

STATE OF NEW MEXICO

**HUMAN SERVICES DEPARTMENT
PROFESSIONAL SERVICES CONTRACT**

This Professional Services Contract (PSC) is made and entered into by and between the State of New Mexico **Human Services Department**, hereinafter referred to as "HSD", and **Catholic Charities of Central New Mexico**, hereinafter referred to as the "Contractor".

IT IS AGREED BETWEEN THE PARTIES:**1. Scope of Work.**

A. The Contractor shall provide specific services to help refugee youth negotiate the resettlement process, succeed academically, and reduce the incidence of dropouts, gang involvement and depression through the Refugee Youth After School Program as detailed in Exhibit A, Scope of Work, and incorporated herein by reference.

B. The Contractor will perform services within the State of New Mexico

C. Performance Measures

Contractor shall substantially perform the Performance Measures identified in Exhibit A. In the event that the Contractor fails to obtain the results described in Exhibit A, HSD may provide written notice to the Contractor of the default and specify a reasonable period of time in which the Contractor shall advise HSD of specific steps that it will take to achieve these results and the timetable for implementation. Nothing in this subparagraph shall be construed to prevent HSD from exercising its rights pursuant to Paragraph 4 below.

2. Compensation.

A. The total amount payable to the Contractor under this PSC shall not exceed one hundred twenty five thousand dollars (\$125,000). This amount is a maximum and not a guarantee that the work assigned to Contractor under this PSC to be performed shall equal the amount stated herein.

B. Payments to the Contractor shall be made monthly, upon satisfactory completion of the work as determined by HSD, and upon receipt from the Contractor of certified and documented invoices detailing the work performed.

C. Monthly invoices submitted by the contractor to HSD must be received by HSD no later than fifteen (15) calendar days after the end of each month, with the exception of the month ending June 30, 2010 for which invoices must be received no later than **July 10, 2010**. **Invoices received after that date will NOT be paid.**

D. Within fifteen (15) days after the date that HSD receives written notice from the Contractor that payment is requested for services or items of tangible personal property delivered on site and received, HSD shall issue a written certification of complete or partial acceptance or rejection of the services or items of tangible personal property. If HSD finds that the services or items of tangible personal property are not acceptable, HSD shall, within thirty (30) days after the date of receipt of written notice from the Contractor that payment is requested, provide to the Contractor a letter of exception explaining the defect or objection to the services or delivered tangible personal property along with details of how the Contractor may proceed to remedial action. Upon certification by HSD that the services or items of tangible personal property have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth (30th) day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5% per month.

3. Term.

THIS PSC SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE DFA and shall terminate on **June 30, 2010** unless terminated pursuant to paragraph 4, infra, or paragraph 5. In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This PSC may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this PSC, HSD's sole liability upon such termination shall be to pay for acceptable work performed prior to Contractor's receipt of the notice of termination, if HSD is the terminating party, or Contractor's sending of the notice of termination, if Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this PSC. Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this PSC may be terminated immediately upon written notice to Contractor if Contractor becomes unable to perform the services contracted for, as determined by HSD or if, during the term of this PSC, Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CONTRACTOR'S DEFAULT/BREACH OF THIS PSC.

B. Termination Management. Immediately upon receipt by either HSD or the Contractor's of notice of termination of this PSC, Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this PSC without written

approval of HSD; 2) comply with all directives issued by HSD in the notice of termination as to the performance of work under this PSC; and 3) take such action as HSD shall direct for the protection, preservation, retention or transfer of all property titled to HSD and records generated under this PSC. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of HSD upon termination and shall be submitted to HSD as soon as practical.

5. Appropriations.

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

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for HSD 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 PSC. 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.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this PSC without the prior written approval of HSD.

9. Release.

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

10. Confidentiality.

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

11. Product of Service -- Copyright.

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

12. Conflict of Interest; Governmental Conduct Act.

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 PSC. 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 or state employee or former state employee have been followed.

13. Amendment.

This PSC shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

14. Merger.

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

15. Penalties for violation of law.

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.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures

that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this PSC. If Contractor is found not to be in compliance with these requirements during the life of this PSC, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

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

18. Workers Compensation.

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

19. Records and Audit.

The Contractor shall maintain, for five (5) years, detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by HSD and the State Auditor. HSD shall have a right to audit billings both before and after payment; payment under this PSC shall not foreclose the right of HSD to recover excessive and/or illegal payments.

