

(PLEASE FIND THE AGENDA/TABLE OF CONTENTS ON PAGE 4.)

REGULAR MEETING OF THE BOARD OF DIRECTORS



**April 6, 2021
9:30 AM**

**Online: <https://global.gotomeeting.com/join/921945613>
Telephone: 1-571-317-3122/ Access Code: 921-945-613**

New Mexico Retiree Health Care Authority
Regular Meeting

BOARD OF DIRECTORS

ROLL CALL

April 6, 2021

| | Member in Attendance | | |
|---------------------------------|----------------------|--|--|
| Mr. Crandall, President | | | |
| Ms. Saunders, Vice President | | | |
| Ms. Larranaga-Ruffly, Secretary | | | |
| Mr. Scroggins | | | |
| Mr. Linton | | | |
| Mr. Salazar | | | |
| Mr. Eichenberg | | | |
| Mr. Cushman | | | |
| Mr. Bhakta | | | |
| Ms. Moon | | | |
| Ms. Madrid | | | |
| Mr. Trujillo | | | |

NMRHCA BOARD OF DIRECTORS

APRIL 2021

Greg Trujillo
Interim Executive Director
Public Employees Retirement Association
33 Plaza La Prensa
Santa Fe, NM 87507
PO Box 2123
Santa Fe, NM 87504-2123
W: 505-476-9301

Mr. Sanjay Bhakta
NM Municipal League
100 Marquette Ave, 11th Floor
City/County Building
Albuquerque, NM 87102
F: 505-768-3700
sbhakta@cabq.gov

Mr. Rick Scroggins
Interim Executive Director
Educational Retirement Board
PO Box 26129
Santa Fe, NM 87502-0129
rick.scroggins@state.nm.us
W: 505-476-6152
F: 505-827-1855

Mr. Terry Linton
Governor's Appointee
1204 Central Ave. SW
Albuquerque, NM 87102
terry@lintonandassociates.com
505-247-1530

Mr. Tomas E. Salazar, PhD
NM Assoc. of Educational Retirees
PO Box 66
Las Vegas, NM 87701
salazarte@plateautel.net
505-429-2206

Ms. Pamela Moon
NM Association of Counties
One Civic Plaza
10th Floor, Suite 10045
Albuquerque, NM 87102
pmoon@bernco.gov
505-468-1407

Mr. Doug Crandall, President
Retired Public Employees of New Mexico
14492 E. Sweetwater Ave
Scottsdale, AZ 85259
dougcinaz@gmail.com

The Honorable Mr. Tim Eichenberg
NM State Treasurer
2055 South Pacheco Street
Suite 100 & 200
Santa Fe, NM 87505
Tim.Eichenberg@state.nm.us
W: 505-955-1120
F: 505-955-1195

Ms. Therese Saunders, Vice President
NEA-NM, Classroom Teachers Assoc., & NM
Federation of Educational Employees
5811 Brahma Dr. NW
Albuquerque, NM 87120
tisaunders3@mac.com
505-934-3058

Mr. Loren Cushman
Superintendents' Association of NM
#1 Panther Boulevard
Animas, NM 88020
lrcushman@animask12.net
575-548-2299

Ms. Leane Madrid
Classified State Employee
2600 Cerrillos Rd.
Santa Fe, NM 87505
Leane.Madrid@state.nm.us
505-629-3365

Ms. Leanne Larranaga-Ruffy, Secretary
Alternate for PERA Executive Director
33 Plaza La Prensa
Santa Fe, NM 87507
PO Box 2123
Santa Fe, NM 87504
Leanne.Larranaga@state.nm.us
505-476-9332

Regular Meeting of the
NEW MEXICO RETIREE HEALTH CARE AUTHORITY
BOARD OF DIRECTORS

April 6, 2021

9:30 AM

Online: <https://global.gotomeeting.com/join/921945613>

Telephone: 1-571-317-3122 / Access Code: 921-945-613

AGENDA

| | | Page |
|--|-----------------------------------|------|
| 1. Call to Order | Mr. Crandall, President | |
| 2. Roll Call to Ascertain Quorum | Ms. Beatty, Recorder | |
| 3. Pledge of Allegiance | Mr. Crandall, President | |
| 4. Approval of Agenda | Mr. Crandall, President | 4 |
| 5. Approval of Regular Meeting Minutes March 2, 2021 | Mr. Crandall, President | 5 |
| 6. Public Forum and Introductions | Mr. Crandall, President | |
| 7. Committee Reports | Mr. Crandall, President | |
| 8. Executive Director's Updates | Mr. Archuleta, Executive Director | |
| a. Operations | | |
| b. HR Shared Services | | |
| c. American Rescue Plan Act of 2021 | | |
| d. Pharmacy Benefit Management Consultant RFP | | 11 |
| e. Legislative | | |
| a. Senate Bill 21 | | 72 |
| b. Senate Bill 315 | | 74 |
| c. Senate Bill 317 | | 80 |
| f. Spring Newsletter | | 96 |
| g. Opioid/Generic Drug Pricing Litigation | | |
| h. Virtual Wellness Event | | 100 |
| i. February 28, 2020 SIC Report | | 101 |
| 9. FY22 Operating Budget (Action Item) | Mr. Archuleta, Executive Director | 102 |
| 10. FY21/22 Contract Amendments/New (Action Item) | Mr. Kueffer, Deputy Director | 106 |
| a. Realtime Solutions Inc. | | |
| b. RiskSense | | |
| c. RESPEC | | |
| 11. 2022 Preliminary Plan Discussion | Mr. Archuleta, Executive Director | 108 |
| 12. Other Business | Mr. Crandall, President | |
| 13. Executive Session | Mr. Crandall, President | |
| Pursuant to NMSA 1978, Section 10-15-1(H)(7) Pertaining to Threatened or Pending Litigation | | |
| 14. Date & Location of Next Board Meeting | Mr. Crandall, President | |
| May 4, 2021 | | |
| 9:30AM | | |
| Via: GoToMeetings: https://global.gotomeeting.com/join/279119725 | | |
| Telephone: 1-872-240-3311 / Access Code: 279-119-725 | | |

15. Adjourn

MINUTES OF THE
NEW MEXICO RETIREE HEALTH CARE AUTHORITY/BOARD OF DIRECTORS
REGULAR MEETING/VIA TELECONFERENCE

March 2, 2021

1. CALL TO ORDER

A Regular Meeting of the Board of Directors of the New Mexico Retiree Health Care Authority was called to order on this date at 9:30 a.m. via teleconference.

2. ROLL CALL TO ASCERTAIN A QUORUM

A quorum was present.

Members Present:

Mr. Doug Crandall, President
Ms. Therese Saunders, Vice President
Ms. LeAnne Larrañaga-Ruffy, Secretary
The Hon. Tim Eichenberg, NM State Treasurer
Mr. Sanjay Bhakta
Mr. Loren Cushman
Ms. Jan Goodwin
Mr. Terry Linton
Ms. Leane Madrid
Ms. Pamela Moon

Members Excused:

Dr. Tomas Salazar

Staff Present:

Mr. Dave Archuleta, Executive Director
Mr. Neil Kueffer, Deputy Director
Ms. Peggy Martinez, CFO
Mr. Tomas Rodriguez, IT Director
Mr. Michael Bebeau, General Counsel
Ms. Judith S. Beatty, Board Recorder

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

4. APPROVAL OF AGENDA

Mr. Eichenberg moved approval of the agenda, as published. Ms. Goodwin seconded the motion, which passed unanimously by roll call vote.

5. APPROVAL OF REGULAR MEETING MINUTES: February 2, 2021

Ms. Saunders moved approval of the February 2 meeting minutes, as submitted. Ms. Larrañaga-Ruffy seconded the motion, which passed unanimously by roll call vote.

6. PUBLIC FORUM AND INTRODUCTIONS

There was no public comment.

Ms. Goodwin, who would be leaving the NMERB later this month, said it has been a pleasure working with the board. She commented that one of the reasons why the NMRHCA and its board have been so successful is because it has such a strong staff David Archuleta and his team. She wished the board and staff continued success in the future.

7. COMMITTEE REPORTS

- Chairman Crandall said the Executive Committee met this week and discussed today's agenda.
- Ms. Larrañaga-Ruffy reported that the Finance Committee met last week and reviewed items to be heard on today's agenda.

8. EXECUTIVE DIRECTOR'S UPDATES

a. Operations

- Mr. Archuleta announced that Greg Archuleta has moved on to The Standard life insurance and will be serving as the NMRHCA's account manager, and will also serve in that role for NMPSIA and APS.
- Mr. Archuleta welcomed internal general counsel Michael Bebeau, who comes from the Miller Stratvert firm. Prior to that, he worked with GSD's Risk Management Division as their attorney, and previously interned with the Office of the Governor and the U.S. House of Representatives Committee on Oversight and Government Reform. Mr. Bebeau is also a judge advocate in the National Guard and will take a leave of absence for specialized training between April and August. In the interim, the agency will continue to utilize the services of the Rodey law firm.
- Mr. Archuleta reviewed HR updates.
- The agency is proposing to host an in-person annual meeting on July 15-16 in either Taos or Angel Fire, assuming that it will be safe to meet at that time and there are no indications that it would continue to be unsafe. At the April meeting, the board will begin its monthly discussions on potential changes to the strategic plan.

- Staff has begun the planning process for the fall switch enrollment meetings. The 2020 switch enrollment meetings were entirely virtual, and it worked very well with a lot of positive feedback. Even if the meetings are in person this year, the NMRHCA is looking at a hybrid process where people can have virtual access instead of attending in person.

b. Curry County Resolution

- On January 26, the Curry County Board of Commissioners adopted a resolution requesting that the Governor and legislature review the rule change adopted by the NMRHCA board, requesting that action be taken to delay implementation until further consideration is provided by governmental entities. Mr. Archuleta said he spoke with the Association of Counties along with management from McKinley County and Curry County, explaining the financial situation and timeline associated with when the rule change was taking effect, as there seems to be some confusion around that. NMRHCA is going to correct the documents on the website to make them easier to understand by listing questions commonly received in connection with the rule change and the answers to those questions. He has not heard any inquiries from legislative staff or the Governor’s Office since the conversations he had with the county representatives.

c. Taos Soil & Water Conservation District

- The Taos Soil & Water Conservation District has discussed becoming an eligible employer. They have about five employees and about ten board members, but it isn’t clear whether the board members are paid positions and would also be eligible. Segal is doing the actuarial calculation on the cost to join the program. If the District decides to join, the NMRHCA board would vote in July.

d. Naturally Slim/Wondr Health

- NMRHCA has received notice from Naturally Slim that they are undergoing a name change and will be called Wondr Health. The rebranding is an attempt to embody the connection between mind and body and encourage people to dream of what their lives could be if they were in their best mental and physical health. The official re-launch will take place in May.

e. Legislative

- Mr. Archuleta reviewed legislative updates. HB2 includes language for the \$100,000 the NMRHCA requested for development of a web portal and will become effective with the Governor’s signature. It also includes a 1.5 percent pay raise for all public employees.

f. Opioid/Generic Drug Pricing Litigation

- As of last week, all requested information with regard to the opioid discovery, including information provided by Express Scripts, has been given to the AG’s Office. With regard to the generic drug pricing litigation, there are about 20 manufacturers of over 200 drugs who have admitted guilt to price fixing and inflating the cost of those drugs, some of which have

been taken by NMRHCA members. NMRHCA has also agreed to participate in the litigation through the AG's Office on this matter; and if it results in a settlement, the amount would be appropriated by the legislature to different programs. Recently, the NMRHCA received a presentation that was given by the Public Sector Health Care Roundtable regarding the settlements. The presentation came from a law firm with offices in London and Los Angeles that helps large public and private sector clients in obtaining some of the money associated with this. Staff plans to have a conversation with the AG's Office to determine whether there is a downside to the NMRHCA pursuing this on its own with the goal of receiving a direct settlement; and if so, the question is whether the NMRHCA wants to see the money go directly to the program on behalf of the membership. Staff will be making a recommendation to the board once it has more information.

g. Livongo Diabetes Management Program

- As of January 31, 495 had signed up, or about 19% of the 2600 recruitable members, which is good progress toward the target of about 30 percent. NMRHCA is looking at options for members who wish to maintain this program after they become Medicare eligible and pay for the program on their own. A recommendation will be made at the July meeting.

h. Virtual Wellness Event

- Mr. Archuleta thanked everyone participating in today's meeting, as well as the health plan partners, for their assistance in coordinating speakers and resources for the April 22-23 event.

i. January 31, 2021 SIC Report

- Balances have reached \$926.6 million, a gain of \$2 million from the previous month, and are approaching the \$1 billion mark. This could push the actuarial projections forward, as the NMRHCA was not expecting to reach the \$1 billion mark until June 2022.

j. Investment Performance Analysis December 31, 2020

- Mr. Archuleta reviewed highlights from the RVK investment report for the calendar year ending 12/31/2020, reflecting a 9.83 percent return. When Wilshire advisor Thomas Toth gives the six-month update at the May meeting, he will be asked if it is appropriate to continue to use a 7.25 percent assumed rate of return.

Responding to Mr. Linton on the difference in cost between employing an internal general counsel and using a consultant from the Rodey firm, Mr. Archuleta said the position of general counsel is within budget and was created after the agency reclassified a position that had been vacant for some time. Using the services of the Rodey firm, while deeply discounted, are not cheap, and the NMRHCA therefore is not able to utilize those services at the frequency it now finds necessary. This includes reviews of important documents, consistent review of the Administrative Code in connection with rule changes, frequent contract review, and regular correspondence from Mr. Archuleta to members regarding termination from the plan for nonpayment and other correspondence requiring legal scrutiny.

Mr. Archuleta commented that, while the classification of the in-house general counsel is at a rate higher than the original vacant position, the ultimate result would be a better benefit to the NMRHCA. He said there is a \$30,000 difference in pay and benefits. While this new position does not completely eliminate the need for certain services to be performed by Rodey, the hope is that it will absorb the bulk of it.

Mr. Eichenberg asked Mr. Archuleta if he foresees this position being kept busy enough to warrant a 40-hour workweek. Mr. Archuleta responded that he was confident Mr. Bebeau would be working 40 hours a week. There are a number of projects that Mr. Bebeau is already working on, including correspondence with the Attorney General's Office on the two ongoing legal matters previously discussed, various write-ups, and a thorough review of all of the NMRHCA's current documents and processes. He also cited compliance issues with HIPAA and responses to IPRA requests. He added that he feels this is long overdue because past practice has been to only request legal assistance from the Rodey firm when absolutely necessary in order to hold costs down. He stated that Mr. Bebeau's salary is \$45 per hour, or about \$93,000 annually plus benefits.

9. FY21 PS BUDGET ADJUSTMENT REQUEST

Mr. Archuleta stated that, at the current time, there are significant vacancy savings in the personal services and employee benefits category. Today, staff is requesting approval to transfer the surplus amount of \$50,300 into contractual services to: pay SPO for HR services (as per the MOU); perform a security review of the IT systems (\$15,000 to \$16,000); and cover additional programming charges in the CareView system. No long-term effect is anticipated and there is no impact on next year's projected expenditures.

Mr. Larrañaga-Ruffy moved for approval. Mr. Cushman seconded the motion, which passed unanimously by roll call vote.

10. PHARMACY BENEFITS CONSULTANT RFP

Mr. Kueffer stated that the NMRHCA, in cooperation with the other members of the IBAC, is developing an RFP for professional consulting services related to the upcoming pharmacy benefits manager (PBM) RFP tentatively scheduled for release in the fall of 2021.

Mr. Kueffer stated that, previously, the contract cost was \$90,500 with each agency paying \$23,625. This time, the cost is expected to be somewhat higher, but the amount has been budgeted for.

Mr. Kueffer requested approval to issue the RFP.

Ms. Larrañaga-Ruffy said the Finance Committee reviewed and approved this request.

Mr. Larrañaga-Ruffy moved for approval. Ms. Saunders seconded the motion, which passed unanimously by roll call vote.

11. OUT-OF-STATE TRAVEL REQUEST

Mr. Kueffer stated that staff is requesting permission to attend the National Conference on the State and Local Government Benefits Association (SALGBA), tentatively scheduled for September 18-22 in New Orleans. The NMRHCA is a member of SALGBA. Assuming conditions permit travel, staff would like to register for the event to assist the organization with planning. Last year's event was canceled, and registration fees have been credited toward this year's event along with flight credits through Aquila Travel.

Mr. Larrañaga-Ruffy moved for approval. Mr. Bhakta seconded the motion, which passed unanimously by roll call vote.

12. OTHER BUSINESS

None.

13. EXECUTIVE SESSION:

None.

14. DATE AND LOCATION OF NEXT BOARD MEETING

April 6, 2021

Via: GoToMeeting: <https://global.gotomeeting.com/join/921945613>

Telephone: 1-571-317-3122 / Access Code: 921-945-613

ADJOURN:

Meeting adjourned at 10:20 a.m.

