

Commodity Code: 94872
Description: Pharmaceutical Services

EDDY COUNTY
STATE OF NEW MEXICO

REQUEST FOR PROPOSALS

Detention Center Pharmaceutical Services
for
EDDY COUNTY



RFP B-16-09 – Attempt #2

EDDY COUNTY PURCHASING
101 W. GREENE
CARLSBAD, NM

Issued: September 13, 2016 – Attempt #2

Proposals Due: October 13, 2016 by 4:30 p.m., Local Time

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The County of Eddy, on behalf of the Detention Center, seeks sealed proposals from qualified companies that can do business in the State of New Mexico to provide Pharmaceutical Services to detainees.

B. BACKGROUND INFORMATION

The Eddy County Detention Center provides pharmaceutical services for incarcerated individuals. A licensed Pharmacist/Pharmacy is needed for this service to work in coordination with Eddy County Detention Center (hereafter “County” or Agency”) nurses, contracted nurses, the contracted Medical Director (TBD) and Health Services Administrator to ensure detainees have proper access to medications as prescribed. It is important to note at this time Eddy County is in various stages of the RFP process for Medical Direction and Nursing services for the Detention Center.

C. SCOPE OF PROCUREMENT

Licensed Pharmacy will provide all pharmaceuticals for Eddy County Detention Center Detainees, seven (7) days a week for the life of this agreement.

Pharmacy will provide pharmaceuticals, as need and in emergency cases, and will be available/reachable after hours and during non-work hours (on-call available); this will include availability for answering questions Agency medical personnel have during working and non-working hours.

Pharmacy will work in coordination with contracted Agency Medical Director, the Medical Department and Administrative staff.

Pharmacy will provide detailed detainee monthly billing to include, but not be limited to, medication names and dosages for all detainees with prescribed medications.

Pharmacy will complete quarterly inspections per state board of pharmacy regulations and standards for the Agency.

Pharmacy will deliver all medications to Agency five (5) days a week (M-F) and as needed in emergency situations or for abrupt medication changes.

The term of this contract shall be for one (1) year. The County reserves the right to extend this contract, on an annual basis (or any portion thereof) and by mutual agreement, for up to three (3) additional years. Under no circumstances will the term of this contract, including any extensions thereto, exceed four (4) years. This procurement will result in a single source award.

D. PROCUREMENT MANAGER

The County of EDDY has designated a Procurement Manager who is responsible for this procurement and whose name, address, and telephone number are listed below. **Any** inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing.

Offerors may contact ONLY the Procurement Manager regarding the procurement. Other County employees do not have the authority to respond on behalf of the County of EDDY.

Contacting any other Eddy County employee, department head or manager in regard to this RFP WILL result in disqualification of the potential offeror's proposal.

Bob Fabian, CPO
Eddy County Procurement Manager

<u>Delivery Address (Including proposal delivery):</u> 101 W. GREENE // CARLSBAD, NM 88220	<u>Mailing Address:</u> 101 W. GREENE // CARLSBAD, NM 88220
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Phone: 575-887-9511, ext. 2501
Fax: 575-628-3275
E-mail: rfabian@co.eddy.nm.us

NOTE: All deliveries via express carrier (INCLUDING PROPOSAL DELIVERY) should be addressed to the Procurement Manager's Delivery Address, above.

DEFINITION OF TERMINOLOGY

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

“Board of County Commissioners” (also “BOCC”) means the elected board in whom all powers of the County are vested and who are responsible for the proper and efficient administration of the County government.

"Close of Business" means 5:00 P.M. Mountain Standard Time (MST) or Mountain Daylight Time (MDT), whichever is in effect on the date specified.

"Contract" or “Agreement” means a written agreement for the procurement of items of tangible personal property or services.

"Contractor" means a successful offeror who enters into a binding contract.

"County" means the County of Eddy, State of New Mexico.

"Determination" means the written documentation of a decision of the procurement manager including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

“Desirable” refers to the terms "may", "can", "should", "preferably" or "prefers," which identify a discretionary item or factor. (As opposed to a “mandatory” item or factor.)

"Evaluation Committee" means a body appointed by County management to perform the evaluation of offeror proposals.

"Evaluation Committee Report" means a report prepared by the Procurement Manager and the Evaluation Committee for submission to appropriate approval authorities for contract award that contains all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

"Finalist" is defined as an offeror who meets all the mandatory specifications of this Request for Proposal and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

"Mandatory" refers to the terms "must", "shall", "will", "is required" or "are required," which identify a required item or factor. (As opposed to a “desirable” item or factor.) Failure to meet a mandatory item or factor will result in the rejection of the Offeror's proposal.

"Offeror" is any person, or entity who chooses to submit a proposal.

"Procurement Manager" means the person or designee authorized by the County to manage or administer a procurement requiring the evaluation of competitive sealed proposals; also referred to as "Purchasing Agent," or "Chief Procurement Officer," in this document and attachments.

"Page" means one (1) side of an 8 ½ X 11 inch sheet of paper. One (1) 8 ½ X 11 inch sheet of paper printed on both sides constitutes two (2) pages. (See, however, Section III.C for the one exception to the 8 ½ X 11 inch page size limitation.)

"Procuring agency of the County" means the department or other subdivision of the County of Eddy that is requesting the procurement of services or items of tangible personal property.

"Purchase Order" or "PO" means the document that directs a contractor to deliver items of tangible personal property or services pursuant to an existing, valid contract.

"Purchasing" means the County of Eddy Purchasing Office or the Eddy County Purchasing Agent.

"Request for Proposals" or "RFP" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

"Responsible Offeror" means an offeror who submits a responsive proposal and who has furnished required information and data to prove that their financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property called for in this proposal.

"Responsive Offer" or "Responsive Proposal" means an offer or proposal that 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 and delivery requirements.

"Statement of Compliance" and "Statement of Concurrence" mean an express, affirmative statement by the offeror in their proposal, which they agree with or agree to the stated requirement(s). Possible examples of acceptable responses include "The [NAME HERE] Company agrees to comply with this requirement." "The [NAME HERE] Company concurs with this requirement." and The [NAME HERE] Company agrees to participate as required.

