

HUMAN SERVICES DEPARTMENT
STATE OF NEW MEXICO
GOVERNMENTAL SERVICES AGREEMENT

This Governmental Services Agreement (GSA) is made and entered into by and between the State of New Mexico **Human Services Department**, hereinafter referred to as "HSD", and the New Mexico **Department of Health**, hereinafter referred to as "DOH".

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

DOH shall perform eligible Refugee health screenings as detailed in Exhibit A, Scope of Work, attached to this GSA, and incorporated in this GSA by reference.

2. Compensation.

A. The total amount payable to DOH under this GSA shall not exceed One Hundred Twenty Eight Thousand Four Hundred Fifty Seven Dollars and Sixty Five Cents (\$128,457.65). This amount is a maximum and not a guarantee that the work assigned to DOH under this GSA to be performed shall equal the amount stated herein.

B. HSD shall pay DOH in full payment for services satisfactorily performed an amount not to exceed \$128,457.65 as set forth in Paragraph A. Payment is subject to availability of funds pursuant to the Appropriations Section set forth below and to any negotiations between the parties from year to year pursuant to Section 1, Scope of Work, and to approval by HSD. All invoices **MUST BE** received by HSD no later than ten (10) days after the termination of the Fiscal Year in which the services were delivered. **Invoices received after such date WILL NOT BE PAID.**

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

3. Term.

This GSA shall be effective **July 1, 2009** and shall terminate on **June 30, 2010** unless amended, extended, or terminated pursuant to the terms of this GSA.

4. **Termination.**

A. **Termination.** This GSA 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 GSA, HSD's sole liability upon such termination shall be to pay for acceptable work performed prior to the DOH's receipt of the notice of termination, if HSD is the terminating party, or DOH's sending of the notice of termination, if DOH 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 GSA. DOH shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this GSA may be terminated immediately upon written notice to DOH if DOH becomes unable to perform the services contracted for, as determined by HSD or if, during the term of this GSA, DOH 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 DOH'S DEFAULT/BREACH OF THIS GSA.**

B. **Termination Management.** Immediately upon receipt by either HSD or DOH of notice of termination of this GSA, DOH shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this GSA 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 GSA; 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 GSA. Any non-expendable personal property or equipment provided to or purchased by DOH 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 GSA are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico and/or the federal grantor for the performance of this GSA. If sufficient appropriations and authorization are not made, this GSA shall terminate immediately upon written notice being given by HSD to DOH. HSD's decision as to whether sufficient appropriations are available shall be accepted by DOH and shall be final. If HSD proposes an amendment to the GSA to unilaterally reduce funding, DOH shall have the option to terminate the GSA or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. **Assignment.**

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

7. Subcontracting.

DOH shall not subcontract any portion of the services to be performed under this GSA without the prior written approval of HSD.

8. Release.

Final payment of the amounts due under this GSA 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 GSA.

9. Confidentiality.

A. Any confidential information, as defined in state and federal law, code, rules or regulations, regarding HSD's Medicaid participants that is provided to, or developed by, DOH shall not be made available by DOH to any individual outside of DOH or any organization outside of DOH without the prior written approval of HSD, unless the Medicaid participant has consented to its release, or unless the information is required by a court of competent jurisdiction, or other legal process.

B. DOH warrants that it will retain all confidential information belonging to HSD's Medicaid participants, and will not disclose it to anyone without the explicit written permission of HSD, unless the Medicaid participant has consented to its release, or unless the information is required by a court of competent jurisdiction, or other legal process. DOH recognizes that irreparable harm can be caused to HSD and its participants by disclosure of confidential information concerning HSD and its participants and, accordingly, HSD may refuse or enjoin such disclosure. DOH will be solely responsible for any violations by DOH or its agents. HSD will be solely responsible for any violations by HSD or its agents. Any liability incurred in connection with this agreement is subject to the immunities and limitation of the Tort Claims Act.

C. DOH shall (1) notify HSD promptly of any unauthorized possession, use, or knowledge of HSD data, files or other confidential information; (2) promptly furnish to HSD full details of the unauthorized possession, use or knowledge of HSD data, files or other confidential information; and (3) assist HSD in an investigation of the matter and take steps to prevent a recurrence.

D. This confidentially agreement shall be binding on the parties and their agents.

10. Amendment.

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

11. Merger.

This GSA 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 GSA. No prior GSA or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this GSA.

12. Records and Audit.

DOH shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during the GSA's term and effect and retain them for a period of **five (5) years** from the date of final payment under this GSA. The records shall be subject to inspection by HSD, the Department of Finance and Administration, and the State Auditor. HSD shall have the right to audit billings both before and after payment. Payment under this GSA shall not foreclose the right of HSD to recover excessive or illegal payments.

13. Invalid Term or Condition.

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

14. Enforcement of GSA.

A party's failure to require strict performance of any provision of this GSA 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 GSA 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.

15. Notices.

Any notice required to be given to either party by this GSA 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
Human Services Department
Work and Family Support Bureau
3280 Bridge Blvd, SW, Room 111
PO Box 12740
Albuquerque, NM 87105
505-383-2494

To DOH: Renai Edwards, Program Manager
Department of Health
Public Health Division

Tuberculosis & Refugee Health Program
1190 St. Francis Drive
Runnels Building
Santa Fe, New Mexico 87505
505-827-2106

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

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

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

C. As required by statute, regulation or requirement of this contract, and as contained in Paragraph A, above, DOH shall require each proposed first-tier sub-contractor whose subcontract will equal or exceed \$25,000, to disclose to DOH, 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. DOH 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, state or local department or agency, HSD may refuse to approve the use of the sub-contractor.