Accepted by:

Doug Crandall, President

REQUEST FOR PROPOSALS (RFP)

**Consultant for Pharmaceutical Benefit Management
Procurement Services**

for the

GENERAL SERVICES DEPARTMENT/RISK MANAGEMENT DIVISION

On Behalf of

THE INTERAGENCY BENEFITS ADVISORY COMMITTEE (IBAC)

Consisting of:

New Mexico Public Schools Insurance Authority (NMPSIA)

State of New Mexico, Risk Management Division (RMD)

New Mexico Retiree Health Care Authority (NMRHCA)

Albuquerque Public Schools (APS)



RFP# 22-350-6005-0002

RFP Release Date: March 31, 2021

Proposal Due Date: May 3, 2021

| | |
|--|----------|
| I. INTRODUCTION..... | 1 |
| A. PURPOSE OF THIS REQUEST FOR PROPOSALS | 1 |
| B. BACKGROUND INFORMATION..... | 1 |
| C. SCOPE OF PROCUREMENT..... | 2 |
| D. PROCUREMENT MANAGER..... | 2 |
| E. PROPOSAL DELIVERY | 3 |
| F. DEFINITION OF TERMINOLOGY..... | 3 |
| II. CONDITIONS GOVERNING THE PROCUREMENT | 6 |
| A. SEQUENCE OF EVENTS..... | 6 |
| B. EXPLANATION OF EVENTS | 7 |
| 1. Issue RFP..... | 7 |
| 2. Acknowledgement of Receipt Form..... | 7 |
| 3. Deadline to Submit Written Questions | 7 |
| 4. Response to Written Questions | 7 |
| 5. Submission of Proposal..... | 7 |
| 6. Proposal Evaluation | 8 |
| 7. Selection of Finalists | 8 |
| 8. Oral Presentations | 8 |
| 9. Finalize Contractual Agreements..... | 9 |
| 10. Contract Awards | 9 |
| 11. Protest Deadline | 9 |
| C. GENERAL REQUIREMENTS..... | 10 |
| 1. Acceptance of Conditions Governing the Procurement | 10 |
| 2. Incurring Cost..... | 10 |
| 3. Prime Contractor Responsibility | 10 |
| 4. Subcontractors/Consent | 10 |
| 5. Amended Proposals | 10 |
| 6. Offeror’s Rights to Withdraw Proposal..... | 10 |
| 7. Proposal Offer Firm..... | 10 |
| 8. Disclosure of Proposal Contents | 11 |
| 9. No Obligation..... | 11 |
| 10. Termination | 11 |
| 11. Sufficient Appropriation..... | 11 |
| 12. Legal Review | 11 |
| 13. Governing Law..... | 12 |
| 14. Basis for Proposal | 12 |
| 15. Contract Terms and Conditions | 12 |
| 16. Offeror’s Terms and Conditions | 12 |
| 17. Contract Deviations | 13 |
| 18. Offeror Qualifications | 13 |
| 19. Right to Waive Minor Irregularities..... | 13 |
| 20. Change in Contractor Representatives | 13 |
| 21. Notice of Penalties..... | 13 |
| 22. Agency Rights | 13 |
| 23. Right to Publish..... | 13 |
| 24. Ownership of Proposals | 14 |
| 25. Confidentiality | 14 |
| 26. Electronic mail address required | 14 |
| 27. Use of Electronic Versions of this RFP..... | 14 |
| 28. New Mexico Employees Health Coverage | 14 |
| 29. Campaign Contribution Disclosure Form | 15 |

| | | |
|--|--|-----------|
| 30. | <i>Letter of Transmittal</i> | 15 |
| 31. | <i>Disclosure Regarding Responsibility</i> | 15 |
| 32. | <i>Protection of Data</i> | 17 |
| 33. | <i>Rights to Data</i> | 17 |
| 34. | <i>New Mexico Preferences</i> | 17 |
| III. RESPONSE FORMAT AND ORGANIZATION | | 19 |
| A. | NUMBER OF RESPONSES | 19 |
| B. | NUMBER OF COPIES | 19 |
| 1. | <i>Hard Copy Responses</i> | 19 |
| C. | PROPOSAL FORMAT | 19 |
| 1. | <i>Proposal Content and Organization</i> | 20 |
| IV. SPECIFICATIONS..... | | 21 |
| 1. | DETAILED SCOPE OF WORK | 21 |
| 2. | TECHNICAL SPECIFICATIONS..... | 22 |
| 1. | <i>Organizational Experience</i> | 22 |
| 2. | <i>Organizational References</i> | 22 |
| 3. | <i>Account Management</i> | 23 |
| 4. | <i>Oral Presentations</i> | 23 |
| 5. | <i>Mandatory Specification</i> | 23 |
| 3. | BUSINESS SPECIFICATIONS | 23 |
| 1. | <i>Financial Stability</i> | 23 |
| 2. | <i>Performance Surety Bond</i> | 23 |
| 3. | <i>Letter of Transmittal Form</i> | 23 |
| 4. | <i>Campaign Contribution Disclosure Form</i> | 24 |
| 5. | <i>Cost</i> | 24 |
| 6. | <i>Employee Health Coverage</i> | 24 |
| 7. | <i>Resident Business or Resident Veterans Preference</i> | 24 |
| V. EVALUATION..... | | 25 |
| A. | EVALUATION POINT SUMMARY | 25 |
| B. | EVALUATION FACTORS | 25 |
| 1. | <i>B.1 Organizational Experience (See Table 1)</i> | 25 |
| 2. | <i>B.2 Organizational References (See Table 1)</i> | 25 |
| 3. | <i>B.3 Account Management (See Table 1)</i> | 26 |
| 4. | <i>B.4 Oral Presentations– (See Table 1)</i> | 26 |
| 5. | <i>B.5 Mandatory Specifications (See Table 1)</i> | 26 |
| 6. | <i>C.1 Financial Stability (See Table 1)</i> | 26 |
| 7. | <i>C.2 Performance Bond (See Table 1)</i> | 26 |
| 8. | <i>C.3 Letter of Transmittal (See Table 1)</i> | 26 |
| 9. | <i>C.4 Campaign Contribution Disclosure Form (See Table 1)</i> | 26 |
| 10. | <i>C.5 Cost (See Table 1)</i> | 26 |
| 11. | <i>C.6. Employee Health Coverage Form (See Table 1)</i> | 27 |
| 12. | <i>C.7. New Mexico Preferences (See Table 1)</i> | 27 |
| C. | EVALUATION PROCESS | 27 |
| APPENDIX A..... | | 28 |
| | ACKNOWLEDGEMENT OF RECEIPT FORM | 28 |
| APPENDIX B..... | | 30 |
| | CAMPAIGN CONTRIBUTION DISCLOSURE FORM | 30 |

| | |
|--|-----------|
| APPENDIX C | 33 |
| SAMPLE CONTRACT..... | 33 |
| APPENDIX D | 49 |
| COST RESPONSE FORM | 49 |
| APPENDIX E | 50 |
| LETTER OF TRANSMITTAL FORM | 50 |
| APPENDIX F | 52 |
| ORGANIZATIONAL REFERENCE QUESTIONNAIRE | 52 |
| APPENDIX G | 56 |
| RESIDENT VETERANS CERTIFICATION..... | 56 |

I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The General Services Department/Risk Management Division (GSD/RMD) as a member and on behalf of the Interagency Benefits Advisory Committee (IBAC) is requesting proposals for consulting/project management services to assist in the procurement of pharmaceutical benefit management (PBM) services for its approximately 200,000 members.

B. BACKGROUND INFORMATION

The Health Care Purchasing Act [Section 13-7-1, et seq. NMSA 1978] ensures public employees, public school employees and retirees of public employment and the public schools have access to more affordable and enhanced quality of health insurance through cost containment and savings effected by procedures for consolidating the purchasing of publicly financed health insurance.

The act requires that the four publicly funded agencies identified below collaborate for the procurement of employee benefits. Together, these agencies awarded a PBM Contract almost four years ago, which expires June 30, 2022 for the General Services Department Risk Management Division, (GSD/RMD), New Mexico Public Schools Insurance Authority (NMPSIA), New Mexico Retiree Health Care Authority (NMRHCA); for Albuquerque Public Schools (APS) the contract expires December 31, 2022. **The four member entities are not required to select the same PBM provider carrier.**

The Interagency Benefits Advisory Committee (IBAC) is composed of representatives from the four New Mexico state entities identified in the Health Care Purchasing Act of 1997:

General Services Department/Risk Management Division (Approximately 57,000 members)

- GSD/RMD provides insurance coverage for all active employees of the State of New Mexico and includes some municipalities, counties, and other local public bodies.

New Mexico Public Schools Insurance Authority (NMPSIA) (Approximately 46,300 members enrolled in medical coverage)

- NMPSIA provides insurance coverage for all New Mexico public school districts (except Albuquerque Public Schools), all charter schools, some colleges and universities, and other educational entities in New Mexico.

New Mexico Retiree Health Care Authority (NMRHCA) (Approximately 55,000 members)

- RHCA provides benefits for all SONM retirees and their dependents from public entities that participate in the program. Retirees from NMPSIA, GSD/RMD, and APS, as well as other public sector entities do participate.

Albuquerque Public Schools (APS) (Approximately 15,500 members)

- APS, by statute, is the only New Mexico public school district which does not participate in the NMPSIA.

Currently, all IBAC entities provide prescription coverage through the same pharmaceutical benefit management service with the exception of New Mexico Retiree Health Care's Medicare Advantage Plans.

Please reference each participating entity's web site for additional background information.

State of New Mexico, Risk Management Division: <https://www.mybenefitsnm.com>

New Mexico Public Schools Insurance Authority: <https://nmpsia.com>

New Mexico Retiree Health Care Authority: <https://www.nmrhca.org/>

Albuquerque Public Schools: <http://www.aps.edu/human-resources/benefits>

C. SCOPE OF PROCUREMENT

The scope of this procurement is limited to procurement of consulting services associated with the development of a comprehensive pharmaceutical benefit management services RFP, the evaluation of elements of the resulting proposals, provision of reports to GSD/RMD (both detailed and summaries) and guidance with regard to finalist interviews.

The resulting contract will be a single award.

In the next four years, there may be other public entities that elect to join the IBAC entities in their procurement of employee benefits. However, these other public entities will not be serviced by the Consultant awarded a contract under this RFP.

D. PROCUREMENT MANAGER

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

| | |
|-----------|--|
| Name: | Laura Romero, Contract Manager |
| RFP Name: | Pharmaceutical Benefits Consultant RFP |
| RFP#: | 22-350-6005-0002 |
| Address: | General Services Department, Risk Management Division |
| Email: | Laura.Romero1@state.nm.us |

PLEASE CONTACT THE PROCUREMENT MANAGER TO CONFIRM THE PROPOSAL DELIVERY ADDRESS PRIOR TO SHIPPING.

2. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of the Agency or on behalf of the IBAC.
3. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.11.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule

and this Request for Proposals. Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

E. PROPOSAL DELIVERY

All deliveries of proposals via express carrier or courier must be addressed and submitted to the Procurement Manager. Hand deliveries will not be accepted.

PLEASE CONTACT THE PROCUREMENT MANAGER TO CONFIRM THE DELIVERY ADDRESS PRIOR TO SHIPPING.

F. DEFINITION OF TERMINOLOGY

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

1. **“Agency”** means the General Services Department/Risk Management Division as the Procurement Manager.
2. **“Authorized Purchaser”** means an individual authorized by a Participating Entity to place orders against this contract.
3. **“Award”** means the final execution of the contract document.
4. **“AWP”** means average wholesale price, which is a pharmaceutical term that describes the average price paid by a retailer to buy a drug from the wholesaler.
5. **“Business Hours”** means 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.
6. **“Close of Business”** means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.
7. **“Confidential”** means confidential financial information concerning offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7. See NMAC 1.4.1.45. As one example, no information that could be obtained from a source outside this request for proposals can be considered confidential information.
8. **“Contract”** means any agreement for the procurement of items of tangible personal property, services or construction.
9. **“Contractor”** means any business having a contract with a state agency or local public body.
10. **“Data”** means a compilation, body, set or sets, of discrete information gathered by Agency and/or Contractor, which Agency owns and/or controls and which concerns, and may be utilized or manipulated by Agency and/or Contractor, to further Agency’s governmental interests, role and mission (“Mission”). Data includes, but is not limited to, Agency’s information, whether or not stored in one or more databases, confidential information and other internal information which affects or may affect Agency’s ability to further its Mission.
11. **“Deliverable”** means the verifiable outcomes, results of the Services that Contractor will develop, perform, and and deliver to Agency according to the Scope of Work.

12. “**Determination**” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
13. “**Desirable**” the terms "may", "can", "should", "preferably", or "prefers" identify a desirable or discretionary item or factor.
14. “**Electronic Version/Copy**” means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (cd) or USB flash drive. The electronic version/copy CANNOT be emailed.
15. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
16. “**Evaluation Committee Report**” means a report prepared by the Procurement Manager and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.
17. “**Finalist**” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.
18. “**GRT**” means New Mexico gross receipts tax.
19. “**Hourly Rate**” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel, if appropriate.
20. “**IBAC**” means the Interagency Benefits Advisory Committee, which consists of four entities: General Services Department Risk Management Division, (GSD/RMD), New Mexico Public Schools Insurance Authority (NMPSIA), New Mexico Retiree Health Care Authority (NMRHCA), and Albuquerque Public Schools (APS).
21. “**IT**” means Information Technology.
22. “**Mandatory**” – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.
23. “**Minor Technical Irregularities**” means anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.
24. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.
25. “**Payment Invoice**” means each of Contractor’s detailed, certified, and written requests for payment concerning the service Deliverables that Contractor renders to Agency. Each Payment Invoice must identify each Deliverable for which the Payment Invoice is submitted and must include the price as for each Deliverable billed.
26. “**Performance Bond**” means a surety bond that guarantees against Contractor’s Default as well as Contractor’s full performance of its obligations under a contract.

27. **“Procurement Manager”** means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.
28. **“Procuring Agency”** means the General Services Department/Risk Management Division as a member of and on behalf of the IBAC.
29. **“Project”** means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.
30. **“Quality Assurance”** or **“Quality Assurance Review”** means the planned and systematic pattern of rules, measures, procedures and process established by Agency to ensure that each Deliverable conforms to the requirements stated in the Scope of Work.
31. **“Redacted”** means a version/copy of the proposal with the information considered confidential as defined by NMAC 1.4.1.45 and defined herein and outlined in Section II.C.8 of this RFP blacked out BUT NOT omitted or removed.
32. **“Request for Proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.
33. **“Responsible Offeror”** means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that its financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services as described in the proposal.
34. **“Responsive Offer”** means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.
35. **“Scope of Work”** or **“SOW”** means the statements of purpose and the Deliverables attached to a final Contract.
36. **“Sealed”** means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.
37. **“Service”** or **“the Services”** means the task(s), function(s), and responsibility(ies) assigned to, and performed by Contractor according to the SOW.
38. **“SPA” and “SPD”** means the State Purchasing Agent (SPA) of the State Purchasing Division (SPD) of the New Mexico General Services Department.
39. **“Staff”** means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

40. **“State (the State)”** means the State of New Mexico.
41. **“Statement of Concurrence”** means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (e.g. “We concur”, “Understands and Complies”, “Comply”, “Will Comply if Applicable” etc.)
42. **“Telecom and Data Infrastructure”** means the physical hardware used to interconnect computers and users. Infrastructure includes the transmission media, including telephone lines, cable television lines, and satellites and antennas, and also the routers, aggregators, repeaters, and other devices that control transmission paths. Infrastructure also includes the software used to send, receive, and manage the signals that are transmitted.
43. **“Unredacted”** means a version/copy of the proposal containing all complete information including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.
44. **“Written”** means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

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

| Action | Responsible Party | Due Dates |
|--|---------------------------|------------------------------|
| 1. Issue RFP | Procurement Manager | March 31, 2021 |
| 2. Acknowledgement of Receipt (Distribution List Response) | Procurement Manager | April 9, 2021 |
| 3. Deadline to submit Questions | Potential Offerors | April 15, 2021 |
| 4. Response to Written Questions | Procurement Manager | April 19, 2021 |
| 5. Submission of Proposal | Potential Offerors | May 3, 2021 |
| 6. Proposal Evaluation | Evaluation Committee | May 5-6, 2021 |
| 7. Selection of Finalists | Evaluation Committee | May 7, 2021 |
| 8. Best and Final Offers | Finalist Offerors | May 14, 2021 |
| 9. Oral Presentation(s) | Finalist Offerors | May 20-21, 2021 |
| 10. Finalize Contractual Agreements | Agency/Finalist Offerors | May 24-June 25, 2021 |
| 11. Contract Awards | Agency/ Finalist Offerors | July 1, 2021 |
| 12. Protest Deadline | Procurement Manager | +15 days from Contract Award |

*Dates indicated in Events 7 through 12 are estimates only, and may be subject to change without necessitating an amendment to the RFP.

B. EXPLANATION OF EVENTS

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

1. Issue RFP

This RFP is being issued on behalf of the New Mexico State IBAC on March 31, 2021.

2. Acknowledgement of Receipt Form

Potential Offerors should email the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, APPENDIX A, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Manager by **3:00 pm MST or MDT as indicated in the Sequence of Events.**

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list, and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to the RFP.

3. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until **3:00 p.m. Mountain Standard Time/Daylight Time as indicated in the sequence of events.** All written questions must be addressed to the Procurement Manager via email as declared in Section I, Paragraph D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

4. Response to Written Questions

Written responses to the written questions will be provided via email, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A).

An electronic version of the Questions and Answers will be posted to:
<https://www.generalservices.state.nm.us/riskmanagement/solicitations.aspx>

5. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN **3:00 PM** MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE

OF EVENTS. PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE ACCEPTED UNDER ANY CIRCUMSTANCES. SEE SECTION I E, SUBMISSION WHICH INSTRUCTS OFFERORS TO CONTACT THE PROCUREMENT MANAGER TO CONFIRM THE CORRECT DELIVERY ADDRESS. The date and time of receipt will be recorded on each proposal. If an Offeror decides to use a third-party delivery entity to submit its proposal, it is still the responsibility of the Offeror to ensure that the delivery is made on time and to the correct location. An Offeror should take into account all factors regarding the delivery by the third party entity and ensure that the delivery is made prior to the stated deadline. Weather delays, traffic jams, deliveries to the incorrect address or any other reason will not be accepted for failure to make the stated deadline.

Proposals must be addressed and delivered to the Procurement Manager. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the **Consultant for Pharmaceutical Benefit Management Procurement Services, RFP # 22-350-6005-0002.**

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

6. Proposal Evaluation

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

7. Selection of Finalists

The Evaluation Committee will select the finalist Offeror(s) as per schedule Section II.A, Sequence of Events or as soon as possible thereafter. A schedule for Oral Presentation will be determined at this time.

Responsive proposals will be evaluated on the factors in Section IV, which include factors assigned a point value. The responsible Offeror(s) with the highest scores will be selected as finalist Offeror(s), based upon the proposals submitted. The responsible Offeror(s) whose proposals are most advantageous to the IBAC Agencies taking into consideration the evaluation factors in Section IV will be recommended for award.

8. Oral Presentations

Finalist Offerors, as selected per Section II.B.7 above, may be required to conduct an oral presentation at a venue to be determined as per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. If/when oral presentations are held, Finalist Offerors may

be required to make their presentations through electronic means (GoToMeeting, Zoom, etc). The Procurement Manager will provide Finalist Offerors with applicable details.

9. Finalize Contractual Agreements

After approval of the Evaluation Committee Report, any contractual agreement resulting from this RFP will be finalized with the most advantageous Offeror, taking into consideration the evaluation factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

10. Contract Awards

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

11. Protest Deadline

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

Gerardo Ruelas, Chief Procurement Officer (CPO)
General Services Department, Administrative Services Division
Joseph Montoya Building
1100 St. Francis Drive, Rm. 3021
P.O. Box 6850
Santa Fe, NM 87502

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

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

2. Incurring Cost

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

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

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

5. Amended Proposals

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

6. Offeror's Rights to Withdraw Proposal

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

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

7. Proposal Offer Firm

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

8. Disclosure of Proposal Contents

The contents of all submitted proposals will be kept confidential until the final award has been completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be available for public inspection, *except* for proprietary or confidential material as follows:

- a. *Proprietary and Confidential information is restricted to:*
 1. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7, NMSA 1978.
- b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Sections III.B.1.1 and III.B.1.2, shall be submitted containing proposed blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

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

IMPORTANT: The Agency is not bound by Offeror's determination of what information is proprietary or confidential. If a request is received for disclosure of proprietary or confidential materials, the Agency will make an independent determination of which portions of the proposal should be disclosed. Unless the Offeror provides the Agency a court order preventing the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of proprietary or confidential information.

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

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

12. Legal Review

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

13. Governing Law

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

14. Basis for Proposal

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

15. Contract Terms and Conditions

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

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

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

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

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

16. Offeror's Terms and Conditions

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

17. Contract Deviations

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

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.F.23. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

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

21. Notice of Penalties

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

22. Agency Rights

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

23. Right to Publish

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

24. Ownership of Proposals

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

25. Confidentiality

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

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

26. Electronic mail address required

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

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the Agency, the Offeror acknowledges that the version maintained by the Agency shall govern. Please refer to: <https://www.generalservices.state.nm.us/riskmanagement/solicitations.aspx>.

28. New Mexico Employees Health Coverage

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <https://bewellnm.com>.

29. Campaign Contribution Disclosure Form

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

30. Letter of Transmittal

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

The Letter of Transmittal MUST:

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

Failure to provide the information required pursuant to this Section 30 will result in Offeror's disqualification.

