>
<th>Deliverable Three</th>
<th>Due Date</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer and Technical Support</td>
<td>7/01/09-6/30/13</td>
<td>See Exhibit A.III.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Task Item</th>
<th>Sub Tasks</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer and Technical Support – Business Requirements</td>
<td>a.3.A</td>
<td>The Offeror shall be responsible for all costs associated with shipping or mailing magnetic media and shall exchange media with employers in ways that minimize costs for employers to comply. The Offeror may not charge employers for any costs related to New Hires Reporting.</td>
</tr>
<tr>
<td></td>
<td>a.3.B</td>
<td>The Offeror shall maintain a post office address in the name of &quot;New Mexico Directory of New Hires&quot; and shall retrieve mail on a daily basis. The Offeror is responsible for promptly forwarding any mail to the Department which is not strictly New Hires related. The Offeror shall respond to written queries to the New Mexico Directory of New Hires which require a written response within one (1) business day of receipt.</td>
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<tr>
<td><strong>a.3.C</strong></td>
<td>The Offeror shall provide a toll-free never busy FAX service so that employers can FAX new hires reports any time without waiting for FAX line availability. FAX reports shall be retrieved at least twice every business day. In the absence of telephone service provider’s never busy, FAX capacity, the Offeror shall provide an equivalent functionality.</td>
<td></td>
</tr>
<tr>
<td><strong>a.3.D</strong></td>
<td>The Offeror shall provide management assistance and fully cooperate with other parties on the turnover of this contract to the successor entity.</td>
<td></td>
</tr>
<tr>
<td>Customer and Technical Support – Technical Requirements</td>
<td><strong>b.2.A</strong></td>
<td>The Offeror shall provide technical assistance to employers on the methodology, format, and data elements for reporting to improve the speed, quality, and accuracy of data submitted. The Offeror shall provide constructive feedback to employers as needed.</td>
</tr>
<tr>
<td><strong>b.2.B</strong></td>
<td>The Offeror shall install and staff at least two (2) toll-free telephone lines. The lines shall be fully staffed Monday through Friday between the hours of 8:00 AM and 5:00 PM Mountain Time on all New Mexico state work days for the purpose of responding to public, employer, and CSED staff questions about new hires reporting. These lines shall have a 24-hour voice mail capability. During business hours, there must be at least one Offeror staff member fluent in conversational Spanish available to handle calls placed by Spanish speakers.</td>
<td></td>
</tr>
<tr>
<td><strong>b.2.C</strong></td>
<td>To augment live operator service, the Offeror shall install an interactive voice response system (IVR), which will be available 24 hours a day, with the following exceptions: the system may be unavailable for up to one (1) hour per day during non-business hours for downloading data, and up to two (2) hours per month during non-business hours for scheduled maintenance. All calls to the toll-free lines shall roll to the IVR if an operator is not available to take the call. The IVR shall have menu selections in English and Spanish which include general information on new hires reporting (subject to HSD Public Information Officer approval), information for callers who need to access the KIDS line or Child Support Customer Service toll-free numbers, employer-specific new hires information, voice mail, and scripted prompts for reporting new hires. The Offeror shall retrieve messages from the IVR every business day at least once every three (3) hours, beginning at 8:00 AM and respond to the caller, when necessary, within one business day of retrieval.</td>
<td></td>
</tr>
</tbody>
</table>
b.2.D

The Offeror shall establish a bi-ligual Internet site and provide employers an easy, reliable, and secure method of reporting in this manner. The site will be built to NIST-800-44 Guidelines on Securing Public Web Servers. The presentation of the New Mexico Directory of New Hires Internet site shall be subject to Department Contract Administrator approval. The Offeror will work with the CSED’s Web Page Developer to insure the Directory of New Hires’ web page may be accessed from the CSED and Insure New Mexico web sites. The Offeror will update the web site with new information or notices related to the Human Services Department monthly and on the request of the Department. The NMSN brochure must be posted on the Directory of New Hires web site.

b.2.F

Data shall be maintained in a password secure and physically secure environment. The site will be built to NIST-800-44 Guidelines on Securing Public Web Servers.

Such safeguards will include:
1) By using appropriate logins, restricting access to the reports and any records created in keying data to individuals who have a legitimate need for access in order to perform keying duties. The site will be built to NIST-800-44 Guidelines on Securing Public Web Servers.
2) Maintaining the reports and magnetic media in a controlled area with limited access only by authorized personnel both during work and non-work hours.