PROCUREMENT LIBRARY

The Procurement Library consists of the following documents that may be accessed by their associated Internet links:

- New Mexico Procurement Code

<http://www.generalservices.state.nm.us/statepurchasing/>

- Eddy County Purchasing Policy

<http://www.eddycounty.org>

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule, description and conditions general requirements governing the procurement.

A. SEQUENCE OF EVENTS

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

ACTION	RESPONSIBILITY	DATE
1. Issue RFP	Procurement Manager (PM)	September 13, 2016
2. Return of "Acknowledgment of Receipt" Form for Distribution List	Potential Offerors (PO)	September 23, 2016
3. Deadline to Submit Questions	PO	September 23, 2016
4. Response to Written Questions/ RFP Amendments	PM	September 28, 2016
5. Submission of Proposal	Offerors	October 13, 2016 by 4:30 p.m., Local Time
6. Proposal Evaluation	Evaluation Committee (EC)	October 13- October 20, 2016
7. Selection/Notification of Finalists	EC	October 13- October 20, 2016
8. Contract Negotiations	Tentative winner/County	November 1, 2016
9. BOCC Approval	BOCC	November 1, 2016
10. Contract Award	Purchasing Agent/BOCC	November 15, 2016
11. Protest Deadline	Offerors	+ 15 Days from Contract Award

B. EXPLANATION OF EVENTS

The following paragraphs further detail the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue RFP

This RFP is being issued by the Eddy County Procurement Manager on behalf of the Detention Center.

2. Return of "Acknowledgment of Receipt" Form for Distribution List

Potential Offerors should hand deliver or return by facsimile or e-mail or registered or certified mail the "Acknowledgement of Receipt" form that accompanies this document (See 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 by the close of business on the date indicated in Section II.A (Sequence of Events), above.

The procurement distribution list will be used to notify those that submitted the form of any written responses to questions and any RFP amendments. If not received, potential offeror's may not receive crucial information that may affect their proposal response and shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror's organization name shall not appear on the distribution list.

3. Deadline to submit written questions

Potential Offerors may submit written questions as to the intent or clarity of this RFP until 5:00 PM MDT on the date indicated in Section II.A (Sequence of Events), above. All written questions must be sent by e-mail to the Procurement Manager (See Introduction, Paragraph D.) All written questions must be sent by e-mail to the Procurement Manager (See Section I, Paragraph D.). Phone calls will not be accepted.

4. Response to written questions/RFP Amendments

Written responses to written questions and any RFP amendments will be posted to the EDDY COUNTY web site www.eddycounty.org via the "Purchasing Department" link. Notification of such posting shall be provided to all potential Offerors that have returned the "Acknowledgement of Receipt" Form found at Appendix A. A new "Acknowledgement of Receipt" Form will accompany the posted distribution package. The form should be signed by the Offeror's representative, dated, and hand-delivered or returned by facsimile or e-mail or by registered or certified mail by the date indicated thereon.

5. Submission of Proposal

OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN THE TIME AND DATE ON THE INDICATED IN SECTION II.A (SEQUENCE OF EVENTS), ABOVE. PROPOSALS RECEIVED AFTER THIS DEADLINE FOR ANY REASON WILL NOT BE ACCEPTED OR CONSIDERED.

The date and time of receipt will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the delivery address listed in Section I, Paragraph D. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the "**Detention Center Pharmaceutical Services**" Request For Proposals and should reference **#B-16-09**. Proposals submitted by facsimile or other electronic means **WILL NOT BE ACCEPTED.**

If not labeled correctly, the Procurement Manager reserves the right to open any package to confirm its contents or to clarify if it is a response to this RFP.

Proposals submitted by facsimile or other electronic means **WILL NOT BE ACCEPTED.**

Proposals not following Section III, "Response Format and Organization" may be deemed non-responsive by the evaluation team and rejected on that basis.

A public log will be kept of the names of all offerors submitting proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing offerors prior to contract award.

6. Proposal Evaluation

The evaluation of proposals will be performed by an Evaluation Committee appointed by County management and the Procurement Manager. This process will take place during the time period indicated in Section II.A (Sequence of Events), above. During this time, the Procurement Manager may at his option initiate discussions with offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion.

Discussions SHALL NOT be initiated by the Offerors.

7. Selection/Notification of Finalists

The Evaluation Committee may select and the Procurement Manager may notify finalist offerors on the date indicated in Section II.A (Sequence of Events), above. Only finalists will be invited to participate in the subsequent steps of the procurement. The Evaluation Committee reserves the right not to utilize the finalist process if they deem it in the best interest of the County.

8. Contract Negotiations

If necessary, contract negotiations shall commence with the most advantageous offeror no later than the date indicated in Section II.A (Sequence of Events), above. In the event that mutually agreeable terms cannot be reached within the time specified, the County reserves the right to finalize a contract with the next most advantageous offeror without undertaking a new procurement process.

9. BOCC Approval

All contracts will be approved by the Board of County Commissioners before award. This date is subject to change at the discretion of the Board of County Commissioners.

10. Contract Award

After review of the Evaluation Committee Report and the tentative contract, the Purchasing Agent anticipates the Board of County Commissioners will award the contract on the date indicated in Section II.A (Sequence of Events), above. This date is subject to change at the discretion of the Board of County Commissioners.

Any contract awarded shall be awarded to the offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors set forth in this RFP.