31. Disclosure Regarding Responsibility

- A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
 1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
 2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:

- a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers; or
 - c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
 4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
 - C. The Contractor shall provide immediate written notice to the State Purchasing Agent or other party to this contractual agreement if, at any time during the term of this contractual agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
 - D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this contractual agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this contractual agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
 - E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
 - F. The disclosure requirement provided is a material representation of fact upon which

reliance was placed when making an award and is a continuing material representation of the facts during the term of this contractual agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the State Purchasing Agent or other party to this contractual agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

32. Protection of Data

Offeror shall protect and safekeep all of Procuring Agency's Data and IBAC Data to the same or a higher degree of care that Offeror takes with respect to its own information and data. Offeror will implement all measures necessary to protect Procuring Agency's Data and IBAC Data from any and all harm, including but not limited to, breach, intrusion, contamination, corruption, loss, leak, theft, disintegration, viral attack, denial-of-service, malware, worms, trojans, ransomware, hacking, phishing, skimming and other damage of any kind (collectively "Data Damage"), whether caused by Offeror, Offeror's Employees or one or more third parties. In the event a Data Damage incident occurs while Procuring Agency's Data and IBAC Data is within Offeror's purview and/or control, *within twenty-four (24) hours of Offeror's discovery of a Data Damage incident, Offeror will notify the Procurement Manager concerning the Data Damage incident. Upon request, Offeror shall provide sufficient information to the Agency Chief Information Officer to determine, in conjunction with Offeror, which measures, if any, Offeror must implement to mitigate the Data Damage.*

33. Rights to Data

Any and all of Procuring Agency's Data that is stored upon Offeror's servers or lies within Offeror's custody, is Procuring Agency's sole and separate property and inures to Procuring Agency's exclusive benefit. None of Offeror's or Offeror's Employees, subcontractor(s), affiliates and/or assigns will make use of, disclose, sell, copy, license or reproduce Procuring Agency's Data in any manner, or provide Procuring Agency's Data to any third party absent Procuring Agency's prior written authorization. Offeror shall supply the Procuring Agency a copy of its data in the file format required within five (5) days of a written request submitted to the Offeror from the Procuring Agency's Chief Information Officer.

34. New Mexico Preferences

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

A. New Mexico Business Preference

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

B. New Mexico Resident Veterans Business Preference

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

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

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES

1. Hard Copy Responses

Offeror's proposal must be clearly labeled and numbered and indexed as outlined in **Section III.C. Proposal Format**. Proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the binder. Each portion of the proposal (technical/cost) must be submitted in separate binders and must be prominently displayed on the front cover. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

Offerors should deliver:

1. **Technical Proposals** – One (1) ORIGINAL COPY, five (5) HARD COPIES, and six (6) electronic copies, such as compact disc (CD), flash drive, or other device containing a readable content of the proposal and which contains ONLY the Technical Proposal. ORIGINAL and COPIES of Technical Proposals shall be in separate labeled binders. **The electronic version/copy CANNOT be emailed.**
- Proposals containing confidential information **must** be submitted as two separate binders:
 - **Unredacted** version for evaluation purposes
 - **Redacted** version (information blacked out and not omitted or removed) for the public file
2. **Cost Proposals** – One (1) ORIGINAL, five (5) HARD COPIES, and six (6) electronic copies, such as compact disc (CD), flash drive, or other device containing a readable content of the proposal and which contains ONLY the Cost Proposal. ORIGINAL and COPIES of Cost Proposals shall be in separate labeled binders from the Technical Proposals. **The electronic copy CANNOT be emailed.**

Any proposal that does not adhere to the requirements of this Section III.B.1 and Section III.C.1 Response Format and Organization, may be deemed non-responsive and rejected on that basis.

PLEASE CONTACT THE PROCUREMENT MANAGER REFERENCED IN I. D. OF THIS RFP TO CONFIRM THE DELIVERY ADDRESS PRIOR TO SHIPPING.

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

1. Proposal Content and Organization

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

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

- A. Signed Letter of Transmittal
- B. Signed Campaign Contribution Form
- C. Table of Contents
- D. Proposal Summary (Optional)
- E. Response to Contract Terms and Conditions (from Section II.C.15)
- F. Offeror's Additional Terms and Conditions (from Section II.C.16)
- G. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal/Binder 2**)
 - 1. Organizational Experience
 - 2. Organizational References
 - 3. Account Management
 - 4. Oral Presentation (if applicable)
 - 5. Mandatory Specification
 - 6. Desirable Specification
 - 7. Financial Stability –(Financial information considered confidential, as defined in Section I.E. and detailed in Section II.C.8, should be placed in the **Confidential Information** file, as applicable)
 - 8. Performance Surety Bond (if applicable)
 - 9. New Mexico Preferences (if applicable)
- H. Other Supporting Material (if applicable)

Cost Proposal:

- 1. Completed Cost Response Form (APPENDIX D)

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates or expenses must occur on the provided cost response form and the form shall be included only in Binder #2.

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

IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

1. DETAILED SCOPE OF WORK

The GSD/RMD as a member of and on behalf of IBAC is seeking a consultant with public entity experience to assist in the procurement of pharmaceutical benefit management services (PBM). Consultant will provide the following services:

1. Collaborate and work with IBAC to develop an IBAC-specific Request For Proposal (RFP) for PBM services based on the input and direction from IBAC member agencies while adhering to state-mandated purchasing guidelines. PBM services will begin on July 1, 2022; APS services begin January 1, 2023.
2. Provide a timeline, methodology, and strategy as to how management of the PBM RFP will be accomplished and evaluated by the IBAC.
3. Collaborate and work with the IBAC to analyze financial bids of PBMs to include proposed fees, member pricing, AWP discounts, dispensing drugs from the formulary, proposed rebates, formulary design, types of services covered and cost containment strategies.
4. Perform a review of pharmacy network size, access by members, management of pharmaceutical services, types of savings to benefit member stakeholders and identification of any disruption or changes made, such as a drug being removed from the formulary or new program initiatives.
5. Provide the IBAC with an evaluation as to whether the current manner of a “carved out” PBM benefits program will continue to be more advantageous for IBAC in contrast to pharmacy benefits being managed by health plans.
6. Provide research and advise the IBAC regarding the nature and possible applicability of any additional prescription purchasing coalitions which may include multiple states or specific geographic regions.
7. Perform a complete and comprehensive evaluation of PBMs across the country and provide a summary report to the IBAC with enough time for the resultant RFP to be timely completed and awarded.
8. As requested by IBAC stakeholders, provide guidance to selection team to make an informed decision after completion of finalist interviews, including best and final offers (BAFO) if a BAFO is required.
9. Provide a proposed evaluation report to the Agency and collaborate with the IBAC entities as required to finalize the report.
10. Collaborate and cooperate with the Protest Manager in preparing any protest determination.
11. Assist with RFP specifications, preparations, and review of vendor proposals and advise, as requested, with negotiations and implementation guidance.

12. Assist with establishing and calculating the evaluation point summary, cost ranking, and total awarded points to include a best and final analysis.
13. Assist with providing responses to written questions from Offerors.
14. As requested, participate in the preparation and presentation of any necessary and/or requested reports, cost projections, and side by side comparison of responses.

2. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offeror **must**:

- a) provide a brief and detailed description of relevant corporate experience with state government and private sector within the last five (5) years. The experience of all proposed subcontractors must also be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of such experience, expertise and knowledge as a provider of consulting services related to PBM. All PBM consulting services provided to private sector will also be considered;
- b) provide a brief resume and/or bio of all key personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. Such resumes and/or bio will reflect work experience relevant to the requirements under this RFP. Key personnel are those individuals who will be directly providing the PBM Consulting services to the Agency. Offeror must include key personnel education, work experience, relevant/applicable certifications/licenses;
- c) indicate the number of PBM consulting services relevant to this RFP which the Offeror has provided in the last two years and what percentage of business revenue is derived from such PBM consulting engagements; and
- d) describe at least two PBM consulting project successes managed by the Offeror in the last 5 years. Include a description as to how each experience improved the Offeror's proposed services.

2. Organizational References

Agency will require Offeror to provide provide a maximum of three (3) external organizational references from similar projects/programs performed for state or large local government or private clients within the last three (3) years.

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

- a) Client name, location (city and state), industry, number of employees covered on the prescription drug plan;
- b) Project description;
- c) Project dates (starting and ending);
- d) Technical environment (e.g., Pharmacy Benefit Management Consulting Services);
- e) Staff assigned to referenced engagement who will be designated for work per this RFP; and

- f) Client project manager name, telephone number and e-mail address.

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

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

3. Account Management

Offerors must submit resumes of all proposed professional staff members who will be performing services under the contract. Experience narratives shall be attached that describe the specific relevant experience of the staff members in relation to the role that member will perform for this contract. The narrative(s) must include the name of the individual(s) proposed and should include a thorough description of the education, knowledge, and relevant experience as well as certifications or other professional credentials that clearly shows how they are qualified to provide the required services to the IBAC.

4. Oral Presentations

Finalists may be invited to provide an Oral Presentation. Prior to Oral Presentation, the IBAC will provide those Offerors a presentation agenda.

5. Mandatory Specification

None.

3. BUSINESS SPECIFICATIONS

1. Financial Stability

If Offeror is selected by the Evaluation Committee as one of the finalists, it must provide sufficient information to enable the Evaluation Committee to assess the financial stability of the Offeror. A statement of concurrence must be submitted in the Offeror’s proposal assenting to this requirement.

2. Performance Surety Bond

Offeror must be able to obtain a Performance bond in the amount of twice the amount of the final negotiated contract amount. A statement of concurrence must be submitted in the Offeror’s proposal assenting to this requirement.

3. Letter of Transmittal Form

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

and APPENDIX E, and to return a signed, unaltered form will result in Offeror's disqualification.

4. Campaign Contribution Disclosure Form

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

5. Cost

Offerors must complete the Cost Response Form in APPENDIX D. Cost will be measured by taking the lowest costing Offeror's quote as the basis for all other calculations; the lowest cost Offeror will receive the full 300 points. All other offerors will be awarded points based on their relationship to the "basis" offer. Please ensure all proposals include and itemize appropriate GRT or other applicable taxes.

6. Employee Health Coverage

Offerors must submit a statement of concurrence to the requirements of II. B. 28 of this RFP.

7. Resident Business or Resident Veterans Preference

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

V. EVALUATION

A. EVALUATION POINT SUMMARY

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

| Factors – correspond to section IV.B and IV C | Points Available |
|---|-------------------------|
| B. Technical Specifications | |
| B. 1. Organizational Experience | 225 |
| B. 2. Organizational References | 50 |
| B. 3. Account Management | 275 |
| B. 4. Oral Presentations – ONLY to Top Finalists | 150 |
| B. 5. Mandatory Specification | N/A |
| C. Business Specifications | |
| C.1. Financial Stability | Pass/Fail |
| C.2. Performance Surety Bond | Pass/Fail |
| C.3. Letter Of Transmittal | Pass/Fail |
| C.4. Signed Campaign Contribution Disclosure Form | Pass/Fail |
| C.5. Cost | 300 |
| C.6. Employee Health Coverage | Pass/Fail |
| TOTAL | 1,000 points |
| C.7. New Mexico Preference - Resident Vendor Points per Section IV C. 6 | 50 |
| New Mexico Preference - Resident Veterans Points per Section IV C.6 | 100 |
| | |

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

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

Points will be awarded based on the thoroughness and clarity of Offeror’s response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror’s experience, expertise and knowledge; and of personnel education, experience and certifications/licenses. In addition, points will be awarded based on Offeror’s candid and well-thought-out response to its successes and how it has grown from those successes.

2. B.2 Organizational References (See Table 1)

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix F). Offeror will be evaluated

on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will receive zero (0) points.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must be together on a conference call with the submitted reference so the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the Agency reserves the right to consider any and all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

3. B.3 Account Management (See Table 1)

Points will be awarded based on the thoroughness and clarity of the response to the information cited and the perceived validity of the response.

4. B.4 Oral Presentations– (See Table 1)

Up to 150 points will be awarded to the top finalists. Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda.

5. B.5 Mandatory Specifications (See Table 1)

Not applicable.

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

Pass/Fail only. No points assigned.

7. C.2 Performance Bond (See Table 1)

Pass/Fail only. No points assigned

8. C.3 Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

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

Pass/Fail only. No points assigned.

10. C.5 Cost (See Table 1)

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

Lowest Responsive Offeror's Cost

Each Offeror's Cost

X Available Award Points

11. C.6. Employee Health Coverage Form (See Table 1)

Pass/Fail only. No points assigned.

12. C.7. New Mexico Preferences (See Table 1)

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

A. New Mexico Resident Business Preference

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

B. New Mexico Resident Veterans Business Preference

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

C. EVALUATION PROCESS

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

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

APPENDIX A

REQUEST FOR PROPOSAL

Procurement: Consultant for Pharmaceutical Benefit Management Procurement
Services
22-350-6005-0002

ACKNOWLEDGEMENT OF RECEIPT FORM

This Acknowledgement of Receipt Form should be signed and submitted no later than **3:00 p.m. Mountain Standard Time/Daylight Time on April 9, 2021**. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

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

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

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:

Name: Laura Romero

RFP Name: Pharmaceutical Benefits Consultant RFP

22-350-6005-0002

Telephone: (505) 827-0463

Email: Laura.Romero1@state.nm.us

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

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

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

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

The following definitions apply:

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

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

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

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

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

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

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

Name(s) of Applicable Public Official(s) if any: _____

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s)

(Attach extra pages if necessary)

Signature

Date

Title (position)

--OR--

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

Signature

Date

Title (Position)

APPENDIX C

SAMPLE CONTRACT

State of New Mexico

General Services Department/Risk Management Division

On Behalf of

Interagency Benefits Advisory Committee (IBAC)

Agreement No. _____

THIS Agreement (“Agreement”) is made by and between the State of New Mexico **General Services Department/Risk Management Division**, hereinafter referred to as the “Procuring Agency” and **[Insert Contractor Name]**, 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 held itself out as an entity with the ability to provide the required services to implement 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 RFP# **22-350-6005-0002 Consultant for Pharmaceutical Benefit Management Procurement Services** and the Contractor’s response to such document(s) are incorporated herein by reference; and

NOW, THEREFORE, THE FOLLOWING TERMS AND CONDITIONS ARE MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Definitions.**

- A. “**Agency**” means the General Services Department/Risk Management Division as the Procurement Manager.
- B. “**Authorized Purchaser**” means an individual authorized by a Participating Entity to place orders against this contract.
- C. “**Award**” means the final execution of the contract document.
- D. “**AWP**” means average wholesale price, which is a pharmaceutical term that describes the average price paid by a retailer to buy a drug from the wholesaler.
- E. “**Business Hours**” means 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.
- F. “**Close of Business**” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.
- G. “**Confidential**” means confidential financial information concerning offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7. See NMAC 1.4.1.45. As one example, no information

that could be obtained from a source outside this request for proposals can be considered confidential information.

- H. **“Contract”** means any agreement for the procurement of items of tangible personal property, services or construction.
- I. **“Contractor”** means any business having a contract with a state agency or local public body.
- J. **“Data”** means a compilation, body, set or sets, of discrete information gathered by Agency and/or Contractor, which Agency owns and/or controls and which concerns, and may be utilized or manipulated by Agency and/or Contractor, to further Agency’s governmental interests, role and mission (“Mission”). Data includes, but is not limited to, Agency’s information, whether or not stored in one or more databases, confidential information and other internal information which affects or may affect Agency’s ability to further its Mission.
- K. **“Deliverable”** means the verifiable outcomes, results of the Services that Contractor will develop, perform, and and deliver to Agency according to the Scope of Work.
- L. **“Determination”** means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
- M. **“Desirable”** the terms "may", "can", "should", "preferably", or "prefers" identify a desirable or discretionary item or factor.
- N. **“Electronic Version/Copy”** means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (cd) or USB flash drive. The electronic version/copy CANNOT be emailed.
- O. **“Evaluation Committee”** means a body appointed to perform the evaluation of Offerors’ proposals.
- P. **“Evaluation Committee Report”** means a report prepared by the Procurement Manager and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.
- Q. **“Finalist”** means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.
- R. **“GRT”** means New Mexico gross receipts tax.
- S. **“Hourly Rate”** means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel, if appropriate.
- T. **“IBAC”** means the Interagency Benefits Advisory Committee, which consists of four entities: General Services Department Risk Management Division, (GSD/RMD), New Mexico Public Schools Insurance Authority (NMPSIA), New Mexico Retiree Health Care Authority (NMRHCA), and Albuquerque Public Schools (APS).
- U. **“IT”** means Information Technology.

- V. **“Mandatory”** – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.
- W. **“Minor Technical Irregularities”** means anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.
- X. **“Offeror”** is any person, corporation, or partnership who chooses to submit a proposal.
- Y. **“Payment Invoice”** means each of Contractor’s detailed, certified, and written requests for payment concerning the service Deliverables that Contractor renders to Agency. Each Payment Invoice must identify each Deliverable for which the Payment Invoice is submitted and must include the price as for each Deliverable billed.
- Z. **“Performance Bond”** means a surety bond that guarantees against Contractor’s Default as well as Contractor’s full performance of its obligations under a contract.
- AA. **“Procurement Manager”** means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.
- BB. **“Procuring Agency”** means the General Services Department/Risk Management Division as a member and on behalf of the IBAC.
- CC. **“Project”** means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.
- DD. **“Quality Assurance”** or **“Quality Assurance Review”** means the planned and systematic pattern of rules, measures, procedures and process established by Agency to ensure that each Deliverable conforms to the requirements stated in the Scope of Work.
- EE. **“Redacted”** means a version/copy of the proposal with the information considered confidential as defined by NMAC 1.4.1.45 and defined herein and outlined in Section II.C.8 of this RFP blacked out BUT NOT omitted or removed.
- FF. **“Request for Proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.
- GG. **“Responsible Offeror”** means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that its financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services as described in the proposal.
- HH. **“Responsive Offer”** means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.
- II. **“Scope of Work”** or **“SOW”** means the statements of purpose and the Deliverables attached to a final contractual agreement.

JJ. “Sealed” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

KK. “Service” or “the Services” means the task(s), function(s), and responsibility(ies) assigned to, and performed by Contractor according to the SOW.

LL. “SPA” and “SPD” means the State Purchasing Agent (SPA) of the State Purchasing Division (SPD) of the New Mexico General Services Department.

MM. “Staff” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

NN. “State (the State)” means the State of New Mexico.

OO. “Statement of Concurrence” means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (e.g. “We concur”, “Understands and Complies”, “Comply”, “Will Comply if Applicable” etc.)

PP. “Telecom and Data Infrastructure” means the physical hardware used to interconnect computers and users. Infrastructure includes the transmission media, including telephone lines, cable television lines, and satellites and antennas, and also the routers, aggregators, repeaters, and other devices that control transmission paths. Infrastructure also includes the software used to send, receive, and manage the signals that are transmitted.

QQ. “Unredacted” means a version/copy of the proposal containing all complete information including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.

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

2. **Scope of Work.**

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

3. **Compensation.**

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed at the rate of _____ dollars (\$_____) per hour (OR BASED UPON DELIVERABLES, MILESTONES, BUDGET, ETC.), such compensation not to exceed (AMOUNT), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this contractual agreement totaling (AMOUNT) shall be paid by the Agency to the Contractor. The total amount payable to the Contractor under this

contractual agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT).

This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this contractual agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Agency when the services provided under this contractual agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this contractual agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

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

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

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. **PLEASE NOTE NO PROPERTY TAX WILL BE PAID TO THE CONTRACTOR BY THE STATE.** The payment of taxes for any money received under this contractual 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. Performance Bond. Contractor shall execute and deliver to Procuring Agency, contemporaneously with the execution of this contractual agreement, a Performance Bond

in the amount of [Insert Total Amount of agreed upon Performance Bond] in the name of the Procuring Agency. The Performance Bond shall be in effect for the duration of this contractual agreement and any renewals thereof. The required Performance 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 arising under this contractual agreement. The Procuring Agency's right to recover from the Performance Bond shall include all costs and damages associated with the transfer of Services provided under this contractual agreement to another Contractor or to the State of New Mexico as a result of Contractor's failure to perform.

4. Term.

THIS CONTRACTUAL AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE GSD/SPD/CRB. This contractual agreement shall terminate on June 30, 2025 unless terminated pursuant to paragraph 5 (Termination), or paragraph 6 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four (4) years, except as set forth in NMSA 1978, § 13-1-150.