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless HSD and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this PSC, 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 PSC. 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 PSC is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of HSD and the Risk Management Division of the New Mexico General Services Department by certified mail.

21. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this PSC, 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://insurenwnewmexico.state.nm.us/>.

D. For Indefinite Quantity, Indefinite Delivery contracts (price PSCs 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 PSC) of \$250,000, \$500,000 or \$1,000,000, depending on the dollar value threshold in effect at that time.

22. Invalid Term or Condition.

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

23. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this PSC 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 PSC shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

24. Notices.

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

To HSD: Maria Trujillo, Contract Manager
Work and Family Support Bureau
Income Support Division
Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504-2348
(505) 383-2493

To the Contractor: James Gannon, Executive Director
Catholic Charities
6001 Marble, N.E.
Albuquerque, NM 87110
(505) 724-4670

25. Authority.

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

26. Debarment And Suspension.

A. Consistent with either 7 C.F.R. Part 3017 or 45 C.F.R. Part 76, as applicable, and as a separate and independent requirement of this Agreement the Contractor certifies by signing this Agreement, 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 Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; (3) have not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with, commission of any of the

offenses enumerated above in this Paragraph A; (4) have not, within a three-year period preceding the effective date of this Agreement, had one or more public agreements or transactions (Federal, State or local) terminated for cause or default; and (5) have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a-7.

B. The Contractor's certification in Paragraph A, above, is a material representation of fact upon which the HSD relied when this Agreement was entered into by the parties. The Contractor's certification in Paragraph A, above, shall be a continuing term or condition of this Agreement. As such at all times during the performance of this Agreement, the Contractor must be capable of making the certification required in Paragraph A, above, as if on the date of making such new certification the Contractor was then executing this Agreement for the first time. Accordingly, the following requirements shall be read so as to apply to the original certification of the Contractor in Paragraph A, above, or to any new certification the Contractor is required to be capable of making as stated in the preceding sentence:

(1) The Contractor shall provide immediate written notice to HSD's Contract Administrator if, at any time during the term of this Agreement, the Contractor learns that its certification in Paragraph A, above, was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances.

(2) If it is later determined that the Contractor's certification in Paragraph A, above, was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to HSD, HSD may terminate the Agreement.

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

27. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

A. The applicable definitions and exceptions to prohibited conduct and disclosures contained in 31 U.S.C. § 1352 and 45 C.F.R. Part 93, are hereby incorporated by reference in subparagraph (B) of this certification.

B. The Contractor, by executing this Agreement, certifies to the best of its knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement; and

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer.

C. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

D. This certification is a material representation of fact upon which reliance is placed when this Agreement is made and entered into. Submission of this certification is a prerequisite for making and entering into this Agreement imposed under 31 U.S.C. § 1352. Any person who makes an expenditure prohibited by § 1352 shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

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IN WITNESS WHEREOF, the parties have executed this PSC as of the date of signature by the DFA Contracts Review Bureau below.

By: *Pamela S. Hyde*
for Pamela S. Hyde J.D, Secretary
NM Human Services Department

Date: 11/18/09

By: *Mark H. Reynolds*
Mark H. Reynolds, Office of General Counsel

Date: 11/16/09

By: *[Signature]*
Contractor

Date: 11/10/09

TAXATION AND REVENUE DEPARTMENT

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

ID Number: **01-504261008**

By: *[Signature]*
Taxation and Revenue Department

Date: 11/23/09

DEPARTMENT OF FINANCE AND ADMINISTRATION

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

By: *B. L. Mat*
DFA Contracts Review Bureau

Date: 12-11-09

**EXHIBIT A
SCOPE OF WORK**

A. PURPOSE

1. The primary purpose of the Refugee Youth After School Program is to provide specific services to help refugee youth negotiate the resettlement process, succeed academically, and reduce the incidence of dropouts, gang involvement, and depression.
2. The program will address:
 - a. Financial and economic issues - assisting with clothing and school supplies
 - b. Academic and systemic issues – registration in classes and extra-curricular activities, tutoring and English language training
 - c. Socio-emotional issues – building appropriate relationships with peers and adults outside their families

B. POPULATION TO BE SERVED

1. The program will provide services to all newly arrived refugees between the ages of 5 and 18 with a specific emphasis on middle and high school age refugee youth.
2. Many of the services will be designed to specifically serve middle and high school age refugee youth.

C. RESPONSIBILITIES OF THE CONTRACTOR

1. Coordination of Student Services
 - a. The Refugee Student Services Coordinator will serve as a referral and information resource to refugee families, school staff and the Catholic Charities Refugee Resettlement Program (RRP).
 - b. The Coordinator will be a full-time position and will serve as a liaison between individual schools, students and private service providers.
 - c. Through the Coordinator, refugee students and their families will be made aware of available services and resources and will be connected with appropriate services as needed.
 - d. The Coordinator will work closely with both Albuquerque Public School (APS) staff as well as Catholic Charities to provide educational support, case management, interpretation, mental health and follow-up services to refugee students
2. Health and Mental Health Services
 - a. Catholic Charities will work with APS' Health/Mental Health Services staff to provide language appropriate family counseling on an ongoing basis as needed, including after-school hours, when working parents are available.
 - b. Catholic Charities, in conjunction with APS' Health/Mental Health Services staff,

will provide refugee students and their families with information regarding the behavioral health services available to them and how to access those services.

3. English as a Second Language (ESL) Training and After School Tutorials
 - a. Catholic Charities will provide intensive ESL and academic support services to refugee students to complement existing services provided through APS.
 - b. These services will be provided from the time of the student's enrollment in the school district. ESL instruction will focus on concerns and issues of middle school and high school students in the United States.
 - c. All new refugee students referred to Catholic Charities will be provided benchmark ESL tests to determine their English level and to assist in developing a service plan. Testing will be repeated at the three-month and six-month marks. Intensive English language and tutoring services will be provided to all participants.
4. Case management
 - a. Catholic Charities will provide case management services for all newly arrived refugee students as well as for students referred by APS staff.
 - b. A Student Services Coordinator will facilitate referrals from schools for intensive services, home visits, interventions etc.
 - c. The Coordinator will rely upon Catholic Charities staff to connect refugee youth and their families with appropriate services such as:
 - i. Counseling,
 - ii. Medical assistance,
 - iii. After school programs,
 - iv. ESL training and
 - v. Academic tutoring.
 - d. Through increased coordination of services between Refugee Resettlement and APS staff, Catholic Charities expects to improve the rate and success of referrals from individual schools for intensive services, home visits, interventions, etc.
5. The Agency shall provide interpretation and translation services as needed.
6. The agency shall submit Program Progress Reports on October 30, 2009 and April 30, 2010.

D. RESPONSIBILITIES OF THE DEPARTMENT

1. The DEPARTMENT shall, either through its own personnel or such other agencies or contractors as the DEPARTMENT may select:
 - a. Task, supervise, review, audit, monitor, and provide access to all information necessary for the CONTRACTOR to perform the duties and responsibilities under this PSC.
 - b. Review, accept and approve satisfactorily completed services, and subsequent required reports pursuant to this PSC.

2. Reimburse the CONTRACTOR for expenses incurred in providing the required services. Such expenses must be necessary, reasonable, and allocatable to the program and recorded in accordance with Generally Accepted Accounting Principals (GAAP)

E. PERFORMANCE MEASURES – Human Services Department Strategic Plan

The following performance measures apply to refugee students attending Catholic Charities' after school program on a regular basis. "On a regular basis" is defined as attending the after school program at least six times per month.

1. 100% will have an Individualized Service Plan (ISP) on file. The ISP will outline the challenges that the particular student faces and the services that will be offered to address those challenges. An ISP will be created by the ESL Instructor and Counselor after each assessment.
2. 100% will have a written ESL assessment based on the Basic English Skills Test (BEST). The ESL assessment will be administered every four months for the first year of enrollment and once per year after the first year.
3. 90% will show improvement on the ESL assessment of at least 30% for each assessment.
4. 100% will receive a behavioral/mental health assessment by the student counselor twice per year.
5. 100% will be promoted to the next grade level each year.
6. The Grade Point Average (GPA) will be significantly higher than the GPA of those refugee students who do not attend (Method of statistical measurement: ANOVA, alpha=0.05).
7. Recidivism rates will be tracked for those students who have received disciplinary action at school, such as suspension or detention for truancy, failure to complete assignments, or fighting. Recidivism rates will be significantly lower than for refugee students not attending. (Method of statistical measurement: one-way ANOVA, alpha=0.05).