D. Deliverable Number 4 Producing and Transmitting Files to Public Agencies

<table>
<thead>
<tr>
<th>Deliverable Four</th>
<th>Due Date</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Producing and Transmitting Files</td>
<td>7/01/09-6/30/13</td>
<td>See Exhibit A.III.</td>
</tr>
<tr>
<td>to Public Agencies</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Task Item</th>
<th>Sub Tasks</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Producing and Transmitting Files</td>
<td>a.4.</td>
<td>The Offeror shall fully cooperate with state and federally designated technical staff to develop and maintain all designated interfaces as outlined in Requirement b.3A. The Offeror may be required by the Department Contract Administrator to develop and propose file formats and modes of transmission.</td>
</tr>
</tbody>
</table>
b.3.A 1) through 6) The Offeror shall provide data to the following public agencies listed below. All FTP Interface System transmission will comply with HSTD-ITD FTP standards.

1) The IV-D Agency (Employer Data). The Offeror will produce and transmit a file of employer data in media or transmission protocol, format, quantity, and frequency directed by the Department Contract Administrator for use by the IV-D Agency.

2) The IV-D System (New Hires Data). The Offeror will provide a file of new hires data in media or transmission protocol, format, quantity, and frequency directed by the Department Contract Administrator to the IV-D Agency.

3) The IV-A Agency. The Offeror will provide a file of new hires data to the IV-A system in media or transmission protocol, format, quantity, and frequency directed by the Department Contract Administrator.

4) The National Directory of New Hires. The Offeror will provide a file of new hires data to the National Directory in media or transmission protocol, format, quantity, and frequency directed by the Department Contract Administrator. Thereafter, the frequency of the transmission to the National Directory shall be no less than within three (3) business days after data entry.

5) The New Mexico Department of Workforce Solutions (NMDWS). The Offeror will provide a file of new hires data to the NMDNH in media or transmission protocol, format, quantity, and frequency directed by the Department Contract Administrator.

6) Other Public Agencies: Other public agencies may be identified by the Department Contract Administrator as requiring a copy of the directory's new hires data. In such instances, the Offeror may be required to prepare copies in a file format already developed to send to the additional agencies.

b.3.B The Offeror will provide access for the designated CSED staff to access the New Mexico Directory of New Hires to research specific individuals in child support enforcement cases. In making available this access, the Offeror will safeguard against abuse, misuse, or breach of confidentiality of information contained in the Directory of New Hires. The information available for viewing shall include the medical insurance availability indicator that the employer reported for an individual.

E. Deliverable Number 5 Project Reporting and Turnover Planning

<table>
<thead>
<tr>
<th>Deliverable Five</th>
<th>Due Date</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Reporting and Turnover Planning</td>
<td>7/01/09-6/30/13</td>
<td>See Exhibit A.III.</td>
</tr>
<tr>
<td>Task Item</td>
<td>Sub Tasks</td>
<td>Description</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>---------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Project Reporting and Turnover</td>
<td>a.5.A 1)</td>
<td>The Offeror shall provide a Monthly Summary Report to the Department Contract Administrator, to a mailing list specified by the Department Contract Administrator. The report shall be delivered in a Microsoft 2003 compatible document format, sent via email. The report shall, at a minimum contain monthly and year-to-date figures of the: 1) Total number of new hires reports received by type. 2) Total number of non-duplicator, complete new hires records entered. This is the transaction number used in calculating Offeror payment. 3) Total number of phone calls and source of calls. 4) Total number of employer notices and brochures mailed by type. 5) Number of employer reports requiring corrective action by type. 6) Number of mail inquiries by source. 7) Number of new employers added to the employer database. 8) Number of new employers mailed an informational packet. 9) Number of multi-state employers reporting to New Mexico and the number reporting to other states. 10) Number of employers referred to the Department for non-compliance. 11) Interactive Voice Response (IVR) system volume statistics.</td>
</tr>
<tr>
<td>Planning – Business Requirements</td>
<td>a.5.B 1)</td>
<td>The Monthly Summary Report shall also provide: 1) Dates when data files were sent to public agencies in the period, 2) Progress on employer outreach and customer service activities, 3) Information on record retention and destruction activities, 4) Status of any Offeror corrective action items, 5) Identification of any issues that Department management needs to be made aware of, and 6) A list of all employers who reported medical insurance availability, including full contact information and status of availability reported.</td>
</tr>
<tr>
<td>a.5.C</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>through 10)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Offeror shall produce an annual bound report with appropriate graphics and spreadsheets that includes:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Achievements Summary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Organization and Staffing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) Customer Service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4) Quality Assurance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5) Employer Outreach Activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6) Performance Statistics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7) Trend Analysis</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8) Compliance Activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9) NMSN Initiatives</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10) Goals and Opportunities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The report shall be delivered to the Department Project Manager who in turn will deliver it to HSD Senior Managers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.5.D</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Offeror shall ensure that management staff attends meetings as requested by the Department Contract Administrator. Project meetings will take place in Santa Fe, unless otherwise informed by the Department Contract Administrator.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.5.E</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Offeror shall manage and document the progress of the project, making the Department administration aware of conflicts and key decision issues, and developing recommendations for the resolutions of such conflicts and/or issues.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.5.F</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upon written notification by the Department Contract Administrator of Offeror non-compliance with terms of the contract agreement, the Offeror shall provide a written Corrective Action Plan to the Department Contract Administrator within seven days. On approval of the Corrective Action Plan by the Department Contract Administrator, the Offeror shall comply with the terms of the Corrective Action Plan.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The Offeror shall be responsible for providing a Project Turnover Plan within ninety (90) days of this New Hires Contract. The Project Turnover Plan shall be updated by the Offeror on an as needed basis as long as the Contract is in effect, or upon Contract termination. This plan shall be provided in hard copy and electronic versions, and shall include the following information:

1) Documents to be included in informational mailing to employers to reflect changes in reporting procedures;
2) Listing of all equipment with information as to whether the items are owned by the Offeror, or are leased or rented and by whom;
3) Detailed breakdown of processing steps performed by the Offeror. Information should include staffing, equipment, facility, supply consumption, work loads, and standard procedures;
4) Lists of all job titles and work classifications and the number of individuals in each position.
5) Detailed statistics on operating volumes;
6) Training outlines and materials developed for employees;
7) Written commitment to provide access to the facility by the Department and others in relation to re-procurement;
8) A 90 (ninety) day supply of forms and notices;
9) A list of all software purchased or developed for the purpose of operating the Directory of New Hires;
a) The Offeror may use previously developed proprietary software in operating this program; however, software, data files and formats, application programs, and related documentation purchased or developed for the purpose of operating the Directory shall become property of the Department. Copies of all proprietary software utilized in this program together with a prepaid three (3) year license for its use shall be provided to the Department upon termination or expiration of this Agreement. Alternatively, if the Offeror wants to use software that it has developed for this project for other customers, it shall provide the Department license in perpetuity.
b) The program software must continue to be entirely functional upon expiration or termination of this Agreement.
10) Other information requested that the Department, in its sole discretion, believes is necessary to effectuate a smooth turnover to the successor provider or the Department.
1) The Offeror will perform all services required to ensure a smooth transition of all activities for the New Mexico Directory of New Hires Program. All plans must receive written approval from the Department prior to implementation.

2) The Offeror will submit to the Department for approval, a final comprehensive written Transition Plan within fourteen (14) days after the date that the New Mexico Directory of New Hires contract is signed by the DFA Contracts Officer. The Department will review the plan and communicate, in writing, acceptance or rejection of parts of the plan. The Department will provide its comments and assign a date for completion of the revision. All plans must receive written approval from the Department prior to implementation.

3) The Offeror’s Project Manager during the Transition Phase will be available in Santa Fe commencing on Day 1 and will be available by request to meet with Department representatives.

4) The Offeror and the Department Project Manager will jointly develop, and present to the Department a plan for the Transition Phase that reflects the Department’s needs and that will provide adequate opportunity to plan and accomplish the efficient transfer of functions and activities.

5) If, at the end of the two (2) month Transition Phase, the Offeror has not met the requirements of the Transition Phase as a result of their own actions or inactions, resulting in the Department having to continue to keep the current Offeror, Directory of New Hires, for additional weeks or months beyond the two-month period, the Offeror shall be considered in breach of the potential contract. Should such an event occur, the Offeror agrees to work with the current Offeror to ensure that the transition is completed within no more than thirty (30) days from the end of the two-month transition period, and the Offeror will not be compensated for its services during that period until the Department agrees in writing that the transition has been completed.
The Transition Plan, shall include, but not be limited to:
1) A plan for orientation and training of all proposed contract staff;
2) Documented procedures for ensuring smooth cooperation and coordination between the current Directory of New Hires Offeror, the Department, the Offeror and the Department of Information Technology;
3) A documented plan for transferring all documents and documentation (including all notes, working papers, draft documents), and all New Mexico Directory of New Hires application components and all data within the current Offeror's development environment;
4) A documented plan for the installation and operation of the application development environment;
5) Proposed office location and associated activities for the office setup.