5. Termination

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

B. Notice; Procuring Agency Opportunity to Cure.

1. Except as otherwise provided in sub-paragraph A of this Clause and the Appropriations Clause of this contractual agreement, the Procuring Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Procuring Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Procuring Agency's material breaches of this contractual agreement upon which the termination is based and (ii) state what the Procuring Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Procuring Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Procuring Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

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

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

6. **Appropriations.**

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

7. **Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional or general services for the Procuring 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 contractual agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

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

- A. The Contractor represents and warrants that it presently has no interest and, during the term of this contractual agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the contractual agreement.
- B. The Contractor further represents and warrants that it has complied with, and, during the term of this contractual agreement, will continue to comply with, and that this contractual agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in any way limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

- 1) in accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this contractual agreement any Procuring Agency employee while such employee was or is employed by the Procuring Agency and participating directly or indirectly in the Procuring Agency's contracting process;
- 2) this contractual agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this contractual agreement was awarded pursuant to a competitive process;
- 3) in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this contractual agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Procuring Agency's making this contractual agreement;
- 4) this contractual agreement complies with NMSA 1978, § 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this contractual agreement is not a sole source or small purchase contract, and this contractual agreement was awarded in accordance with the provisions of the Procurement Code;
- 5) in accordance with NMSA 1978, § 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this contractual agreement or any procurement related to this contractual agreement; and
- 6) in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this contractual agreement shall not contribute, anything of value to a public officer or employee of the Procuring Agency.

C. Contractor's representations and warranties in paragraphs A and B of this Clause are material representations of fact upon which the Procuring Agency relied when this contractual agreement was entered into by the parties. Contractor shall provide immediate written notice to the Procuring Agency if, at any time during the term of this contractual agreement, Contractor learns that Contractor's representations and warranties in paragraphs

A and B of this Clause were erroneous on the effective date of this contractual agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in paragraphs A and B of this Clause were erroneous on the effective date of this contractual agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Procuring Agency and notwithstanding anything in the contractual agreement to the contrary, the Procuring Agency may immediately terminate the contractual agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this contractual agreement.

9. **Amendment.**

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

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

10. **Merger.**

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

11. **Penalties for violation of law.**

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

12. **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 contractual agreement. If Contractor is found not to be in compliance with these requirements during the life of this contractual agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

13. 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 contractual agreement may be terminated by the Procuring Agency.

14. Applicable Law.

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

15. Records and Financial Audit.

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

16. Invalid Term or Condition.

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

17. Enforcement of Contractual Agreement

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

18. Non-Collusion

In signing this contractual agreement, the Contractor certifies the Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or agency or entity.

19. Notices.

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

To the Procuring Agency:
Director, Risk Management
General Services Department, Risk Management Division
Joseph Montoya Building
1100 St. Francis Drive, Rm. 2073
P.O. Box 6850
Santa Fe, NM 87502

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

20. Succession

This contractual agreement shall extend to and be binding upon the successors and assigns of the parties.

21. 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 contractual agreement. Numbered or lettered provisions, sections and subsections contained herein, refer only to provisions, sections and subsections of this contractual agreement unless otherwise expressly stated.

22. 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 Procuring Agency and the State of New Mexico may also seek all other remedies under the terms of this contractual agreement and under law or equity.

23. Equitable Remedies.

Contractor acknowledges that its failure to comply with any provision of this contractual 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 contractual 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.

24. 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 this contractual agreement, Contractor certifies, by signing this contractual agreement, to have in place, and agree to maintain for the term of the contractual agreement, health

insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

- B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <https://bewellnm.com>.

25. Indemnification.

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

26. Default and Force Majeure.

The State reserves the right to cancel all or any part of any orders placed under this contractual agreement without cost to the State, if the Contractor fails to meet the provisions of this contractual agreement and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the State due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the State provided in this Clause shall not be exclusive and are in addition to any other rights now being provided by law or under this contractual agreement.

27. Assignment.

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

28. Subcontracting.

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

29. Release.

Final payment of the amounts due under this contractual 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 contractual agreement.

30. Confidentiality.

Any Confidential Information provided to the Contractor by the Procuring Agency or, developed by the Contractor based on information provided by the Procuring Agency in the performance of this contractual 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 contractual agreement, Contractor shall deliver all Confidential Information 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.

31. Contractor Personnel.

- A. Key Personnel. Contractor's key personnel shall not be diverted from this contractual 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 contractual agreement. Key personnel shall be:

[Insert Contractor Staff Name(s)]

- 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.

32. Incorporation by Reference and Precedence.

If this contractual agreement has been procured pursuant to a request for proposals, this contractual agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any agency response to questions); (2) the Contractor's best and final offer; and (3) the Contractor's response to the request for proposals.

In the event of a dispute under this contractual agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the contractual agreement in reverse chronological order; (2) the contractual agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the SPA or Procuring Agency or entity; and (5) the Contractor's response to the request for proposals.

THE PROVISIONS OF THIS CLAUSE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE STATE PARTIES' TO THIS CONTRACTUAL AGREEMENT OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS CONTRACTUAL AGREEMENT.

33. Protection of Data

Contractor shall protect and safekeep all of Procuring Agency's Data and IBAC Data to the same or a higher degree of care that Contractor takes with respect to its own information and data. Contractor will implement all measures necessary to protect Procuring Agency's Data and IBAC Data from any and all harm, including but not limited to, breach, intrusion, contamination, corruption, loss, leak, theft, disintegration, viral attack, denial-of-service, malware, worms, trojans, ransomware, hacking, phishing, skimming and other damage of any kind (collectively "Data Damage"), whether caused by Contractor, Contractor's Employees, or one or more third parties. In the event a Data Damage incident occurs while Procuring Agency's Data and IBAC Data is within Contractor's purview and/or control, within twenty-four (24) hours of Contractor's discovery of a Data Damage incident, Contractor will notify the Procurement Manager concerning the Data Damage incident. Upon request, Contractor shall provide sufficient information to the Agency Chief Information Officer to determine, in conjunction with Contractor, which measures, if any, Contractor must implement to mitigate the Data Damage.

34. Rights to Data

Any and all of Procuring Agency's Data that is stored upon Contractor's servers or lies within Contractor's custody, is Procuring Agency's sole and separate property and inures to Procuring Agency's exclusive benefit. None of Contractor's or Contractor's Employees, subcontractor(s), affiliates and/or assigns will make use of, disclose, sell, copy, license or reproduce Procuring Agency's Data in any manner, or provide Procuring Agency's Data to any third party absent Procuring Agency's prior written authorization. Contractor shall supply the

Procuring Agency a copy of its data in the file format required within five (5) days of a written request submitted to the Contractor from the Procuring Agency's Chief Information Officer.

IN WITNESS WHEREOF, the Parties hereby execute this contractual agreement, which will take effect on the last signature date of the required approval authorities below. Each of the signatories, below, may execute this contractual agreement by hard copy original, digital or electronic signature, any of which shall be deemed to be a true and original signature hereunder.

By: _____ Date: _____
[Insert Procuring Agency Cabinet Secretary Name]
[Insert Agency Name]

By: _____ Date: _____
[Insert Contractor Name, Title]
[Company Name]

Approved for legal sufficiency:

By: _____ Date: _____
[Insert Procuring Agency General Counsel Name]
[Insert Procuring Agency Name]

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

CRS ID Number: _____

NOTE: Taxation and Revenue is only verifying the registration and will not confirm or deny taxability statements contained in this contract.

By: _____ Date: _____
Taxation & Revenue Department

This contractual agreement has been approved by the State Purchasing Contracts Review Bureau:

By: _____ Date: _____
GSD/SPD Contracts Review Bureau
State of New Mexico

APPENDIX D
COST RESPONSE FORM

SUMMARY OF PROPOSED MAXIMUM RATES

The Offeror submits the following firm, fixed maximum rates to complete the requirements as outlined in this RFP for the State of New Mexico. Proposed rates should be identified separately and clearly identified as such.

Professional Consulting: _____ Hourly Rate

Administrative: _____ Hourly Rate

Other: [DESCRIBE] _____ Hourly Rate

Price Clarifications

- In your cost proposal, outline any costs that are not included in your hourly rate.
- Please ensure all proposals include and itemize appropriate GRT (gross receipts tax) or other applicable taxes.
- All travel, lodging, and meals for Offeror’s staff to travel to Santa Fe, New Mexico or elsewhere in the state, for meetings as required by the IBAC must be included in Offeror’s cost proposal.
- IBAC reserves the right to clarify any pricing discrepancies related to assumptions made by respondents. Such clarifications will be solely to provide consistency so that an accurate cost comparison can be achieved for scoring purposes.
- IBAC expects to receive monthly invoices from the awarded consultant. The invoice shall be sent to IBAC (at an address to be provided) at the end of the month for which the services were provided, i.e., the invoice for the month of October would be dated October 31st and sent to IBAC on that date or in early November. Payment to consultant shall be due within 30 days of IBAC’s receipt of the invoice.

Offeror Name: _____

APPENDIX E

LETTER OF TRANSMITTAL FORM

APPENDIX E

Letter of Transmittal Form

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

RFP # 22-350-6005-0002

1. Identify the following information for the submitting organization:

| | |
|------------------------|--|
| Offeror Name | |
| Mailing Address | |
| Telephone | |
| FED ID# | |
| NM CRS# | |

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

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

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

3. Use of subcontractors (Select one):

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

 (Attach extra sheets, as needed)

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

 (Attach extra sheets, as needed)

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

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

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

APPENDIX F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

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

Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.2. The business reference, if it chooses to respond, is required to submit its response to the Organizational Reference Questionnaire directly to: Laura Romero, Contracts Manager. The Questionnaire and information provided will become a part of the proposal. Businesses/Organizations providing references may be contacted for validation of content provided therein.

RFP# 22-350-6005-0002
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

(Name of Offeror)

This form is being submitted to your company for completion as a reference for the organization listed above. Please return this completed Questionnaire within five days of receipt. This Questionnaire is to be submitted to the State of New Mexico, Interagency Benefits Advisory Committee via e-mail at:

Name: Laura Romero
Email: laura.romero1@state.nm.us

Forms **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings.

For questions or concerns regarding this form, please contact the State of New Mexico **Procurement Manager** at laura.romero1@state.nm.us. When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

| | |
|--|--|
| Organization providing reference | |
| Location (city and state) of reference | |
| Type of business or industry | |
| Contact name and title/position | |
| Contact telephone number(s) | |
| Contact e-mail address | |
| Project description | |
| Project dates (start and end dates) | |
| Number of employees enrolled on prescription drug plan | |
| Technical environment for the project your providing a reference (i.e., Pharmacy Benefit Management Consulting Services); | |

QUESTIONS:

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

COMMENTS:

2. How would you rate this firm's knowledge and expertise with regard to Pharmacy Benefits Management Consulting?

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

COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines, particularly working among multiple agencies with a definite deadline?

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

COMMENTS:

4. What is your level of satisfaction with the research and reports related to your project produced by the vendor? Were the reports relevant and as requested?

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

COMMENTS:

5. How would you rate the dynamics/interaction between vendor personnel and your staff?

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

COMMENTS:

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

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

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

COMMENTS:

7. Were the research and reports required for your project submitted by the vendor on time and as required?

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

COMMENTS:

8. With which aspect(s) of this vendor's services are/were you most satisfied?

COMMENTS:

9. With which aspect(s) of this vendor's services are/were you least satisfied?

COMMENTS:

10. Would you again recommend this vendor's services to your organization?

COMMENTS:

APPENDIX G
RESIDENT VETERANS CERTIFICATION

New Mexico Preference Resident Veterans Certification

Reminder, a copy of Resident Veterans Preference Certificate must be submitted with the proposal in order to ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended).

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

Please check one box only

- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

“I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

“In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under NMSA 1978, § 13-1-21 or 13-1-22, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

“I understand that knowingly giving false or misleading information on this report constitutes a crime.”

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

(Signature of Business Representative)*

(Date)

*Must be an authorized signatory for the Business. The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or termination of award of the procurement involved if the statements are proven to be incorrect.

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

SPONSOR Gonzales/Figueroa **ORIGINAL DATE** 1/25/21
LAST UPDATED 2/5/21 **HB** _____
SHORT TITLE Retiree Health Care Act **SB** 21/aSHPAC
ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | | | | No Fiscal Impact | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Retiree Health Care Authority (RHCA)

SUMMARY

Synopsis of SHPAC Amendment

The Senate Health and Public Affairs Committee (SHPAC) strikes language stating the Retiree Health Care Authority shall be administratively attached to the Public School Insurance Authority until December 31, 1993. The amendment also strikes language directing RHCA to administer the senior prescription drug program. The original bill repealed reference to this program because it was discontinued in FY11.

Synopsis of Original Bill

Senate Bill 21 (SB21), endorsed by the Interim Investments and Pensions Oversight Committee (IPOC) amends the Retiree Health Care Act as follows:

1. Moves the limiting age of a dependent child from 19 to 26 and eliminates certain requirements associated with marriage and full-time student status at an accredited educational institution. This change was implemented in 2010 as required by the Patient Protection and Affordable Care Act, which applies to all plans (individual and market).
2. Changes reference from “mental retardation” to “intellectual disability” for disabled dependents over the age of 26 who are wholly dependent on the eligible retiree for maintenance and support and are incapable of self-sustaining employment.

3. Repeals Sections 10-7C-17 through 10-7C-19 eliminating reference and the requirements associated with the “Discount Prescription Drug Program.”

FISCAL IMPLICATIONS

SB21 changes language to conform with the federal Patient Protection and Affordable Care Act of 2010. SB21 does not have a fiscal impact, as the program is already being administered in accordance with federal statute.

The Discount Prescription Drug Program was discontinued in FY11 after the creation of Medicare Part D programs which obviated the program. The language in SB21 matches statutory language to current RHCA practice.

TECHNICAL ISSUES

The RHCA notes:

The bill will need to be amended to delete reference to subsection B of Section 10-7C-5. Authority Created – “The authority shall also administer the senior prescription drug program in conjunction with or through the consolidated purchasing process pursuant to the Health Care Purchasing Act.

CJ/sb/rl/al

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

SPONSOR Munoz **ORIGINAL DATE** 02/11/21
LAST UPDATED 03/09/21 **HB** _____
SHORT TITLE Public Safety Officer Retirement **SB** 315/aSFC
ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|---------|--------|----------------------|------------------------------|------------------|
| Total | | \$101.2 | \$68.8 | \$170.0 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act of 2021

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)
 Public Employees Retirement Association (PERA)
 Retiree Health Care Authority (RHCA)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 315 (SB315) strikes the \$5 million appropriation for PERA in Section 4 and the \$340 thousand appropriation contained in Section 5.

Synopsis of Original Bill

Senate Bill 315 (SB315) amends the Public Employees Retirement Association Act’s definition of “state police member” to include officers who were previously excluded from coverage under State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1. Officers excluded were officers of the former motor transportation division certified and commissioned prior to June 30, 2015, and employees of the defunct special investigations division of DPS.

Sections 2 and 3 of the bill provide for members affected by the change to vote on whether to move to the state police plan from the normal state general plan 3. Service credit earned by affected members from July 1, 2015 to the present will be credited under the state police plan rather than the general plan.

Section 4 contains a \$5 million appropriation to the PERA fund to offset projected actuarial costs of moving the affected employees to the State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1.

Section 5 contains a \$340 thousand appropriation to Retiree Health Care Authority to offset projected actuarial costs of moving the affected employees to an enhanced retiree health benefit.

FISCAL IMPLICATIONS

SB315 appropriates \$5 million to PERA to offset the actuarial costs incurred from awarding higher service credit retroactively to employees previously excluded from participation in the state police retirement plan. Additionally, \$340 thousand is appropriated to the RHCA to offset costs of inclusion of these employees under an enhanced benefit plan.

SB315 will increase DPS compensation costs slightly; employer contributions for members covered under state general plan 3 are 18.24 percent in FY22, while state police plan employer contributions are 25.5 percent. However, state police plan members do not receive a social security benefit which is assessed on employers at cost of 6.2 percent of salary. The total payroll of affected members is approximately \$6.5 million. Based on this, DPS will pay \$102 thousand more per year for benefits in FY22 than it currently does. The difference is shown in the table below:

Summary of Rate and Cost Difference Between Enhanced and Normal Retirement Plans
(dollars in thousands)

| | State Police Retirement | Normal Retirement | | State Police Retirement | Normal Retirement | Difference |
|-----------------|--------------------------------|--------------------------|--|--------------------------------|--------------------------|-------------------|
| PERA | 25.50% | 18.24% | | \$ 1,655.0 | \$ 1,183.8 | \$ 471.2 |
| Social Security | 0.00% | 6.20% | | \$ - | \$ 402.4 | \$ (402.4) |
| RHCA Regular | 0.00% | 2.00% | | \$ - | \$ 129.8 | \$ (129.8) |
| RHCA Enhanced | 2.50% | 0.00% | | \$ 162.3 | \$ - | \$ 162.3 |
| Total | 28.00% | 26.44% | | \$ 1,817.3 | \$ 1,716.0 | \$ 101.2 |

Laws 2020, Chapter 11 (Senate Bill 72) provided that employee and employer pension contributions for state general plan 3 would increase by 0.5 percent each year from FY21 through FY24. That bill did not increase contribution rates for the state police plan as it is already over 100 percent funded. As the normal retirement contribution rate increases, the difference in cost between the state police and state general retirement plan narrows. In FY23, the difference will shrink from \$101.2 thousand to \$68.8 thousand. By FY24, the difference in the cost of the two plans will be \$32 thousand.

SIGNIFICANT ISSUES

Motor Transit Division (MTD) officers were transferred to the DPS in FY16. MTD officers were not included in the state police retirement plan at the time of the transfer and continued being covered under PERA’s state general plan 3, the normal retirement plan. However, while these officers were entitled to receive social security benefits under state general plan 3, DPS stopped making social security payments on behalf of these officers in FY16. There are 94 affected officers still employed by DPS with a combined salary of \$6.5 million per year. Based on this, LFC analysis shows DPS should have contributed approximately \$2.4 million to social security on behalf of

these officers between FY16 and FY21.

SB315 proposes to move the 94 former MTD officers into the state police retirement plan. Members of the state police retirement plan receive a richer retirement benefit than general plan members, but are not eligible to receive social security. The move would be retroactive so that officers would receive enhanced service credit back to FY16 under the state police plan. Should SB315 be enacted, it is the intention of DPS that the affected officers would receive a richer retirement benefit through PERA, but that the officers would not be eligible to receive social security credit in addition to the state police retirement benefit.

PERA estimates the cost of this proposal to be \$5.6 million and retiree health estimates \$391 thousand. The PERA estimate is based on the cost to fully fund the benefit for those moving into the state police plan rather than the cost of the employer and employee contributions that would have been made on behalf of these members. Had MTD officers been transferred to the state police retirement fund at the time of the merger, the additional contributions made to the state police fund would have been \$2.9 million. Actual investment earnings on these contributions would have increased that amount by \$330.8 thousand to \$3.2 million as shown in the table below:

| Amount of Additional Contributions had Affected Members Transferred from State General to State Police Division as of 7/1/2015 | | | |
|---|-------------------------|------------------------------------|--|
| Fiscal Year | Active Headcount | State Contribution Increase | Contribution with Investment Earnings |
| 2016 | 134 | 661,275 | 825,203 |
| 2017 | 121 | 642,947 | 759,274 |
| 2018 | 108 | 553,030 | 599,110 |
| 2019 | 98 | 523,587 | 531,823 |
| 2020 | 93 | 494,011 | 490,242 |
| Total Contributions | | 2,874,850 | 3,205,652 |

As of the 2019 valuation, the state police plan was funded at 130 percent of liabilities with a \$297 million surplus while state general plan 3 was funded at 61 percent with a \$3.1 billion unfunded liability. However, because all of the five PERA funds are held in a common pool, the state police surplus essentially offsets part of the liability of the state general plan so that there is no gain to the PERA fund from moving individuals from an underfunded plan to an overfunded plan.