11. Protest Deadline

Any protest by an offeror must be timely, in conformance with, and will be governed by Sections 13-1-172 through 13-1-176 NMSA 1978 and Eddy County Procurement Policy. The fifteen (15) calendar day protest period for timely offerors shall begin on the day following contract award and will end at close of business on the 15th day. Protests must

be written and must include the name and address of the protestor and the Request for Proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the Purchasing Agent. The protest **must** be delivered to the Purchasing Agent at:

Eddy County
Attn. Bob Fabian, CPO
101 W. Greene
Carlsbad, New Mexico 88220

NOTE: Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the New Mexico Procurement Code and the Eddy County Procurement Policy.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement in the letter of transmittal form (see Appendix D). Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Incurring Cost

Any cost incurred by the offeror in preparation, transmittal, presentation of any proposal or material, or negotiation associated with its response to this RFP shall be borne solely by the offeror. Additionally, any cost incurred by the Offeror for set up and demonstration of proposed equipment and/or systems shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the County. The County will only make contract payments to 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 County before any subcontractor is used during the term of this agreement.

Use of subcontractors must be clearly explained in the proposal and each must be identified by name. Substitution of subcontractors, after contract award, must receive prior written approval of the Project Manager, County Manager and/or their designees.

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. County personnel will not merge, collate, or assemble proposal materials.

6. Offerors' 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 signed by the offeror's duly authorized representative addressed to the Procurement Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

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 one is solicited.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded by the awarding authority. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material which is proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978, 57-3A-1 to 57-3A-7. The price of products offered or the cost of services proposed **shall not be designated** as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Purchasing Agent shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continued prohibition on the disclosure of confidential data.

9. No Obligation

This procurement in no manner obligates Eddy County or any of its departments or other subdivisions to the eventual lease, purchase, etc., of any tangible personal property offered or services proposed until a valid written contract is approved by the Board of County Commissioners.

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 County determines such action to be in the best interest of the County.

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 termination will be effected by sending written notice to the contractor. The County's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The County requires that all offerors agree to be bound by the General Requirements contained in this RFP. Any offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Governing Law

This procurement and any agreement with offerors that may result shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied by the County in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of offeror proposals.

15. Contract Terms and Conditions

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

Eddy County discourages exceptions from the contract terms and conditions as set forth in the RFP Sample Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the County (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 substantial proposal rewrite to correct.

Should an offeror object to any of the County's terms and conditions, as contained in this Section or in Appendix B, strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The County may or may not accept the alternative language, at the County's sole discretion. General references to the Offeror's terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to the County and will lead to 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 in order for the proposed alternate wording to be considered.

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 their proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the County. Please 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 County and the selected Offeror 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 offeror who is not a responsible offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.

19. Disclosure Regarding Responsibility

Any prospective Responsible Bidder/Offeror (hereafter Offeror) and/or any of its Principals who seek to enter into a contract greater than twenty thousand dollars (\$20,000.00) with an State agency or Local Public Body for professional services, tangible personal property, services or construction agrees to disclose whether they, or any principal of their company:

1. Are presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, State agency or local public body;
2. Have, within a three-year period preceding this offer, been convicted of or had civil judgment rendered against them for: commission of fraud or criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) contract or subcontract; violation of federal or state antitrust statutes related to the submission of offers; or 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. Are presently indicted for, or otherwise criminally or civilly charged by any (federal, state, or local) government entity with, commission of any of the offenses enumerated in paragraph 2 of this disclosure.
 4. Have, preceding this offer, been notified of any delinquent federal or state taxes in an amount that exceeds \$3,000.00, of which the liability remain unsatisfied.
 - a. Taxes are considered delinquent if both of the following criteria apply:
 - i. 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.
 - ii. 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.
 5. 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. 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. The Offeror shall provide immediate written notice to the Procurement Manager or Buyer if, at any time prior to contract award, the Offeror learns that its disclosure was erroneous when submitting or became erroneous by reason of changed circumstances. A disclosure that any of the items in this requirement exist will not necessarily result in withholding an award under this solicitation. However, the disclosure will be considered in the determination of the Offeror's responsibility. Failure of the Offeror to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
 6. Nothing contained in the foregoing shall be construed to require establishing a system of records in order to render in good faith the disclosure required by this document. The knowledge and information of an Offeror is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings. 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. 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 Procurement Manager or Buyer. If it is later determined that the Offeror knowingly rendered an erroneous

disclosure, in addition to other remedies available to the government, the SPA or Central Purchasing Officer may terminate the involved contract for cause. Still further, the SPA 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.

20. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. 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.

21. Change in Contractor Representatives

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

22. Notice of Penalties

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

23. County Rights

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

24. Right to Publish

Through the duration of this procurement process and contract term, Offerors and contractors must secure from the County written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent 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.

25. Ownership of Proposals

All documents submitted in response to the RFP shall become the property of the County. However, any technical or user documentation submitted with the proposals of non-selected offerors may be returned after the expiration of the protest period, by request, at the expense of the Offeror.

26. Ambiguity, Inconsistency or Errors in RFP

Offerors shall promptly notify the Procurement Manager, in writing, of any ambiguity, inconsistency or error which they discover upon examination of the RFP.

27. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of any 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 County of Eddy.

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

28. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

29. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the County, the Offeror acknowledges the version maintained by the County shall govern.

30. New Mexico Employees Health Coverage

1. For all contracts solicited and awarded on or after January 1, 2008: 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:

- a. have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008, if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;
- b. have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009, if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or
- c. have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

2. 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.

3. 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 <http://insurenwnewmexico.state.nm.us/>.

4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it), these requirements shall apply the first day of the second month after the Offeror reports combined sales (from State and, if applicable, from LPBs if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000.

31. Default

The County reserves the right to cancel all or any part of any orders placed under this contract without cost to the County, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the County 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 County 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 paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

32. Conflict of Interest

The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance or services required under the Agreement. The Offeror certifies that the requirements of the Governmental Conduct Act, NMSA 1978, §10-16-1 through §10-16-18, regarding contracting with a public officer or state employee or former state employee have been followed.

34. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form (See APPENDIX E) as a part of its proposal. This requirement applies regardless of whether a covered contribution was made or not made. Note that there are two (2) different signature sections within the form. For purposes of this requirement, the applicable elected public officials within the County of Eddy include, but are not limited to, BOCC Chair, Royce Pearson; Vice-Chair Stella Davis; Commissioners, Susan Crockett, Glenn Collier, James Walterscheid; County Assessor, Gemma Ferguson; County Clerk, Robin Van Natta; County Sherriff, Scott London; County Treasurer, Terri Richards; Probate Judge, John Caraway. **Failure to complete and return the signed, unaltered form will result in disqualification.**

34. Preferences

1. Resident Business Preference

The New Mexico Procurement Code provides for preference for resident businesses and Contractors under certain conditions. If applicable, the preference will be provided to

those Offerors that have provided a valid resident business preference certificate with their bid, as required by 13-1-22 NMSA 1978.

In order for a Bidder to receive preference as a resident business, that Bidder must submit a copy of their resident business preference certificate with their bid. The preference certificate must have been issued by the New Mexico Taxation and Revenue Department. Providing only a preference number or a copy of the application is not acceptable.

For more information and application forms, go to:

<http://www.tax.newmexico.gov/Businesses/Pages/In-StatePreferenceCertification.aspx>

2. Resident Veteran Business Preference

Effective July 1, 2012, certain preferences are available to Resident Veteran Businesses.

In order for a Bidder to receive preference as a resident veteran business, that Bidder must submit a copy of their resident veteran business preference certificate with their bid. The preference certificate must have been issued by the New Mexico Taxation and Revenue Department. Providing only a preference number or a copy of the application is not acceptable.

For more information and application forms, go to:

<http://www.tax.newmexico.gov/Businesses/Pages/In-StatePreferenceCertification.aspx>

- a. Qualified resident businesses will be given a 5% preference on all RFP's. When proposals are evaluated, New Mexico resident businesses that are registered with the Department of Taxation and Revenue, will receive an additional points equivalent to 5% of the total points possible for award
- b. Qualified Resident Veteran's business will be given points as described in Appendix F.
- c. Only one of these preferences may be used.
- d. Preferences shall not apply when the expenditures for an RFP include federal funds. Qualified Resident Veteran's business will be given points as described in Appendix F.
- e. Only one of these preferences may be used.
- f. Preferences shall not apply when the expenditures for an RFP include federal funds.

III. RESPONSE FORMAT AND ORGANIZATION

NUMBER OF RESPONSES

Offeror's may submit only one (1) response to this RFP.

NUMBER OF COPIES

Offerors **should** deliver one (1) original copy and <3> copies of their proposals (4 total of Binder 1), one (1) original and <3> identical copies of cost proposal (4 total of Binder 2) and offerors submitting Proposals containing confidential information **must** submit <1> redacted version of that proposal for the public file. One <1> electronic version of the proposal **may** be submitted via removable hard disk containing both Binders and all Confidential Information separated on the electronic version (must mirror the hard copy submitted).

Proposals **must** be delivered to the location specified in Section 1, paragraph D on or before the closing date and time for receipt of proposals. The original copy should be clearly marked "ORIGINAL" on the front cover and **shall** contain original signatures.

- Proposals containing confidential information **must** be submitted as two separate files:
 - **Un-redacted** version for evaluation purposes.
 - **Redacted** version (information blacked out and not omitted or removed) for the public file. For this RFP, one (1) version of the redacted file is requested, if submitting as such.

1. PROPOSAL FORMAT

Ability to follow instructions and formatting is of the utmost importance to Eddy County. This attention to detail shows the evaluation team your level of commitment to this RFP and your work as an organization. Proposals not following format may be deemed non-responsive and rejected on that basis.

All proposals must be printed on standard 8 ½x11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within a binder with tabs delineating each section. Each proposal should be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated with a tab for each item listed below.

Binder #1

- a. Letter of Transmittal Form (See Appendix D)
- b. Table of Contents
- c. Proposal Summary (optional)*
- d. Response to Specifications with the exception of Cost.
- e. Response to County Terms and Conditions
- f. Offeror's Additional Terms and Conditions
- g. Campaign Contribution Disclosure Form (See Appendix E)
- h. Response to Statement of Compliance (see Appendix G)

Binder #2

- i. Cost Response Form (See Appendix C)
- j. Resident Vendor or Resident Veteran Certificate, (if applies)
- k. Resident Veterans Preference Certification (if applies)
- l. Signed Employee Health Coverage Form (**Reserved for Awardee**)***
- m. Conflict of Interest Affidavit (**Reserved for Awardee**)***

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. Any forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. Unless otherwise specified in this RFP, all discussion of proposed costs, rates or expenses must occur only on the Cost Response Form, Appendix C. Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

*A proposal summary may be included by offerors to provide the Evaluation Committee with an overview of the technical and business features 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.

**Offerors may attach other material they believe may improve the quality of their responses. However, these materials will be included in Binder 2.

*** May be signed at this time, but are not contingent upon award. Awardee will sign these forms when Agreement is finalized. Eddy County is providing them to Offerors/Potential Awardees at this time for their files.

2. LETTER OF TRANSMITTAL

The Offeror's proposal must be accompanied by the Letter of Transmittal form located in APPENDIX D. The form must be completed and must be signed by the person authorized to obligate the company. The letter of transmittal **MUST**:

- a. Identify the submitting organization;
- b. Identify the name, title, telephone number, and e-mail address of the person authorized by the organization to contractually obligate the organization;
- c. Identify the name, title, telephone number, and e-mail address of the person authorized to negotiate the contract on behalf of the organization;
- d. Identify the names, titles, telephone numbers, and e-mail addresses of persons to be contacted for clarification;
- e. Identify if sub-contractors will be used in the performance of the contract award;
- f. Describe any relationship with any entity that will be used in the performance of this awarded contract;
- g. Identify the following with a check mark and signature where required:
 - i. Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II, Paragraph C.1;
 - ii. Acknowledge acceptance of Section V of this RFP;
 - iii. Acknowledge receipt of any and all amendments to this RFP;
 - iv. Be signed by the person authorized to contractually obligate the organization.

IV. SPECIFICATIONS

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

A. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offerors **must**:

(a) provide a description of relevant corporate experience with state government (may include a local public body such as Eddy County) and/or private sector providing Pharmaceutical Services.