17. 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. DOH, by executing this GSA, 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 Contract Manager.

C. DOH 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 GSA is made and entered into. Submission of this certification is a prerequisite for making and entering into this GSA 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.

18. Miscellaneous

A. This GSA is an internal government agreement and is not intended to confer any right upon any private person.

B. Neither party will be responsible for liability incurred as a result of the other party's acts or omissions in conjunction with the GSA. Any Liability incurred in connection with the GSA is subject to the immunities and limitations of the New Mexico Tort Claims Act 41-4-1 et seq., NMSA 1978 as amended.

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IN WITNESS WHEREOF, the parties execute this GSA as set forth below:
STATE OF NEW MEXICO:

By: *Kathryn Fall*
Pamela S. Hyde, J.D., Secretary
Human Services Department

Date: 12/7/09

Approved as to form and legal sufficiency:

By: *for Mark H. Reynolds*
Mark H. Reynolds, Acting General Counsel
Human Services Department

Date: 12-2-09

Governing Contractor Official:

By: *Alfredo Vigil*
Alfredo Vigil, Secretary
Department of Health

Date: 11/24/09

Approved as to Form and Legal Sufficiency:

By: *Kathleen Kunkel*
Kathleen Kunkel, General Counsel
Department of Health

Date: 11/24/09

Office of

Exhibit A
Scope of Work

A. DOH shall:

1. Provide health screening to all newly arrived eligible refugees, asylees and Cuban/Haitian entrants. Eligibility status is determined and documented by the Department of State and/or ORR. DOH will verify eligibility by checking immigration documents.
2. Follow the "Standing Orders for Refugee Health Screening" [EXHIBIT B] in providing services.
3. Bill Medicaid as appropriate for the cost of the screening tests. In the event that a refugee is not eligible for Medicaid at the time of the screening, the Refugee Medical Assistance funds will be billed for the screening tests.
4. Invoice HSD's Income Support Division (ISD) for the costs incurred in administering the Health Screening Program. Invoices are due by the 15th of the month following the month in which the costs were incurred, with the exception of the month ending June 30, 2010, for which invoices must be received no later than ten (10) days after the end of that month. Failure to adhere to these requirements may result in a reduction of available funds and non-payment of invoices.
5. Provide a monthly data report that, at a minimum, will include the name, social security number, and date of arrival or asylee designation, of the individuals provided services, as well as the services provided.
6. Provide medical interpretation services for initial screening and for any follow-up medical appointments. These services may be performed through a subcontract

B. HSD shall:

1. Act as the funding agency and work with the Office of Refugee Resettlement (ORR), through the state Refugee Coordinator, to obtain the funding to cover this GSA.
2. Ensure that expenditures meet all federal and state requirements and promptly process the DOH invoices for payment.
3. Conduct at least one on-site review of the program during the year.
4. Complete and submit the required reports to the ORR.

Exhibit B

Standing Orders for Refugee Health Screening December 2002

The following tests should be done when screening refugees:

Two-Step Mantoux test on all refugees (if positive, follow Tuberculosis (TB) protocol)

Rapid Plasma Reagin (RPR) (if ever sexually active). If positive, follow up according to Sexually Transmitted Disease (STD) protocol.

Hepatitis B and C High-Risk Screen. If positive, follow up according to Hepatitis B protocol, including testing of household contacts and immunization of children and adults who are susceptible and education for Hepatitis B carrier contacts.

Cholesterol screening. Draw blood for total and HDL cholesterol for refugees 20 years of age and older who are not pregnant. Results should be sent to Dr. Tomedi for interpretations and follow up.

For refugees from Africa, Syria, and Iraq: Urine dipstick on urine obtained first voided in the morning. If positive for blood, send the urine sample to Scientific Laboratory Division (SLD) for further testing for Schistosomiasis. Refer to Infectious Disease Medical Director and district Health Officer. (*Dipstick does not need to be done on other refugees unless they have symptoms of urinary tract infection.*)

Rubella screening is not necessary except in pregnant women. Offer MMR to non-pregnant women born after 1957.

Stool for ova and parasites will not be obtained routinely unless refugee is symptomatic with nausea, diarrhea, and abdominal cramps. Instead, all refugees will be presumptively treated with Albendazole* 400 mg for five consecutive days. (You may obtain it through the Public Health Department (PHD) Pharmacy and please check for contraindications in the Physicians Desk Reference (PDR).

Hematocrits are not to be done routinely. May be performed as indicated.

Immunizations:

All children under 19 years of age will be offered age appropriate immunizations as recommended by the Immunization Program.

Persons 19 and older should receive Td and MMR as recommended for adult immunizations. Hepatitis B vaccine should be offered to all adult refugees who test negative for anti-HBc and HBsAg.

Influenza and Pneumococcal vaccine may be used as indicated in the Influenza and Pneumococcal vaccine protocols.

Maria Goldstein, MD
District 1 Health Officer

Date

* Reference: Muening, Peter, et al. NEJM vol. 340, p773, March 11, 1999