RELATIONSHIP

The LFC recommendation includes a special appropriation of \$2.4 million to DPS to pay the costs of social security benefits that should have been paid between FY16 and FY21. If SB315 is enacted, employees will be moved into the state police retirement plan and would not be eligible to receive social security. In this case, the appropriation should go to offsetting the costs to PERA of transferring these employees from a normal to an enhanced retirement plan. Additionally, the special appropriation included of \$194.1 thousand for RHCA to make up for the 0.5 percent contribution increase that affected members would have paid between FY16 and FY20.

OTHER SUBSTANTIVE ISSUES

DPS reports:

The New Mexico Department of Public Safety (NMDPS) is in violation of the FICA exemption for state and local governments who provide alternative or enhanced retirement and pension plans to employees per Section 218. [42 U.S.C. 418] (a)(1) . The State Police & Adult Correctional Officer Plan is federally recognized as an enhanced plan whose active members are required to contribute 1.45 percent Medicare only. State General Plan 3 is not an enhanced plan whose active members are required to contribute 6.20 percent Social Security in addition to Medicare. Once these officers transitioned from the State Personnel's Offices (SPO) Classified system to the State Police system, they were no longer required to pay the 6.20 percent Social Security share; however, their PERA service credit, deductions and contributions, and accrued interest has continued for a non-enhanced retirement plan.

PERA notes the differences between enhanced and normal retirement plans as follows:

Tier 1 members under State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1 are eligible to have actual service credit enhanced by 20 percent, which allows a state police officer to retire at any age with 20 years and 10 months of service credit with a 3 percent multiplier. Tier 2 members under State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1 have retirement eligibility at any age with 25 years of service credit with a 3 percent multiplier.

Tier 1 members under 1 State General Member Plan 3 are eligible to retire at 25 years of service credit with a 3 percent multiplier and a 90 percent pension maximum. Under Tier 2, members can retire at 25 years of service credit with a 2.5 percent multiplier and a 90 percent pension maximum.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Social security contributions will have to be made retroactively. LFC estimates the cost of these contributions to be at least \$2.4 million for active employees. Additional contributions will have to be made on behalf of members who have left the state system as well as any penalties, fees, or interest assessed by the IRS.

CJ/al/sb



March 25, 2021

The Honorable Michelle Lujan Grisham
Office of the Governor
490 Old Santa Fe Trail, Room 400
Santa Fe, New Mexico 87501

RE: Senate Bill 315 – Public Safety Officer Retirement

Dear Governor Lujan Grisham:

The New Mexico Retiree Health Care Authority (“NMRHCA”) generally does not take a policy position on legislation and does not take a position on Senate Bill 315. However, NMRHCA is concerned that Senate Bill 315 will create underfunded liabilities and negatively impact the Retiree Health Care Trust Fund’s (“the Fund’s”) long-term financial solvency.

NMRHCA is statutorily charged “to provide comprehensive core group health insurance for persons who have retired from certain public service in New Mexico.” NMSA 1978, § 10-7C-2. To fulfill that mandate, NMRHCA provides group medical, dental, vision, and life insurance benefits to eligible retirees and medical insurance subsidies to certain retirees.

Public employees and public employers make contributions to the Fund to support NMRHCA’s operations. *See* NMSA 1978, § 10-7C-15. NMRHCA is pleased that the Fund’s balance grew from \$190.7 million in December 2010 to an all-time high of \$924 million in December 2020. However, funding challenges remain and future Fund solvency is an issue. Under Governmental Accounting Standards Board guidance, the Fund’s total liabilities exceeded \$5 billion in June 30, 2020.

Senate Bill 315 exacerbates NMRHCA’s funding issues by transferring members who formerly worked for the Motor Transit Division (“MTD”) and who now work for the New Mexico Department of Public Safety (“DPS”) from State General Plan 1 to State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1 without fully funding the increased future health benefit costs.

Unlike State General Plan 1, State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1 is an “enhanced retirement plan”. *See* NMSA 1978, § 10-7C-15. Enhanced retirement plans are more costly because members can retire earlier than members of non-enhanced retirement plans, receive a greater health benefit subsidy for each year of service, and qualify for a subsidy immediately rather than at age 55. *See* 2.81.11 NMAC. To offset the

The Honorable Michelle Lujan Grisham
March 25, 2021
Page 2 of 2

higher costs, enhanced retirement plan members pay a higher percentage of their salary into the Fund during their working years. Individuals may not switch into an enhanced retirement plan from another retirement plan unless they pay an amount “equal to the full actuarial present value of the amount of the increase in the person's health care benefit” into the Fund. NMSA 1978, § 10-7C-15(C).

When initially introduced, Senate Bill 315 appropriated the full actuarial present value for the increased health benefit cost, \$340,000, but this was stripped from the final version. Instead, House Bill 2 appropriated a lesser amount, \$194,700, which does not fully cover projected future health benefit costs. While the difference between the present actuarial value and the amount appropriated by House Bill 2 is relatively small, it creates a shortfall that increases NMRHCA’s long-term liabilities, threatens the Fund’s financial solvency, and will become more expensive to remedy in the future.

NMRHCA respectfully requests that you support a supplemental appropriation or special appropriation to make up that shortfall during the proposed 2021 Special Legislative Session or the 2022 Regular Legislative Session.

Thank you for considering this request. Please contact me at 505-490-0519 if you have any questions or if you would like to discuss this matter further.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Archuleta", with a stylized flourish at the end.

David Archuleta
Executive Director

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

ORIGINAL DATE 03/04/21
 SPONSOR Hickey/Steinborn LAST UPDATED 3/19/21 HB _____
 SHORT TITLE No Behavioral Health Cost Sharing SB 317/aHF1
 ANALYST Esquibel/Torres

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|--------------------------|---------------------------|--------------------------------|
| FY21 | FY22 | | |
| | *See Fiscal Implications | Recurring | Health Care Affordability Fund |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|---------------------------|-----------------------------|----------------------------|----------------------------|---------------------------|--------------------------------|
| FY21 | FY22 | FY23 | FY24 | FY25 | | |
| | \$22,000- \$23,147 | \$38,329.4- \$41,433.0 | \$38,809.4 - \$43,073.0 | \$91,015.2- \$105,616.0 | Recurring | General Fund |
| | \$54,712.7- \$56,420.0 | \$114,988.1- \$124,300.0 | \$116,428.3 - 129,250.0 | \$63,010.5- \$73,200.0 | Recurring | Health Care Affordability Fund |

Parenthesis () indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|---|------|--------------------------|--------------------------|--------------------------|---------------------------|------------------------------|
| OSI Data Collection and Analysis | | \$150.0 | \$300.0 | \$450.0 | Recurring through FY27 | General Fund |
| LFC Data Collection and Analysis | | \$50.0 | \$50.0 | \$100.0 | Recurring through FY27 | General Fund |
| State of New Mexico Group Benefits Program | | \$1,100.0 | \$2,200.0 | \$3,300.0 | Recurring through FY27 | GSD/RMD Health Benefits Fund |
| NMRHCA Elimination of Cost Share and Increased Utilization | | \$1,000.0 - \$1,350.0 | \$2,000.0 - \$2,700.0 | \$3,000.0 - \$4,050.0 | Recurring through FY27 | NMRHCA Benefits Fund |

| | | | | | | |
|---------------------------------|--|-----------------------|-----------------------|------------------------|------------------------|------------------------------------|
| of Medical, Prescription | | | | | | |
| NMPSIA Plan Costs | | \$940.0 | \$1,940.0 | \$2,880.0 | Recurring through FY27 | NMPSIA Benefits Fund |
| Total | | \$3,240.0 - \$3,590.0 | \$6,490.0 - \$7,190.0 | \$9,730.0 - \$10,780.0 | Recurring through FY27 | General Fund, Public Benefit Funds |

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

- General Services Department (GSD)
- Human Services Department (HSD)
- Office of Superintendent of Insurance (OSI)
- Public Schools Insurance Authority (NMPSIA)
- Retiree Health Care Authority (NMRHCA)
- UNM Health Sciences Center (UNMHSC)
- New Mexico Attorney General (NMAG)
- Retiree Health Care Authority (RHCA)
- New Mexico Health Insurance Exchange (NMHIX)
- Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HF1 #1

House floor amendment #1 to Senate Bill 317 adds the contents of House Bill 122 as amended by HAFC and the House floor which establishes a “health care affordability fund” and raises the health insurance premium surtax by 2.75 percent.

House Bill 122’s proposed health care affordability fund would be funded with a 55 percent distribution of revenues from the health insurance premium surtax, which the amendment proposes to raise from 1 percent to 3.75 percent. The health care affordability fund would be used to reduce healthcare premiums and cost-sharing for New Mexico residents who purchase health insurance through the state’s health insurance exchange, provide resources for the development and implementation of healthcare initiatives for uninsured New Mexico residents, reduce premiums for small businesses and their employees purchasing healthcare coverage in the fully insured small group market, and provide resources for the administration of healthcare initiatives for uninsured New Mexico residents. The healthcare affordability fund could also be used to maintain health insurance coverage for New Mexico residents with incomes below 200 percent of the federal poverty level in the event the federal Patient Protection and Affordable Care Act is repealed or struck down.

The increase to the health insurance premium surtax included in the amendment begins January

1, 2022. The new fund would receive a 52 percent distribution of surtax revenue from January 1, 2022, to June 30, 2022, 55 percent from July 1, 2022 through July 1, 2024, and 30 percent from July 1, 2024 onward.

The amendment requires the Superintendent of Insurance to provide premium and cost-sharing assistance for the purchase of qualified health plans on the New Mexico health insurance exchange. To facilitate this, the Superintendent would develop healthcare affordability criteria and income eligibility parameters to focus aid on certain income-restricted individuals by January 1, 2023. The amendment also requires the Superintendent of Insurance to develop and submit a plan to extend healthcare coverage access to New Mexico citizens who do not qualify for federal premium assistance or qualified health plans through the New Mexico health insurance exchange.

The amendment requires the Superintendent of Insurance to report annually to the Legislature regarding (a) a summary of the affordability criteria, (b) the estimated number of uninsured New Mexico residents who enrolled in coverage following the implementation of the affordability criteria, and (c) reduced costs and coverage assistance provided by the initiatives in this bill. The amendment also provides an additional permitted use of the fund to “reduce premiums for small businesses and their employees purchasing health care coverage in the fully insured small group market.” The amendment also calls for the Legislative Finance Committee staff to conduct a program evaluation to measure the impact of changes to the health insurance premium surtax and the creation of the health care affordability fund prior to July 1, 2025.

Finally, the House floor amendment to Senate Bill 317 provides for a decrease in the health insurance premium surtax if the annual fee on health insurance providers is re-imposed at the federal level. The decrease is at a rate equal to the rate of the annual federal fee imposed. However, the rate of the health insurance premium surtax shall not be less than its current rate of 1 percent.

Synopsis of SB317 Original Bill

Senate Bill 317 would add new sections to the Health Care Purchasing Act and to the Insurance Code to prohibit the imposition of cost-sharing by health insurers on behavioral health services covered by an individual or group health insurance policy, health care plan, or certificate of health insurance.

The bill defines “behavioral health services” to include inpatient hospitalizations, partial hospitalizations, residential treatment, detoxification, treatment of substance use disorder, intensive outpatient therapy, outpatient treatment and all medications; essentially, the full array of behavioral health services currently delivered in the health system. The bill defines cost-sharing as deductibles, coinsurance and copayments.

The bill would require the Office of the Superintendent of Insurance (OSI) to collect data regarding the elimination of cost-sharing for behavioral health services. The bill would require OSI to report this data along with the effects of eliminating cost-sharing on both providers and patients in terms of the costs of behavioral health services, and the effects on patients in terms of health and social outcomes using health quality performance measurement tools developed by a nationally recognized organization. OSI would be required to report this information annually by

November 1 to the Legislative Finance Committee (LFC) and the interim Legislative Health and Human Services Committee (LHHS).

The bill would require the Legislative Finance Committee to report to the Governor and LHHS on the effects of the elimination of cost-sharing both in terms of costs for behavioral health services and the health and social outcomes.

The provisions of this bill would go into effect on January 1, 2022 and end on December 31, 2026.

FISCAL IMPLICATIONS

Federal Funding Implications of House Floor Amendment #1/ Analysis from House Bill 122

The American Rescue Plan Act of 2021 includes:

- Fully subsidize health insurance exchange coverage for people earning up to 150 percent of the federal poverty level, as well as those on unemployment insurance, for two years;
- End the so-called subsidy cliff, qualifying enrollees who make over 400 percent of the federal poverty level subsidies for the first time, for two years;
- Cover 85 percent of the cost of private health insurance for those laid off during the pandemic, through Sept. 21.

Fiscal Implications of House Floor Amendment #1/ Analysis from House Bill 122

The following analysis is from the Fiscal Impact Report for House Bill 122 which relates to House Floor amendment 1.

Tax Implications

Using the most recent health insurance premium surtax reporting available, staff estimate the increased insurance premium surtax would result in total revenues of \$208.7 million, an increase of \$153.2 million from current collections. HB 122 distributes 52 percent of total revenue in the last 6 months of FY22 to the affordability fund when the increase takes effect, 55 percent from FY23-FY24, and 30 percent thereafter. The remaining health insurance premium surtax revenue would be distributed to the general fund, as represented in the tables above.

Although new revenue is generated for the general fund, the increased tax is expected to result in increased general fund costs for the Medicaid program. Because the Medicaid program would also have to pay the tax, the general fund portion of the Medicaid tax liability is estimated to be between \$15.1 million and \$31.7 million, annually. Because Medicaid costs are supported by federal revenues, federal funds would also be taxed, effectively leveraging the state's tax liability into additional federal tax liability. Most of the increased tax revenue is a result of this leverage and therefore, most of the tax is effectively exported to the federal government.

This bill creates a new fund and provides for continuing direct distributions to the fund. The LFC has concerns with including earmarking language in the statutory provisions for

newly created funds, as earmarking reduces the ability of the Legislature to establish spending priorities.

Appropriation Implications

The bill states the “insurance department” shall administer the health care affordability fund, and money in the fund is subject to appropriation by the Legislature for the following purposes: 1) reduce premiums and cost sharing on the New Mexico health insurance exchange (NMHIX); 2) provide resources for planning, design, and implementation of health care coverage initiatives for the uninsured; and 3) provide resources for administration of health care coverage initiatives for the uninsured.

Disbursements from the fund shall be made by warrant of the secretary of the Department of Finance and Administration pursuant to vouchers signed by the Superintendent of Insurance or the Superintendent's authorized representative.

Under the provisions of the bill, the revenue in the health care affordability fund can only be used if appropriated by the Legislature. The New Mexico health insurance exchange is a quasi-governmental organization and does not receive state appropriations in the General Appropriation Act. Therefore, OSI will have to initiate mechanisms to transfer revenue to NMHIX which is not a state agency.

Operating Budget Implications

In previous iterations of the bill, it was estimated two additional FTE at an approximate cost of \$179.7 thousand would be needed for the rule promulgation and design of the coverage plan and the associated administrative requirements, but OSI reports it can conduct the additional work with no additional FTE. The rule promulgation and design of a coverage plan would require actuarial analysis estimated to cost \$250 thousand in FY22.

HSD reports under the provisions of the bill, the Medicaid program would be required to pay the additional 2.75 percent surtax increase and would also draw down the federal matching portion associated with the increase. HSD indicates the Medicaid program would increase the per-member per-month capitation rates HSD pays to the Medicaid managed care organizations. For the 2nd half of FY22, this would result in an estimated total cost of approximately \$75 million, with a general fund estimated impact of \$15.1 million, which would draw down approximately \$59.9 million in federal funds. In FY23, the total cost is estimated at \$150.1 million, with an estimated general fund impact of approximately \$30.2 million, which would draw down approximately \$119.9 million in federal funds.

The Human Services Department also analyzed coverage initiatives and funded the Urban Institute study that provided data and information used in crafting this legislation. In FY21, HSD’s operating budget included \$500 thousand from the general fund targeted for coverage initiative analysis. The Urban Institute study indicated the estimated cost of providing additional premium subsidies above those provided by the federal government as well as additional cost sharing, would cost a total of \$68 million to cover up to 23,000 people.

This bill, when introduced last legislative session, considered HSD as the administrative entity setting up the coverage initiatives described in the bill. Unlike the Office of Superintendent of Insurance, HSD and the Medicaid program are able to leverage a 50 percent federal match rate for administrative work for coverage initiative-related activities. HSD reports the bill, as drafted, does not include significant administrative implications for HSD, but depending on the initiatives implemented, there could be an administrative impact that is not quantifiable at this time.

Additional Federal Subsidies for Exchanges included in Congress' Current Relief Package

Congress' forthcoming Covid relief package is slated to bolster, for a designated time period, the federal aid extended to health insurance exchange enrollees and expand the population eligible for subsidies. The proposal, which is headed to the President, would, among other things:

- Fully subsidize health insurance exchange coverage for people earning up to 150 percent of the federal poverty level, as well as those on unemployment insurance, for two years;
- End the so-called subsidy cliff, qualifying enrollees who make over 400 percent of the federal poverty level subsidies for the first time, for two years;
- Cover 85 percent of the cost of private health insurance for those laid off during the pandemic, through September 21.

Urban Institute Study's Cost Analysis

Under the provisions of HB 122, the health care affordability fund would be created to augment federal subsidies for the purchase of health insurance by lower income individuals on the state's health insurance exchange. According to findings from an Urban Institute study commissioned by the New Mexico Human Services Department, up to 23,000 uninsured New Mexicans could gain coverage if New Mexico invested in reducing premiums and out-of-pocket costs on the health insurance exchange. The Urban Institute study indicated a general fund cost of \$68 million and \$189 million in federal funds to cover the enhanced premium and cost sharing assistance for these 23,000 individuals. The study suggests uncompensated care could be reduced by \$43 million.

Fiscal Implications of Original Senate Bill 317

Office of Superintendent of Insurance Fiscal Implications

The Office of Superintendent of Insurance (OSI) indicates the data collection and reporting required of OSI in the bill, particularly the analysis of the effects of the elimination of cost-sharing on both costs and outcomes, would require OSI to enter into contracts with organizations that specialize in this type of analyses and have the expertise and tools to collect and analyze the data. OSI estimates this would result in annual cost of \$300 thousand.

Legislative Finance Committee Fiscal Implications

Existing LFC staff could conduct a portion of the data collection and analysis proposed in

SB317. However, additional contract assistance costing up to an estimated \$100 thousand could be necessary.

State of New Mexico Group Benefits Program Fiscal Implications

The General Services Department’s Risk Management Division reports under the provisions of the bill the State of New Mexico Group Benefits program (SONM) would incur additional costs as it would be required to pay all behavioral health services at 100 percent whereas some of these services are now partially paid by plan members (approximately 20 percent copayment).

SB317 defines behavioral health services as “professional and ancillary services for the treatment, habilitation, prevention, and identification of mental illnesses, substance abuse disorders and trauma spectrum disorders, including inpatient, detoxification, residential treatment and partial hospitalization, intensive outpatient therapy, outpatient and all medications, including brand-name pharmacy drugs when generics are available.” In the past fiscal year, about 14,500 members of the SONM accessed behavioral health services resulting in claims being filed with a managed care organization (health plan). These services are currently subject to the health plan’s cost sharing requirements which includes copayments for most in-office behavioral health visits (same as a primary care physician copayment), additional deductibles for facility-based programs, and copayments for medications.

The SONM received claims in FY20 totaling about \$11.3 million and paid about \$9.1 million for these services. The members were responsible for the remaining \$2.2 million (or about 19 percent) in cost sharing. SB317 would prohibit the member cost sharing and would require the SONM to increase its contribution to account for the difference. Assuming current utilization, the SONM would incur approximately \$2.2 million in additional annual costs (\$1.1 million in FY22 because the act becomes effective January 1, 2022).