The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge as a provider of Pharmaceutical Services, while addressing the Scope of Work, Appendix B, Attachment 1. All Pharmaceutical Services provided to private sector will also be considered;

(b) describe at least two project successes and failures providing Pharmaceutical Services Include how each experience improved the Offeror's services.

2. Organizational References

Offerors should provide **no more than four (4) references** from similar projects performed for private State and/or large/local government clients within the last three years. ***Offerors are required to submit APPENDIX J, Reference Questionnaire, for the business references they list. The business references must submit the Reference Questionnaire directly to the designee described in Section I, Paragraph D.*** It is the offeror's responsibility to ensure that the completed forms are received by or before the proposal submission deadline for inclusion in the evaluation process. **Business references that are not received in time or are incomplete may adversely affect the vendor's score in the evaluation process.** 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 all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the County reserves the right to consider any and all information available to it (outside of the Business Reference information required herein), in its evaluation of Offeror responsibility per Section II, Paragraph C.18. Offeror shall submit the following business reference information as part of Offer:

- a) 2.1 Client name;
- b) 2.2 Project description;
- c) 2.3 Project dates (starting and ending);
- d) 2.4 Technical environment; (i.e., software applications, Internet capabilities, data communications, network, hardware);
- e) 2.5 Staff assigned to reference engagement that will be designated for work per the RFP;
- f) 2.6 Client project manager name, telephone number, fax number, and e-mail address.

3. Program and Implementation Plan

Offerors must define and describe the program they propose to provide to meet the needs of the Scope of Work, Appendix B, Attachment 1 (and listed below). Offeror should organize this section in a clear and concise manner so that the reader is able to understand the organization's programming and plan of operation for this service and must support how and why they can and how they are qualified to, complete the Scope of Work.

SCOPE OF WORK:

Licensed Pharmacy will provide all pharmaceuticals for Eddy County Detention Center Detainees, seven (7) days a week for the life of this agreement.

Deliverable:

Provide all pharmaceuticals, seven days a week for life of this agreement.

Pharmacy will provide pharmaceuticals, as need and in emergency cases, and will be available/reachable after hours and during non-work hours (on-call available); this will include availability for answering questions Agency medical personnel have during working and non-working hours.

Deliverable:

Provide all pharmaceuticals as needed during emergencies, be on-call available, answer agency questions at all times.

Pharmacy will work in coordination with contracted Agency Medical Director, the Medical Department and Administrative staff.

Deliverable:

Work in coordination with contracted and non-contracted Agency Medical and Administrative Personnel.

Pharmacy will provide detailed detainee monthly billing to include, but not be limited to, medication names and dosages for all detainees with prescribed medications.

Deliverable:

Provide timely and accurate monthly billing.

Pharmacy will complete quarterly inspections per state board of pharmacy regulations and standards for the Agency.

Deliverable:

Complete quarterly inspections per Board of Pharmacy regulations.

Pharmacy will deliver all medications to Agency five (5) days a week (M-F) and as needed in emergency situations or for abrupt medication changes.

Deliverable:

Pharmacy will deliver medications Monday through Friday and as needed for emergencies and abrupt changes.

Page limit for "Program and Implementation Plan" – 15 pages

4. Performance of Scope of Work:

The Scope of Work shall consist of providing the professional services defined in the Contract at Appendix B, Attachment 1. The offeror **must** agree to perform the scope of work as defined in the contract at Appendix B, Attachment 1 and certifies they are capable and qualified to do so. **A statement of concurrence is required.**

5. Standards Compliance

Offeror must agree to comply with current and future standards established by the New Mexico Board of Pharmacy, the National Commission on Correctional Healthcare (NCCHC), the American Correctional Association (ACA), the New Mexico Association of Counties (NMAC), current community standards of care and must stay current on any Licensures as related to this RFP. A statement of concurrence is required. **IT WILL BE AWARDEES RESPONSIBILITY** to stay current on any and all laws, statutes, or regulatory changes for the entities described above and to inform EDDY COUNTY of any and all changes therein.

A statement of concurrence is required and copies of Pharmacy Licensure(s) are required for this response.

6. Mandatory Requirements(s)

Offeror's must take returned medications for credit and agree to provide all medications in pill or capsule form in bubble packs.

A statement of concurrence is required.

B. BUSINESS SPECIFICATIONS

1. Cost

Offerors must complete Cost Response form in Appendix C. Cost will be scored by the highest proposed Average Wholesale Price (AWP) discount offered for Brand Name and Generic medications, split 150 points, respectively. **Cost will only be judged by these factors. Other pricing, discounts or verbiage will not be considered.**

2. Financial Stability

Offerors **must** submit copies of the most recent years' independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission **must** include the audit opinion, the balance sheet, statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist for the Offeror, the Offeror **must** state the reason and, instead, submit sufficient information (e.g., D & B report, profit/loss statements) to enable the Evaluation Committee to assess the financial stability of the Offeror.

3. Insurance

Offeror **must** agree to provide insurance as follows:

Comprehensive General Liability - \$1,000,000 per occurrence, \$3,000,000 General Aggregate; Professional liability- \$1,000,000 per occurrence, \$3,000,000 General Aggregate. "Occurrence" type, if available; if not "Claims Made" type with a minimum of a six (6) year "tail";

The Contractor also agrees to comply with state laws and rules applicable to worker's compensation benefits for its employees. If the Contractor fails to comply with the Worker's

Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

A statement of concurrence is required for insurance and workman's compensation as described above.

4. Letter of Transmittal Form

The Offerors' proposals **must** be accompanied by the Letter of Transmittal form, APPENDIX D. The form **must** be completed and signed by the person authorized to obligate the company.

5. Campaign Contribution Disclosure Form

The Offeror **must** complete unaltered Campaign Contribution Disclosure Form and submit a signed copy with its proposal. **This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX E)**

V. EVALUATION

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.