F. Deliverable Number 6 (Option) Internet NMSN

<table>
<thead>
<tr>
<th>Deliverable Six</th>
<th>Due Date</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internet NMSN</td>
<td>7/01/09-6/30/13</td>
<td>See Exhibit A.III.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Task Item</th>
<th>Sub Tasks</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internet NMSN – Technical Requirement</td>
<td>b.2.E</td>
<td>The Offeror shall establish a secure Internet site and provide employers an easy, reliable, and secure method of receiving and responding to National Medical Support Notices (NMSNs) for their employees. The site will be built to NIST-800-44 Guidelines on Securing Public Web Servers. The Offeror will receive a daily file from the Department with information necessary to post the NMSNs. The Offeror will post the NMSN for secure access by the employers within one business day of receipt of the Department’s file. The Offeror will produce a daily file with the employers’ responses to NMSNs in a format and transmission method defined by the Department. The Offeror will include information on the internet NMSN reporting availability in employer outreach.</td>
</tr>
</tbody>
</table>

G. Deliverable Number 7 (Option) Database and Transmission File Format Changes

<table>
<thead>
<tr>
<th>Deliverable Seven</th>
<th>Due Date</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Database and Transmission File Formats Changes</td>
<td>7/01/09-6/30/13</td>
<td>See Exhibit A.III.</td>
</tr>
<tr>
<td>Task Item</td>
<td>Sub Tasks</td>
<td>Description</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-----------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Database and Transmission</td>
<td>I</td>
<td>Changes to database or transmission file formats requested after the first</td>
</tr>
<tr>
<td>File Format Changes</td>
<td></td>
<td>12 months</td>
</tr>
</tbody>
</table>


**APPENDIX C**

**Exhibit A.III**

**Basis For Payment: New Mexico Directory Of New Hires**

This form includes all contractor costs for the services described in the Scope of Work. The base unit rates include all salaries and wages, overhead costs, travel and per diem, relocation costs, telephone, rents, leases, fees, insurance, licenses, machine costs, taxes, and all other costs.

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Scope of Work Items</th>
<th>DESCRIPTION</th>
<th>BASE UNIT RATE</th>
<th>VOLUME FACTOR</th>
<th>ESTIMATED ANNUAL BASE COST (before Gross Receipts Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>One</td>
<td>a.1.A through a.1.B</td>
<td>Employer Outreach</td>
<td>$4,777</td>
<td>X 12 months</td>
<td>$57,324</td>
</tr>
<tr>
<td>Two</td>
<td>a.2.A through a.2.G; b.1.A through b.1.F</td>
<td>Transaction Activities</td>
<td>$0.10</td>
<td>X 450,000 Estimated Annual Transactions*</td>
<td>$45,000</td>
</tr>
<tr>
<td>Three</td>
<td>a.3.A through a.3.D; b.2.A through b.2.D and b.2.F</td>
<td>Customer and Technical Support</td>
<td>$11,253</td>
<td>X 12 months</td>
<td>$135,036</td>
</tr>
<tr>
<td>Four</td>
<td>a.4; b.3.A through b.3.B</td>
<td>Producing and Transmitting Files to Public Agencies</td>
<td>$280</td>
<td>X 12 months</td>
<td>$3,360</td>
</tr>
<tr>
<td>Five</td>
<td>a.5.A through a.5.I</td>
<td>Project Reporting and Turnover Planning</td>
<td>$59</td>
<td>X 12 months</td>
<td>$708</td>
</tr>
<tr>
<td>Six (Option)~</td>
<td>b.2.E</td>
<td>Internet NMSN</td>
<td>$3,846</td>
<td>X 12 months</td>
<td>$46,154</td>
</tr>
<tr>
<td>Seven (Option)</td>
<td></td>
<td>Hourly Rate for changes to database or transmission file formats requested after the first 12 months of contract</td>
<td>$125</td>
<td>X Number of Hours</td>
<td></td>
</tr>
<tr>
<td>All Deliverables minus Deliverable Six</td>
<td>a.1.a through a.5.I; b.1.a through b.2.D; b.2.F through b.3.B</td>
<td>Annual Cost without Internet NMSN</td>
<td></td>
<td></td>
<td>$241,428</td>
</tr>
<tr>
<td>Deliverables One through Six</td>
<td>a.1.a through b.3.B</td>
<td>Annual Cost with Internet NMSN</td>
<td></td>
<td></td>
<td>$287,582</td>
</tr>
</tbody>
</table>

\* The Department makes no guarantee concerning and has no control over the volume of new hires reports which may be received by the contractor.