New Mexico Retiree Health Care Authority Fiscal Implications

The NM Retiree Health Care Authority (NMRHCA) indicates its fiscal impact estimate is based on paid claims data from 2019, as opposed to 2020, to limit the impact of increased utilization of behavioral health services resulting from Covid-19. According to the analysis performed by NMRHCA’s consulting actuaries, the elimination of cost-sharing agreements for behavioral health services and drug treatments would save between \$2 and \$2.7 million for all self-insured plans including the Medicare supplement. The table below provides the components.

| | |
|---|------------------------|
| Elimination of Cost Share on Medical | \$ 762,932.77 |
| Elimination of Cost Share on Prescription | \$ 1,247,501.83 |
| Increased Utilization on Medical | \$ 634,785.95 |
| Increased Utilization on Prescription | \$ 54,802.37 |
| Total | \$ 2,700,022.92 |

The NMRHCA estimate is based the Health Insurance Experiment which analyzes how cost sharing effects behavior (<https://www.rand.org/health-care/projects/hie.html>). A set of equations are used that were developed based on the way people used health care as a function of how rich their benefits were. Effectively, if you have richer benefits, you’ll utilize more, expressed as elasticity of demand by economists and induction by health insurance actuaries.

NMRHCA reports currently behavioral health services and treatments range from a \$20 copay when services are rendered in network up to 50 percent of the cost when services are rendered out-of-network for members participating on one of NMRHCA’s pre-Medicare plans, with prescription drug copays ranging from \$5 for 30 days (generic) to \$125 for 30 days (non-preferred brand name). These amounts vary on the Medicare plans from \$0 copays after the Part B deductible is met up to \$40 on the lowest costing Medicare Advantage Plans, with prescription drug copays ranging from \$0 to \$125 for 30 days.

New Mexico Public School Insurance Authority Fiscal Implications

The NM Public Schools Insurance Authority (NMPSIA) indicates it currently covers behavioral health services and medication associated with the treatment of mental illness and substance abuse disorders subject to member cost sharing as shown in the table below:

| | High Option | Low Option | EPO Option |
|--|--------------------------------------|--------------------------------|----------------------------------|
| Office, Home, Outpatient Facility/Physician | \$30 copay (deductible waived) | \$35 copay (deductible waived) | \$25 copay (deductible waived) |
| Inpatient | \$500 copay plus 20% coinsurance | 25% coinsurance | \$500 copay plus 20% coinsurance |
| Partial Hospitalization | \$250 copay plus 20% coinsurance | 25% coinsurance | \$250 copay plus 20% coinsurance |
| Facility-Based Intensive Outpatient Programs | \$125 copay plus 20% coinsurance | 25% coinsurance | \$125 copay plus 20% coinsurance |
| | Retail Pharmacy | Mail-Order Pharmacy | |
| Generic Drugs | \$10 copay | \$22 copay | |
| Preferred brand drugs | 30% coinsurance (\$30 min, \$60 max) | \$60 copay | |
| Non-preferred drugs | 70% coinsurance | 70% coinsurance | |

NMPSIA reports eliminating the cost sharing for behavioral health services is expected to result in a moderate increase in utilization to professional services (office visits, etc.) due to the richer benefit, with the potential for more significant volatility in utilization changes for inpatient services, partial hospitalization and facility-based intensive outpatient programs. NMPSIA’s estimate includes an assumption of an overall 10 percent increase in utilization across all categories.

SIGNIFICANT ISSUES

Significant Issues of House Floor Amendment/ Analysis from House Bill 122

In December 2019, the U.S. Congress permanently repealed as the “health care provider fee” which was authorized under the federal Affordable Care Act (ACA). The federal “health care provider fee” tax was levied on health insurance carriers to help support state health insurance exchanges created under the ACA. The final payment of the federal fee was due on September 30, 2020. With the repeal of the “health care provider fee,” HB 122 is seeking to impose a similar fee on health insurance carriers in New Mexico with a

goal of shifting the previously levied revenue to the state for use on initiatives to reduce the cost of health insurance purchased on the New Mexico health insurance exchange by New Mexico residents.

Revenue in the health care affordability fund cannot be used to leverage federal Medicaid funds under the provisions of the bill, except if the ACA is repealed. If the federal ACA is repealed, then revenue in the fund could be used to cover the adult expansion category of eligibility population or individuals on the exchange up to 200 percent of the federal poverty level.

The Kaiser Family Foundation estimates 16,855 uninsured New Mexicans are currently eligible to access a free, federally subsidized “bronze” health insurance plans on the health insurance exchange after tax credits are applied.

HSD previously reported that at the federal level, the health care provider fee, when collected, resulted in a tax on health insurance carriers of approximately 2.75 percent to 3 percent on average. Under current New Mexico law, there is a general premium tax of 3.003 percent which applies to multiple types of insurance including life, title, health, etc., and on top of that general premium tax, New Mexico also levies an additional 1 percent surtax on health insurance premiums. Under HB 122, the general premium tax of 3.003 percent would remain in place. The bill also would raise the premium surtax by 2.75 percent from 1 percent to a total of 3.75 percent.

The Office of the Superintendent of Insurance provides this additional analysis:

The cost of health insurance continues to be a major factor in why individuals remain uninsured. In 2019, 73.7 percent of uninsured adults said that they were uninsured because the cost of coverage was too high. A survey of individuals who shopped for plans in the individual market (including health insurance exchanges) found that 42 percent did not end up selecting a plan, with 71 percent of those individuals citing the cost of coverage as the main reason for remaining uninsured.

According to a study commissioned by the New Mexico Human Services Department, 26 percent of individuals who remain uninsured in New Mexico qualify for premium assistance through the state’s health insurance exchange. Among those who qualify for federal assistance on the exchange, 37.2 percent remain uninsured. Improving the affordability of premiums and cost sharing could boost enrollment significantly, reducing the number of uninsured individuals by as much as 23,000, according to the study. Increasing enrollment would have the effect of improving the individual market risk pool, reducing sticker premiums by up to 18.5 percent in the first year. This type of initiative could increase federal premium tax credit payments by as much as \$40 million due to increased enrollment and would also decrease uncompensated care by up to \$43 million. Boosted enrollment will also increase revenue generated by the state’s premium tax and health insurance surtax by up to \$8.87 million, according to OSI’s estimates [this amount is not included in the Fiscal Impact].

In addition to increasing the number of state residents who have health insurance, HB 122 would reduce the incidence of underinsurance by creating state-funded

cost sharing assistance. In 2021, annual deductibles could be as high as \$8,550 per person, providing insufficient financial protection for state residents.

...Colorado, Delaware, Maryland, and New Jersey have enacted a similar fee to replace the federal version and will use (or already are using) the revenue to improve coverage affordability for state residents.

...According to OSI's estimates, approximately 75 percent of the revenue generated by this bill would come from Medicaid MCOs, which are financed by the state and federal government.

... OSI expects between 40 percent to 50 percent of the funds will be used to support coverage on the health insurance exchange. The remaining funds will be used to provide coverage to individuals who do not qualify for federal financial assistance on the health insurance exchange. HB 122 directs OSI to work with stakeholder groups to develop and submit the plan for extending health care coverage access to the Legislative Finance Committee and Legislative Health and Human Services Committee. All expenditures from the fund will be subject to legislative appropriation.

The U.S. Supreme Court recently heard arguments in a case (California v. Texas) that could invalidate some or all of the provisions of the federal Patient Protection and Affordable Care Act. In the event that major coverage provisions of the law are impacted by such a decision, HB 122 allows the health care affordability fund to be used to maintain coverage for individuals who currently qualify for the Medicaid expansion or subsidized coverage on the health insurance exchange. In addition, if the U.S. Congress makes any changes to the law that improve the assistance provided by the federal government, OSI has the flexibility to make adjustments to the affordability criteria to further improve coverage affordability or expand assistance to additional populations.

Significant Issues of Original Senate Bill 317

University of New Mexico Health Sciences Center Issues. The University of New Mexico Health Sciences Center reports a large percentage of behavioral health patients in New Mexico are covered by either Medicare, Medicare Advantage or Medicaid, which all have little or no cost sharing for behavioral health services. For commercial insurance patients, there would potentially be impacts to providers and the insurance companies as they would have to absorb the required co-insurance or co-payment amounts if SB317 was enacted. This would result in more out-of-pocket costs to commercial companies, which would likely be minimal as the rate and payment structures for behavioral health as a percentage of their total business would be relatively low. There is some risk the commercial insurance companies would look to pass the cost on to either their members or through lower total rates to providers.

General Services Department's Risk Management Division's Issues. The Risk Management Division of the General Services Department (RMD) reports as an employer, the State of New Mexico (SONM) recognizes the importance of access to affordable behavioral health services. As such, there are a number of existing no cost options:

1. All state employees and employees of local public bodies covered by the SONM have

access to five free behavioral health visits (per occurrence) through the state’s Well-Being Solutions Employee Assistance Program (EAP).

2. All members covered by the SONM (employees and covered dependents) have access to behavioral telemedicine with no cost sharing.
3. All members covered by the SONM (employees and covered dependents) have access to one free in office behavioral health visit each year.

Human Services Department’s Issues. The Human Services Department (HSD) reports expanding access to behavioral health services is a critical priority for New Mexico. Both nationally and in New Mexico, large numbers of Americans struggle with mental health issues and are unable to access the care they need. Mental Health America ranks New Mexico 34th in the country for the combined prevalence of mental illness in the state and the ability to access care. In New Mexico, 19 percent of adults report experiencing a mental illness, 56.5 percent of whom were not able to get treatment. The statistics are worse for young people with 17.4 percent of New Mexico’s youth reporting experiencing severe depression, almost twice the national average of 9.7 percent, and 62.9 percent of those young people did not receive treatment (see The State of Mental Health in America 2021, <https://www.mhanational.org/issues/state-mental-health-america>).

The availability of a nearby behavioral health provider and screening and referral by a trained provider both impact access to behavioral health treatment; but high out-of-pocket costs for copays, deductibles, and coinsurance are also major factors. The Affordable Care Act and the Mental Health Parity and Addiction Equity Act have required that all health insurance plans now cover mental health benefits. But having benefits in an insurance plan does not ensure all individuals can access these services, particularly for people who have health plans that balance lower premium costs with high deductibles. Of the New Mexican adults who did not access behavioral health treatment, 86 percent had some form of health insurance. Of the New Mexico children who did not access behavioral health treatment, 7.8 percent had some form of health insurance. This results in New Mexico ranking 32nd in the country for the proportion of children who have private insurance that does not cover mental health (see The State of Mental Health in America 2021; <https://www.mhanational.org/issues/state-mental-health-america>).

PERFORMANCE IMPLICATIONS

Under the provisions of the bill, LFC and OSI would collect and report on nationally-recognized behavioral health outcomes to help determine the effects of eliminating behavioral health cost sharing on behavioral health outcomes in the state.

ADMINISTRATIVE IMPLICATIONS

OSI reports the bill would require specific health care and cost data reporting from insurers that the OSI has not defined or collected before.

Administrative Implications of House Floor Amendment/Analysis from House Bill 122

The design and implementation of a coverage initiative plan could require additional resources at OSI and contracting for actuarial analysis, although OSI reports it can do all the additional staff work required under the provisions of the bill with no additional FTE. NMHIX also reports it could implement the provisions of the bill with no additional staff.

HSD reports the bill, as drafted, does not include significant administrative implications for HSD outside of consulting with OSI on additional study for policy options to reach residents who cannot get coverage through NMHIX (dba beWellnm). Depending on the policy options that result from that study, HSD could have administrative impact in the future if any pieces require HSD’s implementation and oversight. Without those details, the administrative impact is not quantifiable at this time.

TECHNICAL ISSUES

Constitutional Prohibition Technical Issue of HB317/as amended in HF1#1 to add HB122

The House Floor Amendment #1 merging HB122 with Senate Bill 317 may violate the New Mexico Constitution’s prohibition on “logrolling.” The provisions of HB122 that amend the health insurance premium surtax and create a health care affordability fund may violate Article 4, Section 16 of the Constitution of New Mexico, which states “the subject of every bill shall be clearly expressed in its title, and no bill embracing more than one subject shall be passed except general appropriation bills and bills for the codification or revision of the laws.” The proposed increase in the health insurance premium surtax and creation of the health care affordability fund may be unrelated to the subject of Senate Bill 317 stated in the title, “relating to health coverage.”

Technical Issues of House Floor Amendment/Analysis from House Bill 122

Under the provisions of the bill, the revenue in the health care affordability fund can only be used if appropriated by the Legislature. The New Mexico health insurance exchange is a quasi-governmental organization and does not receive state appropriations in the General Appropriation Act.

NMHIX, a quasi-governmental agency, is currently subject to the Open Meetings Act, state Procurement Code, Whistleblower Act, and Sunshine portal. NMHIX is not currently subject to the state Personnel Code, state Audit Act, or the Accountability in Government Act like other state agencies which receive appropriations in the General Appropriation Act.

LFC staff recommends adding a delayed repeal date for the distributions made to the “health care affordability fund.”

OSI Technical Issues with Senate Bill 317

The Office of Superintendent of Insurance notes the term “substance abuse disorder” is no longer widely used in the behavioral health community. OSI suggests the term be changed to “substance use disorder.”

OSI suggests the word “treatment” be inserted after “outpatient” on page 2, line 10, and again in each definition of behavioral health services that occur in the bill.

OTHER SUBSTANTIVE ISSUES

OSI Issues with Senate Bill 317

The Office of Superintendent of Insurance (OSI) reports the legislation anticipates that eliminating cost sharing for all behavioral health services will result in increased access to, and utilization of, these services. The increased use of services would then lead to improved adherence to behavioral health treatment regimens, including medication use. The bill anticipates that improved adherence to treatments will improve outcomes and result in lower health care costs, particularly costs for emergency room and inpatient hospital admissions. In addition, a large percentage of individuals with behavioral health conditions have high rates of co-occurring chronic health conditions such as diabetes, hypertension and COPD. Studies show that these illnesses, which are costly to treat to begin with, can be three times more costly to treat when the individual has a co-morbid behavioral health condition. Therefore, improved access to behavioral health services could reduce the overall cost of health care.

While waiving cost-sharing for certain services may result in overall and long-term savings in plan cost, such as cost-sharing waivers for preventive care, other cost-sharing waivers may not have the same impact. If a cost-sharing waiver for a particular set of services does not result in overall lower health care expenditures, health insurers will typically raise the cost of insurance premiums for all members since they are no longer able to charge cost-sharing to the users of the particular set of services and the insurers overall expenditures have gone up. As a result, the full cost of the services may be spread out across all plan members via higher premiums.

OSI reports it appears no other state has implemented such a wide moratorium on out-of-pocket cost-sharing for behavioral health services. OSI conducted a health care literature survey and found that studies do not consistently show that eliminating cost-sharing for behavioral health services resulted in lower plan costs. However, OSI has seen a recent study on prescription drug costs by the National Bureau of Economic Research that found decreasing drug costs can increase adherence to prescription drug regimens and result in better health outcomes www.nber.org/system/files/working_papers/w28439/w28439.pdf

Other Substantive Issues of House Floor Amendment/ Analysis from House Bill 122

Federal Limits on Health Insurance Taxes

HSD previously reported states are allowed to tax health insurance carriers, including Medicaid managed care organizations (MCOs), without risking federal financial participation in the Medicaid program. Federal law restricts how much states can tax certain healthcare-related entities in order to limit states from using the proceeds to finance the state's Medicaid program. The federal government presumes that a state is in compliance with federal rules if the tax is under 6 percent.

A state tax is considered healthcare-related under federal law if it meets either of two prongs:

- 1) 85 percent of the burden of the tax falls on health care providers; or
- 2) The tax provides for a different treatment for health care providers than others.

New Mexico's general premium surtax of 3.003 percent is not factored into the 6 percent overall limit for health care-related taxes under federal rules, because it does not meet the

requirements as defined by federal law.

The premium surtax proposed in the bill, however, would be a healthcare-related tax under federal rules and therefore factored into the 6 percent cap. HB 122 would raise the premium surtax to 3.75 percent which is still below the 6 percent cap. It should also be noted that Medicaid managed care organizations and other health insurance carriers are one of 19 classes of health care providers under federal rules. Each class has its own 6 percent cap. Thus, any other taxes the state imposes on hospitals or other provider classes would not affect the 6 percent cap for the insurance premium surtax.

New Mexico Health Insurance Exchange

The federal Affordable Care Act (ACA) expanded health coverage for many New Mexicans by creating a health insurance exchange or marketplace (dba beWellnm) and providing financial assistance to reduce monthly premiums and out-of-pocket health care costs such as co-pays and deductibles. House Bill 122 proposes creation of a “health care affordability fund” envisioned to further add funding to augment federal subsidies for individuals on the health insurance exchange.

The number of New Mexicans enrolled through the health insurance exchange has been declining since 2017 from 54,653 members to 42,714 members in 2020. For comparison, the New Mexico Medicaid program currently enrolls 901,000 individuals.

The New Mexico health insurance exchange, beWellnm, reports the proposed health care affordability fund could work in complement with the exchange’s standardized plans to maximize benefit to both the uninsured and underinsured. The reduction of the uninsured rate could provide more certainty and a healthier risk mix to the overall exchange population, promoting premium stability.

Other State Experiences

Eight states have passed legislation replacing the federal tax with a state tax. In July, New Jersey passed a similar proposal setting the surtax at 2.5 percent but excluded premiums from small business health insurance plans, Medicaid and Medicare policies, nonprofit dental plans, and certain self-funded group employer health insurance coverage.

Critics of the proposal in New Jersey warned increased taxes would be passed on to consumers purchasing the plans, including small businesses struggling under the pandemic. New Jersey also has an individual mandate requiring everybody to purchase health insurance or pay a fine in order to ensure the state has a large diverse risk pool funded by all.

New Jersey is using a portion of the new premium surtax revenues for a reinsurance program, which uses state and federal funds to offset the most expensive claims. This program has been credited with stabilizing industry costs and reducing market volatility for individual and small business health insurance plans.

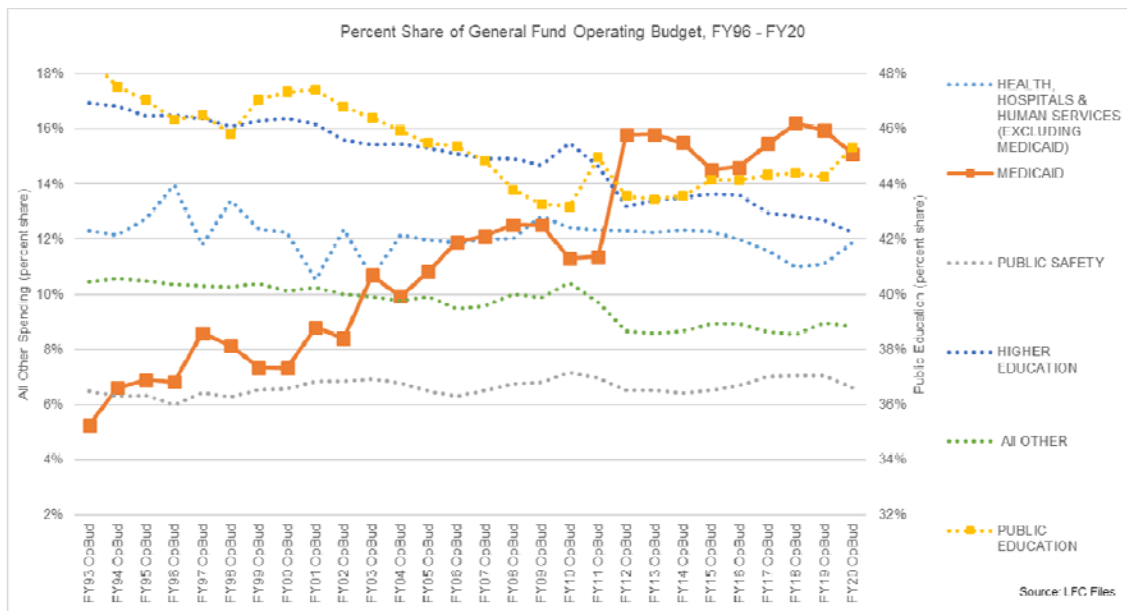
Federal Government and the Affordable Care Act

The Kaiser Family Foundation (KFF) and other media have reported the President could move to shore up healthcare coverage and affordability as currently allowed for under the federal Affordable Care Act (ACA).