Table 1: Evaluation Points Summary

Factor	Points Available
A. Technical Specifications	
A(1) Organizational Experience	200
A(2) Organizational References	200
A(3) Program and Implementation Plan	300
A(4) Performance of Scope of Work	Pass/Fail
A(5) Standards Compliance	Pass/Fail
A(6) Mandatory Requirement(s)	Pass/Fail
B. Business Specifications	
B(1) Cost	300 (150/150)
B(2) Financial Stability	Pass/Fail
B(3) Insurance	Pass/Fail
B(4) Letter of Transmittal	Pass/Fail
B(5) Campaign Contribution Disclosure Form	Pass/Fail
	1000
	+ Preference Points
	= FINAL TOTAL

B. EVALUATION FACTORS

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

Points will be awarded based on the thoroughness and clarity of the response, the breadth and depth of the engagements cited, and the perceived validity of the response.

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

Points will be awarded based upon an evaluation of the responses to a series of questions as per Appendix F. Points will be awarded for each individual response up to 1/4 of the total points for this category. Lack of a response will be awarded zero (0) points. Fifty points per reference will be calculated if 4 responses are received, with points taken away based on Reference scores, Reference response to open-ended questions or references not received.

3. A (3) Program and Implementation Plan (See Table 1)

Points will be awarded based on thoroughness, perceived validity, and depth of the Offeror's response.

4. A (4) Performance of Scope of Work (See Table 1)

Pass/Fail only. No points assigned.

5. A (5) Standards Compliance (See Table 1)

Pass/Fail only. No points assigned.

6. A (6) Mandatory Requirement(s) (See Table 1)

Pass/Fail only. No points assigned

7. B (1) Cost (See Table 1)

The evaluation of each Offeror's Cost Proposal will be conducted using the following formula:

Highest point discounted proposed receives full points.

Subsequent lower discounted rates will be scored by the percent of discount multiplied by
Maximum Points available.

There will be 300 total points available for this factor, divided into 150 point sections for Generic and Brand Name Pricing, respectively.

Example: These are example rates and should not be construed as solicitations.

Generic: Maximum points available = 150

Offeror A – AWP - 90%

Offeror B – AWP - 85%

Offeror C – AWP - 60%

Generic:

Offeror A = High Point, 150

Offeror B = $.85 * 150 = 127.5$

Offeror C = $.6 * 150 = 90$

Brand Name: Maximum points available, Brand Name= **150**

Offeror A – AWP - 70

Offeror B – AWP - 80

Offeror C – AWP - 85

Brand Name:

Offeror B = $.8 * 150 = 120$

Offeror C = High Point = 150

Offeror A = $.7 * 150 = 105$

Final Cost Totals EXAMPLE:

Offeror A = $150 + 105 = 255$

Offeror B = $127.5 + 120 = 247.5$

Offeror C = $90 + 150 = 240$

End Example

8. B (2) Financial Stability (See Table 1)

Pass/Fail only. No points assigned.

9. B (3) Insurance (See Table 1)

Pass/Fail only. No points assigned.

10. B (4) Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

11. B (5) Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

PREFERENCES

Resident Business or Resident Veteran's Preference

To be awarded the points, Offerors must include a copy of their preference certificates in this section. In addition for Resident Veterans Preference, the certification form must accompany any RFP and any business wishing to receive the preference must complete and sign the form.

C. EVALUATION PROCESS

1. Initial Review

All offeror proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive to any mandatory requirement will be eliminated from further consideration.

2. Clarifications

The Procurement Manager may contact the offeror for clarification of the response.

3. Other Information Sources

The Evaluation Committee may use other sources of information to perform the evaluation.

4. Scoring and Contract Award Recommendation

Responsive proposals will be evaluated and assigned a point value based on the factors in Section IV. Finalist offerors who are asked and choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. The County reserves the right to not seek Best and Final Offers. The responsible offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors in Section IV, will be recommended for contract award to the Purchasing Agent, and any other required approving authorities. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score. **The most advantageous proposal may or may not have received the most points.**

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Appendices

**APPENDIX A
ACKNOWLEDGEMENT OF RECEIPT FORM**

Request for Proposals

Detention Center Pharmaceutical Services **Attempt #2
for
EDDY COUNTY**

RFP B-16-09

In acknowledgment of receipt of this Request for Proposals, the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix J.

The acknowledgment of receipt should be signed and returned (by fax, e-mail and courier or hand delivery) to the Procurement Manager **September 23, 2016**.

The firm listed below does/does not (circle one) intend to respond to this Request for Proposals.

FIRM: _____

REPRESENTED BY: _____ TITLE: _____

E-MAIL ADDRESS: _____

PHONE NO.: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

This name and address will be used for all correspondence related to the Request for Proposals.

Please return to:
Bob Fabian, CPO
Eddy County Procurement Manager
101 W. Greene
Carlsbad, NM, 88220
Phone: 575-887-9511
Fax: 575-234-1835
E-mail: rfabian@co.eddy.nm.us

APPENDIX B
EDDY COUNTY
SAMPLE AGREEMENT #A-16-79

THIS AGREEMENT is made and entered into by and between the County of Eddy, Detention Center (ECDC), hereinafter referred to as the "County" and _____, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. Compensation.

A. The County 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 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 County when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

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

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the County 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 County 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 County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. Term.

This Agreement shall be an annual contract based on the fiscal year of July 1 to June 30. The initial term shall be from DATE to DATE. This Agreement may be renewed by the County for up to three (3) additional one (1) year terms contingent on the approval of the County Commission prior to the expiration of the one (1) year initial term or any of the one (1) year extensions. Provided, this agreement may be terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

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

B. **Termination Management.** Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County; 2) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the County shall direct for the protection, preservation, retention or transfer of all property titled to the County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

5. Appropriations.

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

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Eddy. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Eddy as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Eddy unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the procuring agency of the County, its officers and employees, and the County of Eddy from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

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

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Eddy and shall be delivered to the County no later than the

termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10 and Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (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 County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by

reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in Article 12(B).

13. Amendment.

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

B. If the County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement and shall be enforceable in the Fifth Judicial District Court in Eddy County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Worker's Compensation.