\* One transaction is equal to each non-duplicative employee hiring report with all mandatory and optional reporting data elements posted in the NM Directory of New Hires, transmitted as required, and verified by the Department.

~ Deliverable Option Number Six will not be included in the first contract year.
### Exhibit A.IV

#### Cost Calculation Worksheet

<table>
<thead>
<tr>
<th>Description</th>
<th>Estimated Base Cost $</th>
<th>CPI Adjustment Factor</th>
<th>Total $</th>
<th>Total with Gross Receipts Tax $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year One Without Internet NMSN</td>
<td>$241,428</td>
<td>1.0</td>
<td>$241,428</td>
<td>$260,590</td>
</tr>
<tr>
<td>Year One With Internet NMSN</td>
<td>N/A</td>
<td>1.0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Year Two Without Internet NMSN</td>
<td>$241,428</td>
<td>1.029</td>
<td>$248,429</td>
<td>$268,147</td>
</tr>
<tr>
<td>Year Two With Internet NMSN</td>
<td>$287,582</td>
<td>1.029</td>
<td>$295,922</td>
<td>$319,409</td>
</tr>
<tr>
<td>Year Three Without Internet NMSN</td>
<td>$241,428</td>
<td>1.058</td>
<td>$255,431</td>
<td>$275,704</td>
</tr>
<tr>
<td>Year Three With Internet NMSN</td>
<td>$287,582</td>
<td>1.058</td>
<td>$304,262</td>
<td>$328,411</td>
</tr>
<tr>
<td>Year Four Without Internet NMSN</td>
<td>$241,428</td>
<td>1.087</td>
<td>$262,432</td>
<td>$283,261</td>
</tr>
<tr>
<td>Year Four With Internet NMSN</td>
<td>$287,582</td>
<td>1.087</td>
<td>$312,602</td>
<td>$337,413</td>
</tr>
<tr>
<td>Total Without Internet NMSN</td>
<td></td>
<td></td>
<td>$1,007,720</td>
<td>$1,087,703</td>
</tr>
<tr>
<td>Total With Internet NMSN</td>
<td></td>
<td></td>
<td>$1,154,213</td>
<td>$1,245,823</td>
</tr>
</tbody>
</table>

◊ Estimated Base Cost is from the last two rows of the Basis for Payment Form. Must remain the same for each year.

- Consumer Price Index Adjustment Factor, equals 2.9% increase per year. This is a firm, fixed figure.

□ Multiply CPI Adjustment Factor times Estimated Base Cost.

- Multiply Total times 7.937 percent, current Santa Fe County Gross Receipts Tax.

■ Add All rows labeled “Without Internet NMSN.”

○ Add all rows labeled “With Internet NMSN, plus Year One “Without Internet NMSN” to account for this deliverable not being optioned in Year One.
EXHIBIT B

NEW MEXICO DIRECTORY OF NEW HIRES

TERMS AND CONDITIONS
STATEMENT OF CONFIDENTIALITY

The undersigned employee of Policy Studies, Inc., hereinafter referred to as "Contractor", agrees, during the term of the Contract between Contractor and the New Mexico Human Services Department (HSD) and forever thereafter, to keep confidential all information and material provided by HSD or otherwise acquired by the employee, excepting only such information as is already known to the public, and including any such information and material relating to any customer, client, vendor, or other party transacting business with HSD, and not to release, use or disclose the same except with the prior written permission of HSD. This obligation shall survive the termination or cancellation of the Contract between Contractor and HSD or of the undersigned's employment or affiliation with Contractor, even if occasioned by Contractor's breach or wrongful termination.

The undersigned recognizes that the disclosure of information may give rise to irreparable injury to HSD, a client or customer of HSD, or to the owner of such information, inadequately compensable in damages and that, accordingly, HSD or such other party may seek and obtain injunctive relief against the breach or threatened breach of the within undertakings, in addition to any other legal remedies which may be available. The undersigned acknowledges that he or she may be personally subject to civil and/or criminal proceedings for such breach or threatened breach.

(Signature)

Chief Operating Officer

(Date)

06/29/2009
EXHIBIT C  
IRS DATA SAFEGUARDING

I. PERFORMANCE
In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

(1) All work will be done under the supervision of the contractor or the contractor's employees.
(2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
(3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
(4) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
(5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
(6) All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
(7) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.
(8) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
(9) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.
II. CRIMINAL/CIVIL SANCTIONS:
(1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

(2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

III. INSPECTION:
The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.
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, any prospective contractor seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars ($250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract 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 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official’s employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

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 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 or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

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

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

05/20/2009

Date

President and Chief Administrative Officer

Title (Position)

(PSI)