Currently, families making between 100 percent and 400 percent of the federal poverty level are eligible for tax credits to help pay for health insurance on the exchange. There has been discussion regarding potentially eliminating the income cap and lowering the limit on the cost of coverage to 8.5 percent of income. If passed by Congress, these actions could help make insurance more affordable for families with wide-ranging incomes.

ALTERNATIVES

To meet the LFC adopted tax policy principle of adequacy, additional revenues generated by the surtax increase could continue to the general fund to meet the increasing cost of existing Medicaid services. Medicaid costs have grown more rapidly than all other areas of the budget as health care inflation continues to outpace inflation of the greater economy, as managed care organization (MCOs) and healthcare provider rate increases have been implemented, and as Medicaid enrollment has increased under the pandemic. This trend is expected to continue. Without additional revenues, Medicaid cost growth can crowd out other spending priorities and risks continuous state budget funding constraints. See the chart below comparing Medicaid’s



share of the general fund which has grown from 5 to 15 percent, compared with other categories of state spending. Given continuous funding constraints, the Medicaid program is continually under pressure of underfunding. An alternative is for the Legislature to use all the funds proposed in the legislation to adequately fund on a recurring basis the needs of the indigent and other populations.

Alternatively, other policy options could be considered such as the federal government providing more federal dollars to fund subsidies for populations on health insurance exchanges. This option is already being considered for funding in the current federal Coronavirus Relief Package.

RAE/sb/al

Benefit Messenger

The NMRHCA Newsletter



NEW MEXICO
RETIREE
HEALTH CARE
AUTHORITY

Inside This Issue

- 1 Message from the Executive Director
- 1 Financial Updates
- 2 2021 Legislative Success
- 2 Wise and Well Event
- 3 Virtual Coffee Talk
- 3 Livongo Diabetes Management
- 3 Important July 31, 2021 Rule Changes
- 3 Dinner with a Dietitian

Message from the Executive Director

Let me begin by thanking you for reading the latest edition of our newsletter. I hope this message finds everyone with a renewed sense of optimism as days grow longer, temperatures become warmer, and COVID-19 case numbers decline.

For your safety and ours, the resumption of our pre-COVID-19 business practices including in person dealings, health fairs, switch enrollment meetings and pre-retirement seminars remains dependent on the continued decline in the number of new cases, as well as the vaccination of employees and members. However, we are optimistic that the doors to our office locations in Santa Fe and Albuquerque will soon open and welcome members.

Until then, I respectfully ask folks to remain patient and continue working through the snail mail and virtual channels we have developed over the course of the past year. I would encourage you to visit our website regularly in search of an announcement about reopening our doors. In the meantime, I hope everyone's spring season is off to a good start.

Sincerely,
David Archuleta

Financial Updates

NMRHCA is pleased to announce that the State Investment Council reported improvements in the NMRHCA Trust Fund Balances.

As of December 31, 2020, NMRHCA's Trust Fund Balance hit an all-time high of \$924 million, up from \$190.7 million in December 2010.

Total liabilities as of June 30, 2020 exceed \$5 billion, according to the Governmental Accounting Standards Board.

| Investment Performance through December 31, 2020 | | | | | | |
|--|-------|--------|--------|--------|--------|---------|
| | QTD | 1-Year | 3-Year | 5-Year | 7-Year | 10-Year |
| NMRHCA Gross | 8.78 | 9.88 | 7.12 | 9.31 | 7.13 | 7.47 |
| Fund Benchmark | 8.83 | 10.34 | 7.38 | 9.45 | 7.28 | 7.56 |
| Difference | -0.05 | -0.46 | -0.26 | -0.14 | -0.15 | -0.09 |
| NMRHCA Net | 8.77 | 9.83 | 7.06 | 9.23 | 7.02 | 7.35 |
| Fund Benchmark | 8.83 | 10.34 | 7.38 | 9.45 | 7.28 | 7.56 |
| Difference | -0.06 | -0.51 | -0.32 | -0.22 | -0.26 | -0.21 |



Mark Your Calendar Spring Wise and Well Event

NMRHCA welcomes you to join our first ever virtual wellness event on April 22, 2021 and April 23, 2021.

This event is packed with some incredible learning opportunities, insightful information and classes designed to help our members improve their health through diet and exercise. Over the course of two morning sessions members will have the chance to listen to presentations specifically designed to help keep them Wise and Well.

Featured topics at this event include: Managing Stress, Anxiety and Depression, Yoga, Positive Psychology, Tai Chi, Managing Diabetes, Nutrition for Aging and Medication and Vaccines Best Practices, Silver Sneakers.

We welcome your participation and encourage you to register for the event by visiting our website: <https://www.nmrhca.org/wellnessfair2021/>. We hope this event will affirm what some of our members already know about their personal health and wellness, teach others what they need to know and help others get back on track with their own health care goals.

2021 Legislative Success

NMRHCA is pleased to announce passage of Senate Bill 21, which provides much needed updates to the Retiree Health Care Act ("the Act") to clarify certain eligibility requirements and eliminate an obsolete program affixed to the agency. These changes were necessary to eliminate conflict between the Act and Federal Law regarding dependent children covered by the plan. The bill also eliminated reference and requirements associated with the Senior Prescription Discount Program, which became obsolete at the beginning of the last decade.

In conclusion, we would like to express our sincerest appreciation and gratitude to Senator Roberto "Bobby" Gonzales and Representative Natalie Figueroa for their sponsorship and support of Senate Bill 21. Also, a very special thanks to our members who participated in support of this legislation by address the various committees to which this bill was assigned. The bill was hardly controversial, but not without opposition, so we greatly appreciate the kind co-sponsors efforts to ensure its passage.

NMRHCA is also excited to announce the inclusion of a \$100 thousand special appropriation included in this year's General Appropriation Act that will be used to develop a web-portal for members to make updates and changes to their accounts without having to call or submit something to us in writing. In anticipation of its support, NMRHCA staff has already begun working to develop the plans for this portal aimed to increase convenience and improve retiree satisfaction.

Virtual Coffee Talk

Please join us for one of the upcoming virtual Coffee Talk events hosted by our partners through Blue Cross and Blue Shield. This event held the third Wednesday of each month from 10:00 AM -10:30AM and is led by Marlene Mier, Wellness Coordinator. These sessions are designed to help members focus on writing a new story in our health journeys and talk about why it's so hard to change something. To join, please go to: <https://global.gotomeeting.com/join/820118789> to join the meeting or call: 1-646-749-3122 and use access code: 820-118-789.



**BlueCross BlueShield
of New Mexico**

A Division of Health Care Service Corporation, a Mutual Legal Reserve Company,
an Independent Licensee of the Blue Cross and Blue Shield Association

Livongo For Diabetes

Last August, NMRHCA announced the availability of Livongo for Diabetes Program for our pre-Medicare Plan participants. This program is designed to help members suffering from Type II diabetes better manage their blood glucose levels and lowering their HbA1c through personalized interventions that help reduce health care costs and more importantly, help our members lead healthier lives. We have received a lot of positive feedback about the program and encourage members suffering from Type II diabetes to find out more about Livongo and the service they provide, please visit www.enjoy.livongo/NMRHCA/new or call 800-945-4355



NMRHCA Rule Changes Go Into Effect July 31, 2021

As many of you are aware, the NMRHCA Board of Directors adopted several changes to the eligibility and participation requirements for members retiring after July 2021. This includes establishing a minimum age requirement of 55 in order to begin receiving a subsidy from the program. Additionally, the years-of-service requirements needed to receive the maximum subsidy have moved from 20 to 25 years.



These changes DO NOT affect members of an enhanced retirement plan (police, fire, correctional officers, and judges) or anyone who retires before July 2021.

Dinner with a Dietitian

Diabetes Edition and Blood Pressure Edition

Healthy Eating Online Video Course This four-week email video course will help individuals with diabetes, hypertension, and caregivers cook to meet the needs of life with diabetes or hypertension. Each week participants will receive a new instructional video, recipe, and grocery list for the meal of the week, and additional educational handouts that correspond with the weekly topic. Participants will receive emails with video links and additional materials each week. Each month is a new topic. Don't miss out. Some of the topics include, blood pressure basics, gut health, vitamin D and even a grocery store tour. Find each month's webinar on NMRHCA.org.





PRESORT STD
 US POSTAGE
 PAID
 ABQ., NM
 PERMIT #1645

Insurer Contact Information

| | | | |
|---|--------------|---|--------------|
| Blue Cross Blue Shield (BCBS) www.bcbsnm.com/nmrhca | 800-788-1792 | Presbyterian Health Plan www.phs.org | 888-275-7737 |
| BCBS Medicare Advantage www.bcbsnm.com/nmrhca | 877-299-1008 | Presbyterian Medicare Advantage www.phs.org | 800-797-5343 |
| Express Scripts Medicare www.express-scripts.com | 800-551-1866 | Express Scripts Non-Medicare www.express-scripts.com | 800-501-0987 |
| Humana Medicare Advantage https://ourhumana.com/nmrhca | 866-396-8810 | UnitedHealthcare www.uhcreetiree.com/nmrhca | 866-622-8014 |
| Delta Dental www.deltadentalnm.com | 877-395-9420 | Davis Vision www.davisvision.com | 800-999-5431 |
| Standard Insurance www.standard.com/mybenefits/newmexico_rhca | 888-609-9763 | | |

NMRHCA Contact Information

| | | | |
|----------------------------|--|-------------------------|--|
| Albuquerque Office: | 6300 Jefferson St. NE, Suite 150 Albuquerque, NM 87109-3392 | Santa Fe Office: | 33 Plaza la Prensa Santa Fe, NM 87507 |
| Website: | www.nmrhca.org | Telephone: | 800-233-2576 |
| Facebook: | www.facebook.com/nmrhca | Fax: | 505-884-8611 |
| Email: | customerservice@state.nm.us | Hours: | Monday-Friday, 8:00AM – |



WISE
AND
Well

Virtual
**HEALTH
FAIR**

**APRIL
22 & 23**

Join us for a **FREE** *Virtual* **HEALTH FAIR** designed to encourage healthy lifestyles, prevent and manage diseases. Attend all the sessions, or the ones that are right for you!



Learn about the importance staying active, eating well, mindfulness and much more.



Thursday, April 22

Friday, April 23

“How Mindfulness can change your perspective”
Emily Urban, LCSW

9:00 - 9:45 a.m.

“The Joy of Movement”
Jose Maresma,
Exercise Physiologist

“Have You Ever Wondered?”
Gentle Yoga
“Positive Psychology”

10:00 - 10:30 a.m.
CHOOSE ONE TO ATTEND

Heartfulness Relaxation & Meditation
“Medication & Vaccine: Best Practices”
“Fighting Inflammation With Food”

“Train Your Brain”
Kathy Ives

10:30 - 11:00 a.m.

“Living Healthy with Diabetes”
Brooke Revels, RN

Tai Chi for Balance
Melody Madrid of Resolute Senior Wellness

11:00 - 11:30 a.m.

“Nutrition for Optimal Aging”
Fordham with SilverSneakers

“Cooking Demo”
Ana Hernandez, RD

11:30 a.m. - 12:30 pm

“Cooking Demo”
Ana Hernandez, RD



[REGISTER HERE](#) for the Virtual Health Fair.

Once registered, you will receive an confirmation email, as well as **Virtual Goodie Bag!** Questions? Visit NMRHCA website at <https://www.nmrhca.org/>, or email NMRHCA.wellness@phs.org

New Mexico Retiree Health Care Authority (CP)

Change in Market Value

For the Month of Feb 2021

(Report as of March 16, 2021)

| Investment Name | Prior Ending Market Value | Contributions | Distributions | Fees | Income | Gains - Realized & Unrealized | Market Value |
|---|---------------------------|---------------|---------------|---------------------|---------------------|-------------------------------|-----------------------|
| Core Bonds Pool | 182,551,609.64 | - | - | (49,749.46) | 400,517.65 | (4,081,398.02) | 178,820,979.81 |
| Credit & Structured Finance | 126,145,750.77 | - | - | - | 201,917.95 | 1,772,483.58 | 128,120,152.30 |
| NM Retiree Health Care Authority Cash Account | - | - | - | - | - | - | - |
| Non-US Developed Markets Index Pool | 125,588,583.24 | - | - | (11,760.52) | 215,721.54 | 3,019,749.75 | 128,812,294.01 |
| Non-US Emerging Markets Active Pool | 104,709,512.33 | - | - | (128,735.41) | 3,224.58 | 613,849.42 | 105,197,850.92 |
| Non-US Emerging Markets Index Pool | - | - | - | - | - | - | - |
| Private Equity Pool | 101,737,337.65 | - | - | - | 21,488.10 | (32,780.13) | 101,726,045.62 |
| Real Estate Pool | 82,216,925.95 | - | - | - | 26,279.58 | (437.75) | 82,242,767.78 |
| Real Return Pool | 36,298,875.57 | - | - | (7,250.97) | 105,017.44 | 112,150.99 | 36,508,793.03 |
| US Large Cap Index Pool | 146,551,775.89 | - | - | (3,247.51) | 206,221.67 | 4,061,347.95 | 150,816,098.00 |
| US SMID Cap Alternative Weighted Index Pool | 20,796,664.74 | - | - | (1,565.96) | 18,723.06 | 1,580,999.91 | 22,394,821.75 |
| Sub - Total New Mexico Retiree Health Care | 926,597,035.78 | - | - | (202,309.83) | 1,199,111.57 | 7,045,965.70 | 934,639,803.22 |
| Total New Mexico Retiree Health Care / | 926,597,035.78 | - | - | (202,309.83) | 1,199,111.57 | 7,045,965.70 | 934,639,803.22 |

FY22 Operating Budget – Action Item

Background: The State Budget Act (Section 6-3-7 NMSA 1978) mandates the completion and submission of the FY22 operating budget to the State Budget Division (SBD) by close of business Monday, May 3, 2021. The State Budget Act specifies that operating budgets require SBD approval, and expenditures cannot be made without such approval. In addition, the Retiree Health Care Act (Section 10-7C-16) includes a requirement that “expenditures for the administration of the Retiree Health Care Act shall be made as provided by an operating budget adopted by the board.” In accordance with these requirements, the FY22 operating budget submitted by the agency will be consistent with the amounts contained in Laws 2021, **Chapter XXX** otherwise known as the General Appropriation Act of 2021.

| Table I | | | | | | |
|---|-------------------------------|-------------------------------|---------------------|---------------------|------------------------------|---------------------|
| (\$ shown in thousands) | | | | | | |
| Agency | FY21 Approved Operating | FY21 Adjusted Operating | FY22 Request | HB2/GAA | Comp/ Package (OPBUD2) | Total |
| Personal Services & Employee Benefits* | \$ 2,077.1 | \$ 2,026.8 | \$ 2,102.3 | \$ 2,077.1 | \$ - | \$ 2,077.1 |
| Contractual Services | \$ 355,855.0 | \$ 355,421.1 | \$ 354,123.3 | \$ 354,123.1 | \$ - | \$ 354,123.1 |
| Other | \$ 566.2 | \$ 602.2 | \$ 592.5 | \$ 548.6 | \$ - | \$ 548.6 |
| Other Financing Uses* | \$ 3,306.7 | \$ 3,306.7 | \$ 3,272.3 | \$ 3,247.1 | \$ - | \$ 3,247.1 |
| Total | \$ 361,805.0 | \$ 361,356.8 | \$ 360,090.4 | \$ 359,995.9 | \$ - | \$ 359,995.9 |
| Healthcare Benefits Administration | | | | | | |
| Contractual Services | \$ 355,191.6 | \$ 354,707.4 | \$ 353,501.9 | \$ 353,501.7 | \$ - | \$ 353,501.7 |
| Other | \$ - | \$ 36.0 | \$ 43.9 | \$ 43.9 | \$ - | \$ 43.9 |
| Other Financing Uses* | \$ 3,306.7 | \$ 3,306.7 | \$ 3,272.3 | \$ 3,247.1 | \$ - | \$ 3,247.1 |
| Subtotal | \$ 358,498.3 | \$ 358,050.1 | \$ 356,818.1 | \$ 356,792.7 | \$ - | \$ 356,792.7 |
| Program Support | | | | | | |
| Personal Services & Employee Benefits* | \$ 2,077.1 | \$ 2,026.8 | \$ 2,102.3 | \$ 2,077.1 | \$ - | \$ 2,077.1 |
| Contractual Services | \$ 663.4 | \$ 713.7 | \$ 621.4 | \$ 621.4 | \$ - | \$ 621.4 |
| Other | \$ 566.2 | \$ 566.2 | \$ 548.6 | \$ 548.6 | \$ - | \$ 548.6 |
| Subtotal | \$ 3,306.7 | \$ 3,306.7 | \$ 3,272.3 | \$ 3,247.1 | \$ - | \$ 3,247.1 |
| Total | \$ 361,805.0 | \$ 361,356.8 | \$ 360,090.4 | \$ 360,039.8 | \$ - | \$ 360,039.8 |
| FTE | 26 | 26 | 26 | 26 | 26 | 26 |

The sections highlights are subject to change pending DFA’s allocation to support the pay increases authorized in Section 8 of the General Appropriation Act. These increases will be reflected in the personal services and employee benefits category of Program Support and the other financing uses category of the Healthcare Benefits Administration Program, which is estimated to be \$27 - \$30 thousand.

Section 4: Performance Measure and Reversion.

Performance Measure: Output: Minimum number of years of positive fund balance – Target 30

Reversion Language: Any unexpended balance in program support of the retiree health care authority remaining at the end of fiscal year 2022 shall revert to the healthcare benefits administration program.

Section 5. Special Appropriations. The following amounts are appropriated from the general fund or other funds as indicated for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal years 2021 and 2022. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2022 shall revert to the appropriate fund.

(34) For a web portal. The internal service funds/interagency transfers appropriation is from the retiree health care fund - \$100,000.

Section 8. Compensation Appropriations.

Subsection A. Sixty-three million nine hundred thirty-nine thousand dollars (\$63,939,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2022 to provide salary increases to employees in budgeted positions who have completed their probationary period subject to satisfactory job performance. Police officers of the department of public safety shall be exempt from the requirement to compete their probationary period. The salary increases shall be effective in the first full pay period after July 1, 2021 and distributed as follows:

(4) Nine million four thousand six hundred dollars (\$9,004,600) to provide incumbents in agencies governed by the State Personnel Act, the New Mexico state police career pay system, attorney general employees, workers’ compensation judges and executive exempt employees with an average salary increase of one and one-half percent;

Subsection C. For those state employees whose salaries are referenced in or received as a result of non-general fund appropriations in the General Appropriation Act of 2021, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the salary increases equivalent to those provided for in this section. Such amounts are appropriated for expenditure in fiscal year 2022. Any unexpended or unencumbered balances remaining at the end of the fiscal year 2022 shall revert to the appropriate fund.

Section 13. Certain Fiscal Year 2022 Budget Adjustment Requests Authorized.

Subsection C. In addition to the specific category transfers authorized in Subsection E of this section and unless a conflicting category transfer is authorized in Subsection E of this section, all agencies, including legislative agencies, may request category transfers among personal services and employee benefits, contractual services and other.