The Contractor agrees to comply with state laws and rules applicable to worker's compensation benefits for its employees. If the Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

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

20. Insurance

In addition to Worker's Compensation coverage that may be required as set forth in Paragraph 18 above, Contractor agrees to have insurance as follows: Comprehensive General Liability - \$1,000,000 per occurrence, \$3,000,000 General Aggregate; Professional liability-\$1,000,000 per occurrence, \$3,000,000 General Aggregate. "Occurrence" type, if available; if not "Claims Made" type with a minimum of a six (6) year "tail."

21. Indemnification.

The Contractor shall defend, indemnify and hold harmless the County of Eddy from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Eddy and the New Mexico Association of Counties by certified mail.

22. Invalid Term or Condition.

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

23. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

24. Authority.

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

25. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

26. Limit of Liability.

The contractor's liability to the County for any cause whatsoever shall be limited to the purchase price paid to the contractor for the products and services that are the subject of County's claim. The foregoing limitation does not apply to the paragraphs entitled "Indemnification" and "Patent, Copyright, Trademark and Trade Secret Indemnification" of this agreement or to damages resulting from personal injury caused by the contractor's negligence.

In no event will the contractor be liable for any damages resulting from loss of data or use, lost profits or any incidental or consequential damages.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification"; "Indemnification"; and "Limit of Liability" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

28. Succession.

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

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such

mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Eddy County Manager, if the amount of the contract is \$5,000.00 or less. The Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Incorporation and Order of Precedence.

Request for Proposals No.B-16-09, and the contractor's proposal are incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
2. this contract itself; then
3. the Request for Proposals; then
4. the Contractors Best and Final Offer(s), in reverse chronological order; then
5. the contractor's proposal; then
6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

35. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Eddy against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Eddy based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Eddy for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Eddy shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;

- ii. replace or modify the product or service so that it becomes non-infringing; or

- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

36. Contractor's Payment of Property Taxes.

Contractor acknowledges that County has established a policy of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations to mitigate the economic burden otherwise imposed upon County and its taxpayers. Contractor warrants and certifies that it is presently not delinquent in the payment of its property tax obligations, and that it will not become delinquent during the term of this Contract.

37. Termination For Failure to Comply with County's Tax Reduction Policy.

Without limiting the rights and remedies available to County under any other provision of this contract, failure of Contractor to cure a property tax delinquency within 10 days of notice shall be grounds upon which County may terminate this Contract.

38. Future Reference (Post Review).

Upon completion of all work and the contract is over, there will be a review of all work done by the Contractor and/or any sub-contractors to be kept on file by Eddy County for future use to help ensure the County picks the best potential Offerors and Awardees.

39. Default

The County reserves the right to cancel all or any part of any orders placed under this contract without cost to the County, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the County 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 County 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 paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

40. Notices.

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

To the County: County Manager // 101 W. Greene // Carlsbad, NM 88220

To the Contractor: [REDACTED]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signatures below.

Contractor: [REDACTED]

By: _____
Contractor

Date: _____

By: Eddy County Board of County Commissioners

Royce O. Pearson, BOCC Chair

Date: _____

Attest:

Robin Van Natta, County Clerk

Date: _____

**Attachment 1
Scope of Work
And
Deliverables**

Licensed Pharmacy will provide all pharmaceuticals for Eddy County Detention Center Detainees, seven (7) days a week for the life of this agreement.

Deliverable:

Provide all pharmaceuticals, seven days a week for life of this agreement.

Pharmacy will provide pharmaceuticals, as need and in emergency cases, and will be available/reachable after hours and during non-work hours (on-call available); this will include availability for answering questions Agency medical personnel have during working and non-working hours.

Deliverable:

Provide all pharmaceuticals as needed during emergencies, be on-call available, answer agency questions at all times.

Pharmacy will work in coordination with contracted Agency Medical Director, the Medical Department and Administrative staff.

Deliverable:

Work in coordination with contracted and non-contracted Agency Medical and Administrative Personnel.

Pharmacy will provide detailed detainee monthly billing to include, but not be limited to, medication names and dosages for all detainees with prescribed medications.

Deliverable:

Provide timely and accurate monthly billing.

Pharmacy will complete quarterly inspections per state board of pharmacy regulations and standards for the Agency.

Deliverable:

Complete quarterly inspections per Board of Pharmacy regulations.

Pharmacy will deliver all medications to Agency five (5) days a week (M-F) and as needed in emergency situations or for abrupt medication changes.

Deliverable:

Pharmacy will deliver medications Monday through Friday and as needed for emergencies and abrupt changes.

To be placed in Binder #2 or be made readily separable from other contents of proposal

APPENDIX C

COST RESPONSE FORM
Eddy County B-16-09 – Attempt #2
Detention Center Pharmaceutical Services
for
EDDY COUNTY

State gross receipts and local option taxes (if any) shall not be included in the proposed cost. Such taxes shall be separately reimbursed by the County.

OFFEROR NAME: _____

Pricing:

Average Whole Sale Price + or – (plus or minus) _____% Discount – **Generic**
(Please circle)

And

Average Wholesale Price + or – (plus or minus) _____% Discount – **Brand Name**
(Please circle)

Cost will only be judged by these factors. Other pricing, discounts or verbiage will not be considered.

APPENDIX D
LETTER OF TRANSMITTAL FORM

Items #1 to 4 **MUST EACH BE RESPONDED TO.** Failure to respond to all four items **WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!**

1. Identity (Name) and Mailing Address of the submitting organization:

2. For the person authorized by the organization to contractually obligate the organization:

Name	
Title	

3. For the person authorized to negotiate the contract on behalf of the organization:

Name	
Title	
E-Mail Address	
Telephone Number	

4. For the person to be contacted for clarifications:

Name	
Title	
E-Mail Address	
Telephone Number	

5. Use of Sub-Contractors (Please Check One)

No sub-contractors will be used in the performance of this contract OR

The following sub-contractors will be used in the performance of this contract:

(Attach extra sheets, as needed)

6. Please describe any relationship with any entity with which will be used in the performance of this contract:

(Attach extra sheets, as needed)

Please Check:

____ On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in “General Requirements subparagraph 1.”

____ I concur that submission of our proposal constitutes acceptance of the General Requirements, Mandatory Requirements and Evaluation Factors contained in this RFP.