Subsection D. Unless a conflicting budget increase is authorized in Subsection E of this section, a program with internal service funds/interagency transfers appropriations or other state funds appropriations that collects money in excess of those appropriated may request budget increases in an amount not to exceed five percent of its internal service funds/interagency transfers or other state funds appropriation contained in Section 4 of the General Appropriation Act of 2021. To track the five percent transfer limitation, agencies shall report cumulative budget adjustment request totals on each budget request submitted. The department of finance and administration shall certify agency reporting of these cumulative totals.

Subsection E. In addition to the budget authority otherwise provided in the General Appropriation Act of 2021, the following agencies may request specified budget adjustments:

Section (15) – the healthcare benefits administration program of the retiree health care authority may request budget increases from other state funds for claims.

Other Substantive Information:

Subsection D authorizes budget adjustments by program as follows:

| | GAA | 5% | Total |
|------------------------------------|--------------|-------------|--------------|
| Healthcare Benefits Administration | \$ 358,050.1 | \$ 17,902.5 | \$ 375,952.6 |
| Program Support | \$ 3,306.7 | \$ 165.3 | \$ 3,472.0 |
| | \$ 361,356.8 | \$ 18,067.8 | \$ 379,424.6 |

Requested Action: NMRHCA staff respectfully requests that the Board of Directors delegate final approval of the FY22 operating budget to the Finance Committee, upon review at its regularly scheduled meeting on April 30. Final approval will include a 1.5 percent pay increase for all employees subject to the State Personnel Act and executive exempt employees including the executive director.

Additional details by program revenue are as follows:

| Healthcare Benefits Administration Fund - Revenue Detail | | | | | | |
|--|------------------------------------|---------------------|---------------------|---------------------|---------------|-----------|
| | | FY21* | FY22 | \$ | % | |
| | | OPBUD | OPBUD | Change | Change | |
| REVENUE: | | | | | | |
| 1 | Employer/Employee Contributions | \$ 120,162.6 | \$ 114,511.7 | \$ (5,650.9) | -4.7% | 1 |
| 2 | Retiree Contributions | \$ 175,000.0 | \$ 175,000.0 | \$ - | 0.0% | 2 |
| 3 | Taxation and Revenue Suspense Fund | \$ 32,935.7 | \$ 36,881.0 | \$ 3,945.3 | 12.0% | 3 |
| 4 | Other Miscellaneous Revenue | \$ 30,000.0 | \$ 30,000.0 | \$ - | 0.0% | 4 |
| 5 | Interest Income | \$ 400.0 | \$ 400.0 | \$ - | 0.0% | 5 |
| 6 | TOTAL REVENUE: | \$ 358,498.3 | \$ 356,792.7 | \$ (1,705.6) | -0.5% | 6 |
| Healthcare Benefit Administrative Fund - Expenditure Detail | | | | | | |
| | | FY21* | FY22 | \$ | % | |
| | Contractual Services | OPBUD | OPBUD | Change | Change | |
| 7 | Prescriptions | \$ 115,000.0 | \$ 117,500.0 | \$ 2,500.0 | 2.2% | 7 |
| 8 | Medical - Supplement/Self- Insured | \$ 170,651.7 | \$ 168,151.7 | \$ (2,500.0) | -1.5% | 8 |
| 9 | Medicare Advantage | \$ 30,750.0 | \$ 27,600.0 | \$ (3,150.0) | -10.2% | 9 |
| 10 | Voluntary Coverages | \$ 38,750.0 | \$ 40,250.0 | \$ 1,500.0 | 3.9% | 10 |
| 11 | Total Contractual Services | \$ 355,151.7 | \$ 353,501.7 | \$ (1,650.0) | -0.5% | 11 |
| Other | | | | | | |
| 12 | PCORI Fee | \$ 39.9 | \$ 43.9 | \$ 4.0 | 10.0% | 12 |
| 13 | Total Other | \$ 39.9 | \$ 43.9 | \$ 4.0 | 10.0% | 13 |
| Other Financing Uses | | | | | | |
| 14 | Program Support** | \$ 3,306.7 | \$ 3,247.1 | \$ (59.6) | -1.8% | 14 |
| 15 | Total Other Financing Uses | \$ 3,306.7 | \$ 3,247.1 | \$ (59.6) | -1.8% | 15 |
| 16 | Total Expenditures | \$ 358,498.3 | \$ 356,792.7 | \$ (1,705.6) | -0.5% | 16 |

*Adjusted Operating Budget

**Subject to change based on Compensation Package

| Expenditure Detail (Personal Services and Employee Benefits) | | | | | | | |
|--|--------|---|----------------|----------------|---------------|---------------|-----------|
| | | FY21 | FY22 | \$ | Percent | | |
| | | OPBUD* | OPBUD | Change | Change | | |
| 1 | 520100 | Exempt Positions | 272.4 | 292.4 | 20.0 | 3.6% | 1 |
| 2 | 520300 | Classified Perm. Positions | 1,136.9 | 1,167.2 | 30.3 | -1.7% | 2 |
| 3 | 520800 | Annual & Comp Paid | - | - | - | - | 3 |
| 4 | 521100 | Group Insurance Premium | 195.9 | 195.9 | - | 0.6% | 4 |
| 5 | 521200 | Retirement Contributions | 268.1 | 268.1 | - | 5.7% | 5 |
| 6 | 521300 | FICA | 111.7 | 111.7 | - | 5.9% | 6 |
| 7 | 521400 | Workers Comp | 0.2 | 0.2 | - | 0.0% | 7 |
| 8 | 521410 | GSD Work Comp Ins | 1.2 | 1.2 | - | -33.3% | 8 |
| 9 | 521500 | Unemployment Comp | - | - | - | - | 9 |
| 10 | 521600 | Employee Liability Insurance | 9.5 | 9.5 | - | 5.3% | 10 |
| 11 | 521700 | Retiree Health Care | 30.9 | 30.9 | - | 5.8% | 11 |
| 12 | 521900 | Other Employee Benefits | - | - | - | - | 12 |
| 13 | | TOTAL | 2,026.8 | 2,077.1 | 50.3 | 0.7% | 13 |
| Expenditure Detail (Contractual Services) | | | | | | | |
| | | FY21 | FY22 | \$ | Percent | | |
| | | OPBUD* | OPBUD | Change | Change | | |
| 14 | 535200 | Professional Services | 446.7 | 388.9 | (57.8) | -12.9% | 14 |
| 15 | 535300 | Other Services | 12.5 | 12.5 | - | 0.0% | 15 |
| 16 | 535309 | Other Services InterA | 26.0 | 15.8 | (10.2) | -39.2% | 16 |
| 17 | 535400 | Audit Services | 78.5 | 84.2 | 5.7 | 7.3% | 17 |
| 18 | 535500 | Attorney Services | 60.0 | 30.0 | (30.0) | -50.0% | 18 |
| 19 | 535600 | Information Technology Services | 90.0 | 90.0 | - | 0.0% | 19 |
| 20 | | TOTAL | 713.7 | 621.4 | (92.3) | -12.9% | 20 |
| Expenditure Detail (Other) | | | | | | | |
| | | FY21 | FY22 | \$ | Percent | | |
| | | OPBUD* | OPBUD | Change | Change | | |
| 21 | 542100 | Employee In-State Mileage & Fares | 1.5 | 1.5 | - | 0.0% | 21 |
| 22 | 542200 | Employee In-State Meals & Lodging | 2.5 | 2.5 | - | 0.0% | 22 |
| 23 | 542300 | Board & Commission - In-State | 13.5 | 13.5 | - | 0.0% | 23 |
| 24 | 542500 | Transportation-Fuel & Oil | 1.0 | 1.0 | - | 0.0% | 24 |
| 25 | 542600 | Transportation | 0.1 | 0.1 | - | 0.0% | 25 |
| 26 | 542700 | Transportation Insurance | 0.2 | 0.2 | - | 0.0% | 26 |
| 27 | 542800 | State Transportation Pool Charges | 4.5 | 4.5 | - | 0.0% | 27 |
| 28 | 543200 | Maintenance - Furniture, Fixtures & Equipment | 6.0 | 6.0 | - | 0.0% | 28 |
| 29 | 543300 | Maintenance - Building & Structure | 4.5 | 4.5 | - | 0.0% | 29 |
| 30 | 543400 | Maintenance - Property Insurance | - | - | - | 0.0% | 30 |
| 31 | 543820 | IT Maintenance | 7.5 | 7.5 | - | 0.0% | 31 |
| 32 | 544000 | Supply Inventory IT | 25.0 | 23.0 | (2.0) | 0.0% | 32 |
| 33 | 544100 | Supplies - Office Supplies | 10.0 | 8.5 | (1.5) | 0.0% | 33 |
| 34 | 544900 | Supplies - Inventory Exempt | 5.0 | 5.0 | - | 0.0% | 34 |
| 35 | 545600 | Reporting & Recording | - | - | - | #DIV/0! | 35 |
| 36 | 545609 | Report/Record Inter St Agency | - | - | - | 0.0% | 36 |
| 37 | 545700 | DoIT ISD Services | 4.2 | 4.2 | - | 0.0% | 37 |
| 38 | 545710 | DoIT HCM Assessment | 10.7 | 9.5 | (1.2) | -11.2% | 38 |
| 39 | 545900 | Printing & Photo. Services | 56.0 | 56.0 | - | 0.0% | 39 |
| 40 | 546100 | Postage & Mail Services | 120.0 | 120.0 | - | 0.0% | 40 |
| 41 | 546400 | Rent of Land & Buildings | 124.1 | 115.8 | (8.3) | -6.7% | 41 |
| 42 | 546409 | Rent Expense - Interagency | 8.4 | 8.6 | 0.2 | 2.4% | 42 |
| 43 | 546500 | Rent of Equipment | 48.3 | 43.3 | (5.0) | -10.4% | 43 |
| 44 | 546600 | Communications | 21.0 | 21.0 | - | 0.0% | 44 |
| 45 | 546610 | DOIT Communications | 58.9 | 56.1 | (2.8) | -4.8% | 45 |
| 46 | 546700 | Subscriptions & Dues | 7.0 | 7.0 | - | 0.0% | 46 |
| 47 | 546800 | Employee Training & Edu. | 5.0 | 5.0 | - | 0.0% | 47 |
| 48 | 546801 | Board Member Training | 5.0 | 10.0 | 5.0 | 100.0% | 48 |
| 49 | 546900 | Advertising | 1.0 | 1.0 | - | 0.0% | 49 |
| 50 | 547900 | Miscellaneous Expense | 1.3 | 1.3 | - | 0.0% | 50 |
| 51 | 547999 | Request to Pay Prior Year | - | - | - | 0.0% | 51 |
| 52 | 548300 | Information Technology Equipment | 5.0 | 5.0 | - | 0.0% | 52 |
| 53 | 549600 | Employee Out-Of-State Mileage & Fares | 2.0 | 1.0 | (1.0) | -50.0% | 53 |
| 54 | 549700 | Employee Out-Of-State Meals & Lodging | 2.0 | 1.0 | (1.0) | -50.0% | 54 |
| 55 | 549800 | B&C-Out-Of-State Mileage & Fares | 3.5 | 3.5 | - | 0.0% | 55 |
| 56 | 549900 | B&C- Out-Of-State Meals & Lodging | 1.5 | 1.5 | - | 0.0% | 56 |
| 57 | | TOTAL | 566.2 | 548.6 | (17.6) | -3.1% | 57 |

FY21/FY22 New Contract – Web Portal Development
FY21 New Contract – Security Assessment (Small Purchase)
FY21 Contract Amendment – IT Programming
Program Support (Action Item)

FY21FY22 New Contract – Web Portal Development Background

The New Mexico Retiree Health Care Authority (“NMRHCA”) requests authority to develop a customer-facing web-portal for member account administration through a contract funded by a special appropriation

During the COVID-19 pandemic office closures, NMRHCA staff identified a need for additional customer service support tools. The proposed web-portal will allow customers to access their accounts, view and update member profiles, and review payment history and beneficiary information online. This portal is in addition to and does not replace NMRHCA’s telephonic customer service.

House Bill 2 includes a special appropriation in Section 5 of the General Appropriation Act totaling \$100,000 from internal service funds/interagency transfers for the purpose of developing this portal. NMRHCA can spend this special appropriation in Fiscal Year 2021 and Fiscal Year 2022, with the unspent balance reverting to the Healthcare Benefits Administration Fund.

Following the development and redesign of the NMRHCA website in 2017, Real Time Solutions, Inc. (RTS), is responsible for hosting our webpage under Statewide Price Agreement # 90-00000-19-00065 BX. Given RTS’s familiarity with our system capabilities and needs, NMRHCA staff proposes contracting with RTC to develop the web-portal under the above referenced state-wide price agreement. The estimated cost of this contract is \$100,000.

Reference to how the special appropriation will be budgeted is shown below:

| | | |
|--|--|-------------------|
| FY21/FY22 | | |
| Healthcare Benefits Administration Program | | Amount |
| Other Financing Uses | | \$ 100,000 |
| Total | | \$ 100,000 |
| | | |
| Program Support | | |
| Contractual Services | | \$ 100,000 |
| Total | | \$ 100,000 |

Approval of the proposed contract will not impact NMRHCA’s ability to meet other Program Support obligations.

FY21 New Contract – Security Assessment (Small Purchase)

NMRHCA staff proposes to conduct an annual IT security assessment to identify system vulnerabilities, prevent unlawful access, and prevent data theft. RiskSense, Inc. has conducted this assessment in the

past under Statewide Price Agreement # 90-00000-19-00065 CA. This year’s security assessment is estimated to cost \$15,0000.

FY21 Contract Amendment – IT Programming

NMRHCA proposes changing the IT systems to require supervisor-level approval of member account changes that occur outside the guaranteed issue or open enrollment periods. This requirement will serve as an additional control to prevent erroneous member account changes and clerical errors. NMRHCA contracts with RESPEC to provide IT support for the benefits, eligibility, and accounting system. This proposed contract amendment modifies the scope of work and increases the compensation to accommodate the projected costs. The proposed amendment will increase compensation by \$19,500.

Requested Action

NMRHCA staff respectfully requests authority to contract for development of a web portal, to contract for an IT security assessment, and to amend the contract for IT programming to require an additional control.

The budget adjustment request approved by the Board of Directors at its regularly scheduled meeting in March supports the new contract and the amended contracts:

| FY21 Approved Operating Budget - Program Support/Contractual Services --- \$663,400 | | | | | | |
|---|-----------------------|------------------|------------------|-------------------|-------------------------|------------------|
| <i>Adjusted Operating Budget</i> | <i>\$713,700</i> | | | | | |
| Contract | Amount Encumbered YTD | Expended 3.31.21 | Contract Balance | Percent Remaining | Proposed Amendment/ New | Revised Total |
| Segal | \$345,000 | \$219,945 | \$125,055 | 36.2% | \$0 | \$345,000 |
| Judith Beatty | \$6,500 | \$2,705 | \$3,795 | 58.4% | \$0 | \$6,500 |
| Moss Adams | \$68,500 | \$60,140 | \$8,360 | 12.2% | \$0 | \$68,500 |
| Rodey | \$60,000 | \$25,938 | \$34,062 | 56.8% | \$0 | \$60,000 |
| Rodey Appeal | \$20,400 | \$20,169 | \$231 | 0.0% | \$0 | \$20,400 |
| Real Time Solutions | \$5,879 | \$0 | \$5,879 | 100.0% | \$0 | \$5,879 |
| Work Quest | \$4,500 | \$2,967 | \$1,533 | 34.1% | \$0 | \$4,500 |
| RESPEC | \$97,400 | \$48,351 | \$49,049 | 50.4% | \$19,500 | \$116,900 |
| Haworth | \$8,034 | \$7,829 | \$205 | 2.5% | \$0 | \$8,034 |
| Wilshire | \$37,500 | \$35,000 | \$2,500 | 6.7% | \$0 | \$37,500 |
| CLA | \$8,500 | \$0 | \$8,500 | NA | \$0 | \$8,500 |
| Albuquerque - IT Disposal | \$1,063 | \$991 | \$71 | 6.7% | \$0 | \$1,063 |
| RiskSense | \$0 | \$0 | \$0 | NA | \$15,000 | \$15,000 |
| SPO (MOU)* | \$13,167 | \$0 | \$13,167 | NA | | \$13,167 |
| PERA (MOU)* | \$2,633 | \$0 | \$2,633 | NA | | \$2,633 |
| Total | \$679,075 | \$424,035 | \$255,040 | 37.6% | \$34,500 | \$713,575 |
| Unencumbered Balance | \$34,625 | \$34,625 | NA | NA | \$125 | \$125 |

NMRHCA further requests authority to begin this work now in anticipation of the Governor signing House Bill 2.

2022 Preliminary Plan Discussion

Solvency Results: 2017-2020:

| | 2017 | 2018 | 2019 | 2020 | 2021 |
|------------------------------|---------------|---------------|---------------|---------------|------|
| Trust Fund Balance @ June 30 | 551.4 million | 632.2 million | 717.7 million | 778.3 million | TBD |
| Projected Solvency (Years) | 18 | 19 | 25 | 30 | TBD |
| Projected Solvency Period | 2035 | 2037 | 2044 | 2050 | TBD |
| Projected Deficit Spending | 2020 | 2022 | 2023 | 2025 | TBD |

Summary of Actions Taken for 2021:

1. Increased Pre-Medicare Plan Rates: 5 percent
2. Increased Medicare Supplement Rates: 2 percent
3. Revised Medicare Advantage default strategy
4. Implementation of Livongo Diabetes Management Program
5. Contract arrangements
 - a. Site of service navigation (Presbyterian)
 - b. Access guarantees (Presbyterian)
 - c. Integrated care initiative (Presbyterian)
6. Pilot Programs
 - a. Paramedicine Programs (BCBS)
 - b. Tricare Data Analytics and Gap Closure Program (BCBS)
7. Medicare Advantage Plans
 - a. UHC MA Plan I: **-60 percent**
 - b. UHC MA Plan II: **-75 percent**
 - c. BCBS MA Plan I: **-54 percent**
 - d. BCBS MA Plan II: **-88 percent**
 - e. Humana MA Plan I: **-36 percent**
 - f. Humana MA Plan II: **-84 percent**
 - g. Presbyterian MA Plan I: **-40 percent**
 - h. Presbyterian MA Plan II: **-38 percent**

Influencing Factors:

1. Vetoing of House Bill 45/2021 Legislation Session
 - a. New Mexico economy
 - b. Pension fix for Educational Retirement Board
 - c. Timing associated w/receipt of increased employee and employer contributions
2. Rule Change effective date
3. COVID-19 claim impact
4. Investment losses

2022 Considerations:

1. Pre-Medicare rate changes in accordance w/medical trend
2. Medicare Supplement plan rate change in accordance w/medical trend
3. Medicare Supplement prescription drug plan changes – network
4. Remote physical therapy – Hinge Health
5. Medicare Advantage plan rates
6. 5-Year Strategic Plan

Influencing Factors:

1. COVID-19 related expenses
2. Presidential Executive Orders
3. Investment balances
4. PBM RFP – New Contract July 1, 2022
5. Plan Changes i.e., SB317 – No Behavioral Health Cost Sharing

Timeline of Events

May

1. Review of 5-Year Strategic Plan
 - a. Legislative
 - b. Subsidies
2. Review of loss ratios through March 31, 2021
3. Review of rate changes in 1 percent increments
4. Review details of proposed changes

June

1. Review of 5-Year Strategic Plan specific to 2022
2. Review details of proposed changes
3. Review of board Policies and Procedures

July

1. Review of demographic and claim analysis
2. Self-Insured provider presentations
3. Review of solvency analysis and development
4. Adoption of final plan/rate changes for 2022