____ I acknowledge receipt of any and all amendments to this RFP.

_____, 2016
Authorized Signature and Date (**Must be signed** by the person identified in **item #2**, above.)

APPENDIX E CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

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

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

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money

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

"Contract" means any Agreement for the procurement of items of tangible personal property services, professional services or construction.

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

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

"Prospective contractor" means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

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

Name(s) of Applicable Public Official(s) if any Name(s) of Applicable Public Official(s) if any: BOCC Chair, Royce Pearson; Vice-Chair Stella Davis; Commissioners, Susan Crockett, Glenn Collier, James Walterscheid; County Assessor, Gemma Ferguson; County Clerk, Robin Van Natta; County Sherriff, Scott London; County Treasurer, Terri Richards; Probate Judge, John Caraway.

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

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 F
RESIDENT VETERANS PREFERENCE CERTIFICATION

_____ (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 §s 13-1-21 or 13-1-22 NMSA 1978, 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.

Appendix G
Statement of Compliance

Instructions: Each proposal must be accompanied by a signed Statement of Compliance. The Proposer must sign one, and only one, of the declarations stated below and then submit as part of your proposal.

No Exceptions. The undersigned declares that the Proposal submitted by (Name of Firm) _____ shall provide services to Eddy County as described in the RFP dated **September 13, 2016; Detention Center Pharmaceutical Services** was prepared in strict compliance with the instructions, conditions and terms listed in the RFP, **with no exceptions taken.**

Signature

Date

Printed Name and Title

Exceptions. By signing below, the Offeror acknowledges that the Proposal submitted by (Name of Firm) _____ has been prepared in consideration of and with exception to some of the terms of the RFP.” By signing below, the Offeror declares the Proposal includes a statement that identifies each item to which the Offeror is taking exception or is recommending change, includes the suggested rewording of the contractual obligations or suggested change in the RFP and identifies the reasons for submitting the proposed exception or change. Eddy County reserves the right to reject any declarations that are not accompanied with the required documentation as described above.

Signature

Date

Printed Name and Title

[Attach separate sheet(s) detailing exceptions]

RESERVED FOR AWARDEE

**Appendix H
New Mexico Employees Health Coverage Form**

1. For all contracts solicited and awarded on or after January 1, 2008: 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:

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

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

(c) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

2. 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.

3. 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 <http://insurenwnewmexico.state.nm.us/>.

4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000.

Signature of Offeror: _____ Date _____

RESERVED FOR AWARDEE

APPENDIX I – Conflict of Interest Affidavit

AFFIDAVIT

STATE OF NEW MEXICO)

) ss.

COUNTY OF SANTA FE)

I, _____ (name), being first duly sworn upon my oath, depose and state the following:

1. I am a former employee of the _____ (name of Department/State agency), having separated/retired from state employment as of _____ (date).

2. I am a current employee of the _____ (name of Department/State agency), or a legislator with the state, or the family member (spouse, parent, child, sibling by consanguinity or affinity) of a current employee or legislator with the state. Being a current employee or legislator or family member of a current employee or legislator of the state, I hereby certify that I obtained this Agreement pursuant to NMSA 1978, §10-16-7 or §10-16-9, that is, in accordance with the Procurement Code except that this Agreement has NOT been awarded via the sole source or small purchase procurement methods.

3. The Department/State agency and I have entered into a agreement in the amount of \$_____.

4. NMSA 1978, §10-16-8.A(1) of the Governmental Conduct Act does not apply to this Agreement because I neither sought a contract with the Department/State agency, nor engaged in any official act which directly resulted in the formation of the Professional Services Agreement while an employee of the Department/State agency.

5. To the best of my knowledge, this Agreement was awarded in compliance with all relevant provisions of the New Mexico Procurement Code (NMSA 1978, §13-1-28, et. seq.).

FURTHER, AFFIANT SAYETH NOT.

name

Subscribed and sworn to before me by _____ (name of former employee)

this ____ day of _____, 2016.

My Commission Expires: _____

NOTARY PUBLIC

**APPENDIX J
REFERENCE QUESTIONNAIRE**

The State of New Mexico, as a part of the RFP process, requires proposing vendors to submit a minimum of three (3) business references as required within this document. The purpose of these references is to document the experience relevant to the scope of work and provide assistance in the evaluation process.

The proposing vendor is required to send the following reference form to each business reference listed. **The business reference, in turn, is requested to submit the Reference Form directly to the Procurement Manager by the RFP submission deadline for inclusion in the evaluation process.** The form and information provided will become a part of the submitted proposal. The business reference may be contacted for validation.

**RFP #B-16-09 ATTEMPT #2 REFERENCE QUESTIONNAIRE
FOR:**

(Name of company requesting reference)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the Eddy County via facsimile or e-mail at:

Name: Bob Fabian, Procurement Manager

Address: 101 W. Greene

Telephone: 575-887-9511

Fax: 575-628-3275

Email: rfabian@co.eddy.nm.us

no later than **October 13, 2016 by 4:30 p.m., Local Time.**, and **must not be returned to the company requesting the reference.**

For questions or concerns regarding this form, please contact the Procurement Manager listed above. When contacting us, please be sure to include the Request for Proposal number listed.

CONFIDENTIAL INFORMATION WHEN COMPLETED

Company providing reference	
Contact name and title/position	
Contact telephone number	
Contact e-mail address	

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?

____ (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?

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

COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?

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

COMMENTS:

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

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

COMMENTS:

6. Who were the vendor's principal representatives involved in your project and how would you rate them individually? Would you 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. How satisfied are you with the products developed by the vendor?

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

COMMENTS:

8. How would you rate the timeliness of services of this vendor?

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

COMMENTS:

9. Was the vendor responsive to problems and complaints?

COMMENTS:

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

COMMENTS:

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

COMMENTS:

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

COMMENTS: