



Las Cruces Public Schools

Going Above and Beyond for Every Student, Every Day

REQUEST FOR PROPOSAL
(RFP No. 18-19-05P)

Third Party Administrator

For

IRS Cafeteria Plan

and

Independent Insurance Carriers

ISSUED: April 21th, 2019

Commodity Codes: 91840, 91869

CLOSING DATE AND TIME:

Proposals are requested to be received at the Closing Location below prior to:
10:00 AM (10:00 hrs.) Mountain Standard Time
on
May 13th, 2019

Las Cruces Public Schools Contact for Questions:

Will Manning, CPPO/CPO
Director of Purchasing
505 S. Main Street, Suite 249
Las Cruces, New Mexico 88001
Email: wmanning@lcps.net
Telephone: (575) 527-5846

Pre-proposal Conference
(TBD)

LAS CRUCES PUBLIC SCHOOLS DISTRICT

RFP NO: 18-19-05P

TITLE: 3RD - Party Administrator for IRS Section 125 Cafeteria Plan & Independent Insurance Carrier(s)

DUE DATE/TIME: May 13th, 2019 @ 10:00 a.m.

Commodity Codes: 91840/91869

I. INTRODUCTION

A. The Las Cruces Public School District (School District) is requesting proposals from a licensed Third-Party Administrator company or firm interested in providing dedicated administration services for its IRS Section 125 Cafeteria Employee Benefits Plan. Proposals from qualified vendors for a model IRS Section 125 Plan shall demonstrate an implementation plan that provides for a seamless transition and complies with the contents described in this Request for Proposal. Product and Services are enclosed through the RFP and [Exhibit A](#).

B. **Independent Insurance Carriers**: This proposal also seeks offers from other independent insurance carriers to address the need of Las Cruces Public Schools Employees for additional After-Tax Whole life insurance policies via other carriers that are not established and approved by the Chief Financial Officer (CFO) to participate in the School District's voluntary payroll deduction via LCPS Infinite Visions Payroll System. Reference [Exhibit B](#) for statement of work for offerors insurance requirements.

C. Responses will be evaluated for the purpose of obtaining required services from the firm submitting the highest ranked proposal based on the criteria stated herein.

1. Proposal responses must be received in *sealed packages* by the above **DUE DATE & TIME** at the Purchasing Office, 505 S. Main St., Suite 249, Las Cruces, NM 88001. *The proposal number and title must be annotated at the bottom right hand corner of the package. See further details below.*

2. Late proposals will not be accepted and will be returned unopened.

D. Inquiries regarding this solicitation may be addressed by contacting Mr. Will Manning, Director of Purchasing at (575) 527-5846/wmanning@lcps.net and/or Mr. Cesar Chaves, Purchasing Buyer, at (575) 527-58545 cchaves3@lcps.net. Questions to this proposal will be addressed via email by electronic amendment pertaining to RFP requirements. Amendment(s) shall be emailed to all prospective respondents for a quick response turnaround who have provided a valid email address.

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1. Prospective vendors may obtain a copy of the proposal by registering via the Vendor Registry website by the provided link. <https://vrapp.vendorregistry.com/Vendor/Register/Index/las-cruces-public-school-district-purchasing-nm-vendor-registration>.

2. To view advertised/posted Bids/RFPs go to link: <https://vrapp.vendorregistry.com/Bids/View/BidsList?BuyerId=b006d03c-8caf-494f-a267-2a40765d3bc4> To open and view Bids/RFPs, vendors must be registered via Vendor Registry and signed in to view or download the RFP and related amendments.

E. All prospective respondents will comply with all local, state and or federal laws prohibiting bribes, gratuities, and kickbacks.

F. By responding to this request for proposal, the respondent warrants that it is and will acquire no interest, which would directly, or indirectly conflict in any manner or degree with the performance of the proposed service. Sign and return "*Conflict of Interest*" statement enclosed as Attachment A.

G. Respondents are required to complete and return within their Proposal Submittal Package the **Campaign Contribution Form** enclosed as Attachment B.

H. Each respondent must attest to their status of **Certification, Debarment, Suspension, and Ineligibility and Involuntary Exclusion** by completion and return of the subject letter enclosed as Attachment C.

I. New Mexico companies or contractors who wish to obtain a five percent bidding advantage on all state contracts are required to obtain a valid resident business certificate or resident contractor certificate issued by the State Taxation effective as of January 1, 2012. This in-state preference does not apply to contracts that use federal funding. As per 13-1-22 NMSA 1978, a business or contractor shall submit with its bid or proposal a copy of a valid resident contractor certificate issued by the taxation and revenue department. Insert tab as Attachment D and label as "Resident Contractor Certificate" followed by enclosed certificate.

II. Background:

Mission: The Las Cruces Public Schools, in partnership with students, families, and the community, provides a student-centered learning environment that cultivates character, fosters academic excellence, and embraces diversity.

About LCPS: Las Cruces Public Schools is located 45 miles north of the US-Mexico border in Las Cruces, New Mexico. With approximately 24,999 students and 3,200 employees, LCPS is the second largest school district in New Mexico.

LCPS serves a diverse population of approximately 91,000 people throughout the City of Las Cruces, the Town of Mesilla, the Village of Doña Ana, and White Sands Missile Range, and the middle third of Doña Ana County. The city's largest employers include

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New Mexico State University, White Sands Missile Range, Las Cruces Public Schools, and the City of Las Cruces.

The district has 40 schools: 24 elementary schools (pre-kindergarten-5th); one combined elementary and middle school (K-8th); eight middle schools (6th-8th); and seven high schools (9th-12th). Two of the seven high schools are early college high schools and are located on the campus of New Mexico State University. LCPS also has a Virtual Learning Academy, serving elementary through high school students.

III. Instructions to Respondents

A. **Closing Date/Time/Location:** Respondents are requested to submit their Proposal prior to the closing time of **10:00 AM (10:00 hrs.), Mountain Standard Time, May 13th, 2019**. The mandatory method of submission of proposal packages shall be:

1. By hand carry or courier delivery: In mandatory sealed enclosure containing one (1) original hardcopy of the Technical Proposal along with one (1) electronic copy of the proposal on a USB/Jump drive. Also, provide one (1) original hardcopy of Cost Proposal for premiums to Employees with one (1) USB/Jump drive. Proposal Package shall be clearly marked: **“IRS Section 125 Cafeteria Plan Administration with RFP No: 18-19-05P” and/or in the case of proposers for insurance carrier, clearly marked as: Independent Insurance Proposal with RFP No: 18-19-05P** delivered to the:

Attention of: Will A. Manning, CPPO/CPO
Purchasing Department
Las Cruces Public Schools
505 South Main Street, Suite 249
Las Cruces, New Mexico 88001

Note: Technical and Cost proposal shall be separately sealed and mark according to their content. Should there be any differences between the hardcopy and the electronic copy, the hardcopy will prevail; if compliant with RFP requirements. *Proposals received by any other means will not accepted.*

2. **Sequence of Event:** This section of the RFP contains the schedule for the procurement, describes the major procurement events, and depicts the tentative timeline for the procurement.

	<u>Action</u>	<u>Estimated Date</u>
1.	Issuance of RFP	April 21 th , 2019
2.	Deadline to Submit Additional Questions	May 1 st , 2019 @ 2:00 p.m.

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3.	Response to Written Questions to RFP and Amendments/ Addendum will be posted on the Procurement Website @ https://vrapp.vendorregistry.com/Bids/View/BidsList?BuyerId=b006d03c-8caf-494f-a267-2a40765d3bc4	May 3 rd , 2019 by C.O.B
4.	Submission of Proposal Deadline	May 13 th , 2019 @ 10:00 a.m.
5.	Proposal Evaluation (Tentative)	May 18 th , 2019 @ 10:00 a.m.
6.	Pre-Interview meeting (If required)	TBD
7.	Notice of Finalists (If required)	TBD
8.	Interviews with Finalists (If required)	TBD
9.	Contract Negotiations	TBD
10.	LCPS School Board Approval	TBD
11.	Issue Notice of Award	TBD

B. Examination of Documents: It is the sole responsibility of the respondent submitting the proposal package to comply with the requirements of the RFP. The Respondent must carefully examine all the Documents judging for and satisfying him/herself as to the probable conditions to be encountered. Should a Respondent find discrepancies in, or omissions from the documents, or should he/she cast doubt as to their meaning, he/she should, prior to submitting his proposal, notify the Purchasing agent in writing via email for question and answer as stipulated above. The Respondent may not claim, after the submission of a proposal, that there was any misunderstanding with respect to the conditions imposed by the documents. No verbal agreement or conversation made or had at any time with any officer, agency, or employee of the School District shall affect or modify any of the terms or obligations herein stated.

C. Addenda: If the LCPS determines that an addendum is required for this proposal, the LCPS will post the amendments on the LCPS Vendor Registry Website at <https://vrapp.vendorregistry.com/Bids/View/BidsList?BuyerId=b006d03c-8caf-494f-a267-2a40765d3bc4> and shall email respondents who have provided a valid email address in their package. Each amendment must be incorporated into and become part of the proposal. No amendment of any kind to the proposal is effective unless it is in written form and issued by the LCPS. It is the sole responsibility of each Respondent to acknowledge addenda/amendment in their submission package and to ensure any and all addendums are included prior to submitting their final Proposal submission.

D. An offeror's submittal to this RFP, shall be perceived by the School District, that the contractor/offeror understands that only a written notice of the award, contractual agreement with a related purchase order from the Las Cruces Public Schools will constitute full agreement and consummate the transaction and will serve together with the proposal, the advertisement, these instructions including detailed specifications, as the entire form of contract agreement between the parties.

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E. Respondent(s) agrees that the Las Cruces Public Schools reserves the sole right to reject any or all proposals, or to accept the part of the RFP considered in the best interest of the School District.

F. The scope of work for services reference in this RFP, are considered minimum, unless otherwise indicated by the proposer, the School District will assume proposals meets or exceeds all specifications.

G. The Las Cruces Public Schools reserves the right to reject all RFP's considered to be in its own best interest and to waive technical irregularities as necessary according to State and local procurement code.

IV. GENERAL SPECIFICATIONS OF SERVICES

A. It is the intent of these specifications and scope of work to furnish the Las Cruces Public Schools with the following services, according to the requirement within. It must be clearly understood that the following are minimum service requirements and are made in order to show the exact services proposed or offeror.

B. The Las Cruces Public Schools reserves the right to accept any or all conditions or to choose the respondent's offer of proposal considered to be in its best interest.

C. The final decision will be made by the recommendation of the evaluation committee to the Las Cruces Public Schools Board of Education for approval of award.

NOTE: NO RFP WILL BE CONSIDERED IF RECEIVED AFTER THE DATE AND TIME SPECIFIED. THE LAS CRUCES PUBLIC SCHOOLS PURCHASING SHALL DECLARE THE DATE AND TIME BY THE INTERNAL OFFICE CLOCK AS THE OFFICIAL TIME STAMP.

Please put the RFP No. on the outside of your return envelope.

D. APPROPRIATION OF FUNDS: The proposer and the School District recognize that the continuation of any contract after the close of any given fiscal year of the Las Cruces Public Schools shall be subject to the approval of the budget of the Las Cruces Public Schools providing the contract is an approved expenditure by the Chief Financial Officer. The School District does not guarantee that the expenditure will or may be appropriated each year of the contract term.

E. INDEMNIFY AND HOLD HARMLESS: Contractor(s) further agrees to indemnify, defend and hold harmless the School District against (1) any and all losses, claims, damages, law suits and liabilities for any personal injury, death or property damage arising out of or as a consequence of any work performed pursuant to this contract, (2) any and all expenses related to claims or lawsuits resulting from the above

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including courts cost and attorney fees, (3) any and all penalties and damages incurred by reason of contractor's failure to comply with any applicable laws, ordinances or regulations. Any court action or litigation will be performed in the State of New Mexico.

F. **INSURANCE:** The successful offeror shall procure, maintain, and provide proof of, insurance coverages for injuries to persons and/or property damage as may arise from or in conjunction with, the work performed on behalf of the School District by the offeror, its agents, representatives, employees, or subcontractors. Proof of coverage as contained herein shall be submitted fifteen (15) days prior to the commencement of work and such coverage shall be maintained by the offeror for the duration of the contract period; for occurrence policies. Claims made policies must be in force or that coverage purchased for three (3) years after contract completion date.

(1) General Liability

Coverage shall be as broad as: Comprehensive General Liability endorsed to include Broad Form, Commercial General Liability form including Products/Completed Operations.

Minimum Limits

General Liability:

\$5,000,000 General Aggregate Limit
\$1,000,000 Products & Completed Operations
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence Limit
\$50,000 Fire Damage Limit
\$5,000 Medical Expense Limit

(2) Automobile Liability

Coverage sufficient to cover all vehicles owned, used, or hired by the offeror, his agents, representatives, employees, or subcontractors.

Minimum Limits

Automobile Liability:

\$1,000,000 Combined Single Limit
\$1,000,000 Each Occurrence Limit
\$5,000 Medical Expense Limit

(3) Workers' Compensation

Limits as required by the Workers' Compensation Act. Employers Liability, \$1,000,000.

Professional Liability

Minimum limits are \$1,000,000 per occurrence.

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V. SECTION 125 CAFETERIA PLAN REQUIREMENTS:

A. **Introduction:** IRS Section 125 permits employers to structure a benefits program allowing employees to have the option of designating *pre-tax dollars* to pay for certain qualified benefits.

B. The Las Cruces Public Schools is requesting proposals from qualified vendors for a model IRS Section 125 Plan and implementation of the plan for employees of the Las Cruces Public Schools. The plan should follow the contents described in this Request for Proposal.

C. **Plan year shall begin July 1st, 2019** after formal award by the Board of Education. One term of four (4) years may be entered into, if both parties are in Agreement and pricing does not increase. Either party may cancel the Agreement within 90 days upon receipt of written notice to either parties of this Agreement. Open Enrollment will have to be performed only after formal award is made by the Las Cruces Public Schools. Open enrollment will occur at a predetermined time as specified by the Finance Department which is typically during the month(s) of *November/December*. The School District reserves the right to change the dates and times as necessary at no cost to the School District.

This plan will be offered to full-time School District employees in all departments. Employees eligible for this plan are approximately 3,200.

D. General Description of the Program

This program will be “premium only” to include those premiums which qualify for pre-tax treatment and which are paid for on a *voluntary payroll deduction basis*.

The successful vendor must provide to the Las Cruces Public Schools employees the option of the following core policies on a *voluntary basis only*:

- Short Term Disability
- Cancer
- Accidental Injury
- Universal Life
- Term Life
- Critical Illness/Specified Diseases
- Vision
- Hospital Indemnity

E. **Provider Qualifications:** Organizations will be considered on the basis of premium charges to employees, past experience relative to similar Section 125 Plans, overall record of service, ability to provide enrollment data and changes, and financial stability.

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- F. Any insurance carriers submitting bids MUST possess at least an A.XX (Excellent) rating or greater rated by the A.M. Best's National Scale Rating Guide.
- G. All respondents shall address questionnaire enclosed as EXHIBIT C.

VI. REQUIRED PROPOSAL SUBMITTALS

A. Respondents may request within their response non-disclosure of confidential data. Such data will accompany the proposal and will be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

B. Must comply with Section III.A.1 in presented and organized in the sequence below. Section must have dividers with raised labels to indicate section of information it pertains to. Any deviations from the required sequence will be determined to be a reflection of the respondent's qualifications to perform the proposed services. As such, respondents are advised that proposals will be penalized for not providing the required submittals in the sequence presented in this section. Such penalty will range from one to 10 points depending upon the severity of the inconsistency. Proposals shall include:

1. Company profile and history.
 - a. Mission statement, strategic plan, or other such overall general description of the respondent's overall business objective with particular regard to customer orientation.
2. Capacity to perform:
 - a. A description of resources that will be made available to provide proposed services; include management and number of support, professional and/or para-professional staff, physical plant size, equipment, research resources, finances, etc. Provide a copy of the agency's or plan administrator's latest audited financial report.
3. Qualifications-based client references:
 - a. Provide in writing, five (5) recommendation letters from clients preferably along border regions that includes person(s) who can attest and confirm present and past performance. Do not include references from School District employees. Use ATTACHMENT F to complete the reference/contact information
4. Staff Qualification:
 - a. Provide primary and alternate staff members that will have oversight responsibility for School District operations for proposed services. Include education, professional background, related work experience, and any other

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information deemed necessary in determining the qualifications of key personnel.

- b. How many permanent full-time local agents will be assigned to cover initial and ongoing enrollment and account service?
- c. Describe your experience with and administering Section 125 Plans?

- 5. Plan approach and strategy: Delivery and execution of proposed services that include, but is not limited to:

a. Implementation Strategy details of Question.

- (1) Describe in detail the model Section 125 Plan proposed. Provide necessary information on how each aspect of the program will work.
- (2) Provide a complete explanation of how the plan will be implemented. Describe the initial enrollment process fully. How will it be achieved? What does it consist of? Who will conduct the enrollment process? Be specific.
- (3) Describe what information will be provided to employees to help them understand and evaluate the Section 125 Program. Will computerized proposals be made available to each employee?
- (4) Describe in detail the enrollment process for new employees. How will it be achieved and by whom?
- (5) With the proposal include any forms, documents, and brochures that will be provided to the Las Cruces Public Schools relating to the model plan, implementation, enrollment changes and administration.
- (6) Will toll-free access be made available to Las Cruces Public Schools employees and staff when questions and issues arise? Describe your customer service program in detail. Are you capable of conducting an electronic enrollment?
- (7) Describe the types of reports available on a monthly basis that will allow the Las Cruces Public Schools to track the number of employees enrolled in each product and the corresponding deductions being taken.
- (8) How are product and premium changes communicated to employees and the School District's Benefits office?
- (9) What is your turn around time on responding to claims?
- (10) Does the company have the ability to disburse payments to multiple companies for the Las Cruces Public Schools?

- b. Procedural description specific to each benefit option of the offeror's approach in performing the duties specified per enclosed *Attachment E Agreement and Exhibit "A"* 125 Plan Products and Services, respectively. Complete Questionnaires for review & evaluation.

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- c. State of the art technology, e.g., web-based interface, mobile Apps, etc., for employee self-service to gain fast and easy access to important information and services, anytime and anywhere.
 - d. Demonstrate compatibility and capability of system software technology to update and electronically transfer file based employee deduction codes into the District's Financial Payroll Systems for official use and IRS reporting.
 - e. Any School District personnel involvement and duties
 - f. Sign-up and tax reporting procedures with sample forms
 - g. Claim procedures and relevant forms.
 - h. Payment procedures and timeframe.
 - i. Procedures for problem resolution and follow-up communications.
 - j. Any other related services and activities undertaken in providing required services.
 - k. Descriptive information of proposed products eligible for Cafeteria plan benefit, payroll deduction, and the current rating of related carrier from BEST.
 - l. Provide a copy of the latest rating and commentary by the A.M. Best Company.
 - m. Along with the descriptive literature, information shall include the billing and reporting procedures, duties and responsibilities of the School District.
6. **Cost Proposal.** Include in separate package pursuant Section III.A.1.
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VII. EVALUATION FACTORS

A. Only responses that include the required submittals as specified in Section VI will be considered for award purposes.

1. Incomplete responses will be determined as "non-responsive" and will not be acceptable for award consideration

B. Criteria for evaluation:

1. **Evaluation Criteria used for Scoring each proposal:**

<u>WEIGHTED FACTORS</u>	<u>POINTS DISTRIBUTION</u>
1. Company Profile (Ref. para., VI., B.,1., a)	5 points
2. Capacity to Perform (Ref para., VI., B., 2., a)	15 points
3. Client References (Ref para., VI., B., 3., a)	15 points
4. Plan Approach (Ref para., VI., B., 5)	15 points
5. Implementation Strategy (Ref. para., VI., B., 5., a - 1)	25 points
6. Cost Proposal (Ref. para, VI., B., 6)	25 points
Total Points Per evaluator>	100 POINTS

C. Proposals Distribution to Committee: The Procurement Manager will open each proposal package and note that all Mandatory requirements for submittal have been met. The Cost Proposal shall be separated from the Technical Proposal and locked away for evaluation after the Technical Proposals have been scored and ranked.

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It is noted here that after the Committee has evaluated the Technical Proposals on an individual basis, shall re-convene with the Procurement Manager to compile results and average the scores to determine the rank of the Technical Proposals. The Cost Proposals will then be opened and evaluated, scored, and ranked. The rank of the Technical Proposal will be added to the rank of the Cost Proposal to determine the short list of Offerors to be interviewed. The District reserves the right to hold interviews, or not, depending on the outcome of the Technical and Cost Proposal evaluations.

D. Selection of Finalists

Preference will be given to New Mexico based Vendors for economic growth purposes within the State of New Mexico. Evaluation of proposals will be performed by an evaluation committee appointed by the Chief Procurement Officer. The evaluation process will take place at the date and time shown on the table above. During that time, the Procurement Manager may, at her or his option, initiate discussions with Offeror(s) who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. Proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

Offerors will be notified of the status of the Selection of Finalists “unofficially” by e-mail with a return receipt, and by certified mail. If you are not selected as a finalist, you will also be notified “unofficially” by e-mail with a return receipt and by certified mail. The e-mail notification and letter shall serve as notice to stand down from the procurement process.

E. Interviews with Finalists, If Held: The District *may* conduct interviews if the evaluation committee determines it is in the best interests of the School District to do so. Finalists will be notified by e-mail with return receipt and in writing, if a pre-interview meeting will be held for the purpose of distributing questions, rules and schedules for interviews.

The Procurement Manager will schedule the time for each Offeror’s presentation. The place and time of interviews will be determined by the number of Offerors on the short list. Presentations shall be held at the location specified in the Finalist Notification Letter.

reserves the right to award a single contract or multiple contracts based on an Offeror’s qualifications and overall proposal for the region Offeror is proposing to cover. The District may conduct interviews with Offerors where more than one proposal has been submitted in a region if deemed necessary by the evaluation committee.

F. Best and Final Offers: Should be the expectation of all offerors interested in providing reasonable priced services and qualify product for acceptance by the buyer for award of contractual agreements. The District reserves the right for negotiation in the best interest of its students, staff, and community it serves.

G. Recommendation for Award: The recommendation for award(s) will be finalized with the most advantageous Offeror(s) by the date and time shown on the table above. This date is tentative. If a mutually agreeable terms cannot be reached within the time specified, The District reserves the right to finalize an agreement with the next most advantageous Offeror without undertaking a new procurement process. The most advantageous proposal may or may not have received the most points.

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The District reserves the right to accept or reject any or all proposals or part of a proposal; to waive any informalities or technicalities; clarify any ambiguities in proposals; modify any criteria in this Request for Proposals; and unless otherwise specified, to accept any item in a proposal.

H. Award: Awards shall be made on proposals that will give the greatest value based on the evaluation criteria and not necessarily on the lowest price. The District reserves the right to make award to separate offerors for the other service solutions or make award to one or more offerors as determined to be the best value and interest of the District. **The District reserves the right to award full term contract agreements as required by procurement law. Term of the Award may be terminated at any time period contingent upon appropriations and termination matters pursuant to provisions of the RFP and related Agreement.**

I. Contract Negotiations: Upon approval of a decisive raking, the Procurement Manager and Evaluation Committee may negotiate the final contract(s). If the District and the Offeror cannot reach an agreement on the contract terms and conditions, the District may terminate negotiations with the first ranked Offeror and then go to the second ranked Offeror and negotiate a contract. If the second ranked Offeror for the region cannot reach an agreement, the District reserves the right to cancel the procurement re-advertise the solicitation.

J. Protest Period Begins: Any protest by an Offeror must be timely and in conformance with § 13-1-172 NMSA 1978 and applicable procurement regulations. The fifteen (15)-day protest period for responsive Offerors shall begin on the day following the knowledge of the occurrence that is being protested. The protest period for the award shall begin on the day after notification of award and will end at the close of business fifteen (15) days after award. Protests must be written and must include the name and address of the protestor and the Request for Proposal number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the contractor. The protest must be delivered to the Chief Procurement Officer at the address shown below. Protests received after the deadline will not be accepted.

ATTN: Purchasing Department
Will A. Manning, CPPO/CPO
Las Cruces Public Schools
505 South Main Street, Suite 249
Las Cruces, NM 88001

All Offerors will be notified by mail of the protest. Chief Procurement Officer shall stop the procurement process until a determination is made whether the protest has merit. The final determination shall be sent to the all parties by certified mail. If the firm that entered the protest does not agree with Chief Procurement Officer's determination, pursuant to 13-1-175, the protestant has the right to seek judicial review.

K. Form of Agreement: Sample form of agreement is included for review, *enclosed as ATTACHMENT E*. If the event of an award, the contract shall be formed only when LCPS and the successful Respondent have fully executed the written agreement and LCPS issues a purchase order to the successful Respondent.

VIII. GENERAL TERMS AND CONDITIONS

A. Competency and Qualifications

The successful contractor must have the necessary competence, experience, qualified personnel and equipment to carry out all aspects of the work of the resulting Contract.

B. Collusion

The bidder shall not engage in collusion of any sort and shall ensure that no person or other legal entity, other than the bidder has an interest in the bidder's submission and prepare the submission without any knowledge of, comparison of figures with, or arrangement with any other person or firm preparing a Submission for the same work.

C. No Claim for Compensation

Except as expressly and specifically permitted in the Instructions, no Contractor shall have any claim for any compensation of any kind whatsoever, as a result of participating in the proposal, and by submitting a proposal each Respondent shall be deemed to have agreed that it has no claim.

D. Freedom of Information and Protection of Privacy Act

All documents submitted to the LCPS shall become the property of the LCPS and will be held in confidence by the LCPS, subject to the provisions of the United States' *Freedom of Information and Protection of Privacy Act*. The successful Respondent and awarded contract value are routinely released information.

E. Local District policies (DJ) and procedures (DJ-R) are interrelated compliance guidelines that work in relations to federal and State regulations and shall be a reference for guidance.

IX. Service rendered by the provider

The provider must complete, file, and provide fees for filing if outsourced for all documents pertaining to the annual administration of the District's Premium Only Plan (POP). The provider selected must comply with all required IRS regulations, provide Set-up, Plan Document, Copy of IRS supporting regulations pertaining to the plan, enrollment service, all necessary forms, complete IRS Form 5500 and 1099 as requested by IRS along with any other forms that might be required. The forms must be submitted within the time frame required by the IRS and the provider must be responsible for any penalty or late charge imposed upon the Las Cruces Public Schools. The provider must furnish to the School District master policies for all insurance coverage purchased by School District personnel. Open enrollment shall be completed annually with employee changes becoming effective **July 1st** of each school fiscal year.

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X. Method of payment by the Las Cruces Public Schools

Las Cruces Public Schools will issue a check for the total amount of bi-weekly payroll deductions to the vendor as appears on the bi-weekly payroll deduction register and attach a copy of the register for reconciliation purposes.

The vendor selected for the Section 125 Plan will be the only company authorized to sell pretax services and supplemental insurance to employees of the Las Cruces Public Schools with the exception of independent insurance carrier not of or in conflict with products/services offered by the Administrator employee participation will be strictly voluntary The School District currently offers employees a paid long-term disability plan.

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ATTACHMENT A:



CONFLICT OF INTEREST

Offeror/Bidder warrants that he/she or other members of proposed project team has no interest, and shall acquire no interest, which would directly or indirectly conflict in any manner or degree with the performance of this proposal. No person or selling agency may be employed or regained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained or utilized by offeror for the purpose of securing business.

For violation or breach of this warrant, LCPS shall have the right to annul this contract without liability or, at its discretion, to deduct price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

In signing this bid/proposal, the offeror certifies that he/she has neither directly nor indirectly entered into action in restraint of the formal competitive process in connection with this solicitation.

Procurement Code, Sections 13-1-21 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 kick-backs.

Company Name

Address

Company Representative

Date

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ATTACHMENT B:



DATE: _____

Subject: Certification

As a potential vendor/contractor awardee to the Las Cruces Public School District, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form. **Please return the completed form with your solicitation submittal.**

DEBARMENT:

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" required that all vendors/contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

I hereby certify that my company listed below, and it's principals have not been debarred, suspended, proposed for debarment, declared ineligible are not in the process of being debarred, or are voluntarily excluded from conduction business with a federal department, an agency of the federal government, or the State of New Mexico.

COMPANY NAME: _____

COMPANY ADDRESS: _____

COMPANY CITY/STATE/ZIP: _____

COMPANY PHONE: _____ FAX: _____

EMAIL ADDRESS: _____

COMPANY DUNS IDENTIFICATION NO: _____

NAME AND SIGNATURE OF COMPANY REPRESENTATIVE AUTHORIZED TO CERTIFY TO THE ABOVE:

PRINTED NAME OF REPRESENTATIVE: _____

SIGNATURE OF REPRESENTATIVE: _____

Date

If you have any questions, please contact me at (575) 527-5846.

Sincerely,

Will A. Manning
Director of Purchasing Department
Las Cruces Public Schools

LAS CRUCES PUBLIC SCHOOLS DISTRICT

ATTACHMENT C:

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person 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 shall void an executed contract or cancel a solicitation or proposed award for a proposed contract 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.

THIS FORM 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 either 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 include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“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.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who 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 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.

LAS CRUCES PUBLIC SCHOOLS DISTRICT

DISCLOSURE OF CONTRIBUTIONS:

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)

ATTACHMENT D:

RESERVED FOR RESIDENT PREFERENCE

LAS CRUCES PUBLIC SCHOOLS DISTRICT

**ATTACHMENT E: (DRAFT SAMPLE) AGREEMENT
FOR
IRS SECTION 125 FLEXIBLE BENEFITS PLAN ADMINISTRATIVE SERVICES**

AGREEMENT made this ____ day of _____, 20____, by and between Las Cruces Public School District (Employer) and _____ (Contractor).

WHEREAS, Employer has determined that it is in the best interest of the Employer and its eligible employees to provide an IRS Section 125 cafeteria plan for the benefit of such eligible employees, to be known as the Las Cruces Public Schools Plan; and

WHEREAS, in furtherance of such determination and in accordance with applicable provisions of the Plan, Employer deems it advisable to delegate certain ministerial duties and functions for purposes of accounting claims processing and record keeping to Contractor and does hereby delegate such ministerial duties and functions to Contractor; and

WHEREAS, the parties desire to set forth their agreement concerning the respective rights, duties and responsibilities of such parties relative to such delegation,

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the Employer and Contractor agree as follows:

2. SERVICE

The Employer appoints Contractor to assist it in the performance of its administrative duties under the plan. Contractor accepts such appointment subject to the terms and conditions of this agreement and related procurement documents.

3. DUTIES OF CONTRACTOR

- A. Contractor shall conduct annual enrollment of all eligible employees.
 - 1. Any payroll deductible products marketed by the Contractor during enrollment must be educationally oriented presentations only and without pressure. Products presented must have been approved in writing by authorized School District representatives.
 - a. Plan participants who have pre-existing conditions already covered by disability and/or medical insurance shall be guaranteed in writing by the Contractor that the conditions will, likewise, be covered by the Contractor's products prior to changing.
 - 2. Contractor shall conduct enrollment that includes participant education of plan benefits to meet the following participation percentages of all eligible participants.
 - a. Premium Conversion - 85%

LAS CRUCES PUBLIC SCHOOLS DISTRICT

- b. Medical Reimbursement - 40%
 - c. Dependent Care Reimbursement - 40%
 3. Contractor shall update and electronically transfer file based upon employee deduction codes into the School District's Financial Payroll System as required for official use and reporting to internal revenue services.
- B. Contractor shall obtain and process for the Employer vouchers, claim forms or other documentation necessary for the administration of the Plan.
- C. Contractor shall provide accounting services to the Plan, as follows:
 1. Maintain a list of participating employees, including but not limited to full names and social security numbers;
 2. Maintain records of contributions by, payments of benefits to, and resulting account balances of participating employees;
 3. Prepare and mail to participating employees quarterly and year-end reports of contributions made by and benefits paid to or on behalf of participating employees under the Plan.
 4. Maintain records of all transactions under the Agreement during the term of the Agreement and for a period of five years thereafter.
- D. Services relating to processing claims for reimbursing medical and child-care expenses include but are not limited to:
 1. Communicating voucher procedures to each employee;
 2. Collecting vouchers from employees; certifying expenses as eligible and accurate; examining expense vouchers to assure participants are requesting funds from correct accounts, listing claims onto claims affidavit, obtaining approval from Employer;
 3. Maintaining copies of expense vouchers and claims affidavit lists along with documentation for expenses, all of which to be maintained on a plan-year basis;
 4. Maintaining copies of expense account reports;
 5. Verifying accuracy and then distributing reimbursement checks within ____ days via mail directly to participants unless Contractor receives written request from individual participants to hold checks for pick up by that participant;
 6. Responding to all inquiries or resolving problems being experienced by participants;
 7. If Contractor determines that a given application for benefits is not eligible under the Plan, for whatever reason, Contractor shall promptly notify the participant with reason for denial and description of any additional information that might be necessary to perfect or complete the application.
- E. Contractor's Ministerial Responsibilities
 1. Contractor is vested only with ministerial authority to investigate and process claims for benefits under the Plan in accordance with the terms of the Plan.
 2. Contractor shall have no discretionary authority to make decisions as to Plan policy, interpretations, practices or procedures, but shall perform its duties and

LAS CRUCES PUBLIC SCHOOLS DISTRICT

functions within the framework of the terms of the Plan and policies, interpretations, rules, practices and procedures made by the Employer.

3. Contractor shall make employee benefit eligibility determinations on behalf of the Employer in accordance with the claim's procedures set forth in the Plan based upon information provided to Contractor by the employee and by the Employer.

4. It is understood that Contractor is acting on behalf of the Employer in a ministerial, administrative capacity only and shall have no responsibility to investigate the truthfulness of any information provided to Contractor.

F. Services relating to Employer's tax reporting

1. Contractor shall provide the Employer with the information in its custody for use in the preparation of all returns and reports that are required by the Internal Revenue Service, the Department of Labor and any other federal or state agency.

2. Contractor shall assist in the timely preparation of such returns and reports whenever called upon to do so by the Employer, provided, however, that the employer shall bear responsibility for the filing and content of all such returns and reports, and the payment of any taxes that may be due.

G. Assignment of Duties

1. Contractor shall obtain approval by the Employer to retain service from third parties to assist it in performing the duties delegated to it under this Agreement. All such third-party services shall be provided at the expense of Contractor and shall be subject to the supervision, control and responsibility of Contractor. Contractor shall have the right to retain the services of accountants, attorneys, actuaries and any other professionals whose services are reasonably necessary or desirable to aid in the performance of its duties under this Agreement, for the benefit of the Employer. The expenses for those professional services shall be payable by Contractor.

H. Bonding Requirements

1. Contractor shall obtain and maintain such fiduciary bonds as required under applicable law.

3. **DUTIES OF EMPLOYER**

A. Employer warrants that it has validly adopted the Plan and any component plans of the Plan. True copies of the Plan and any component plans are attached hereto pursuant to Exhibit A.

B. The Employer shall notify Contractor of the following:

1. A reduction of participating employee hours of service resulting in loss of benefit eligibility of a participating employee.

2. Termination of the employment of a participating employee and whether such termination was due to gross misconduct.

3. A participating employee becoming eligible for Medicare.

C. Employer shall be responsible for the Plan's qualification with the Internal Revenue Code and any component plans under the Code, ERISA, or any other applicable

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federal, state or local law or ordinance.

4. TERM OF AGREEMENT

A. This agreement terms shall be award for a four (4) term, effective (DATE July 1, 2019), and shall remain in effect through (DATE June 30, 2023). The School District reserves unilateral rights to terminate this agreement at any time during the stated term, pending satisfactory performance or if determination is made by *oversight user and/or Chief Financial Officer plan services* if services are deemed not to be in the best interest of the District or the right solution to its benefits strategy. Due to the complexity, effects, and/or impact on changing services would have on payroll operations and employee benefits, the District may enter into a 2nd four (4) year term based upon satisfactory performance; the total not to exceed eight (8) years. In the event, either party to this agreement intends to terminate services of this agreement, written notice of intent to terminate must be provided to the other at least ninety (90) days prior to the end of the term.

B. THIS AGREEMENT shall not become effective until fully approved by the last LCPS signatory official. This Agreement shall terminate on (DATE) unless terminated pursuant to paragraph 5., (Termination), or paragraph 6., (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.

5. Termination.

A. Termination Bilateral. 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 Agency'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 Agency 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 Agency 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 crimes due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE SCHOOL DISTRICT'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 Agency 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 Agency; 2) comply with all directives issued by the Agency in

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the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency 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 Agency upon termination and shall be submitted to the agency as soon as practicable.

6. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Las Cruces Public Schools District for the performance of this Agreement. If sufficient appropriations and authorization are not made by the LCPS which may or may not be contingent upon Legislature appropriations, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency 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.

7. **Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the Las Cruces Public Schools District. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the Las Cruces Public Schools District 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 Las Cruces Public Schools District unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

8. **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 Agency.

9. **Subcontracting.**

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

10. **Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and

LAS CRUCES PUBLIC SCHOOLS DISTRICT

obligations whatsoever arising from or under this Agreement.

11. **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 Agency.

12. **Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency 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.

13. **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, 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 Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;

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

3) in accordance with Section 10-16-8(A) 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 State 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

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regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;

4) this Agreement complies with Section 10-16-9(A) NMSA 1978 because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by Section 10-16-9(A) NMSA 1978, this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

5) 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

6) 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 Agency.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered by the parties. Contractor shall provide immediate written notice to the Agency 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 Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 13(B).

14. 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 Agency 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.

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15. 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.

16. 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.

17. Equal Opportunity Compliance.

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

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. 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.

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

20. 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 LCPS designated representative, Las Cruces Public Schools Finance Committee, and/or the State Auditor if required. The Agency shall have the

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right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments

21. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this 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 Purchasing Department of the Las Cruces Public Schools District 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. FORCE MAJEURE

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

25. Background Checks.

The Contractor shall be responsible for complying to the provisions of §22-10A-5 NMSA 1978 requiring two fingerprint cards from employees having unsupervised access to students. The cards shall be submitted to the School District for obtaining the employees' Federal Bureau of Investigation record. Convictions of felonies or misdemeanors contained in the Federal Bureau of Investigation record, if supported by independent evidence, may form the

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basis for the employment decisions for good and just cause. Records and any related information shall be privileged and shall not be disclosed to any person not directly involved in employment decision of Contractor's employee with unsupervised access to students.

1. **COMPENSATION**

Services described herein shall be provided to the Employer and participants at no cost. In exchange for the Contractor's service, the Employer shall grant Contractor exclusive marketing rights at all the Employer's sites for Contractor's products qualified under the Plan and approved in writing by the Employer and attached herein as Exhibit A.

2. **NOTICES**

Any notices that may be required under this Agreement shall be sent by U.S. Postal Service, properly addressed, with postage prepaid. Notices will be sent to the Employer address at 505 S. Main Street, Suite 249, Las Cruces NM 88001. Notices will be sent to Contractor at _____ Notice shall be effective upon receipt.

28. **MISCELLANEOUS**

A. This Agreement shall constitute the entire understanding of the parties with regard to the matters covered herein and shall not be modified except by written notification signed by both parties.

B. This Agreement shall be construed in accordance with the applicable laws of the State of New Mexico.

C. This Agreement shall be binding upon the undersigned parties, their successors and assigns.

EXECUTED the date and year last signatory below and shall be dated as such above.

LAS CRUCES PUBLIC SCHOOL DISTRICT

CONTRACTOR

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

LAS CRUCES PUBLIC SCHOOLS DISTRICT

ATTACHMENT F: RFP NO. 18-19-05P - References Form Mandatory

1. Firm Name _____
Contact _____
Title _____ E-mail _____
Mailing Address _____
Phone _____ Fax _____

2. Firm Name _____
Contact _____
Title _____ E-mail _____
Mailing Address _____
Phone _____ Fax _____

3. Firm Name _____
Contact _____
Title _____ E-mail _____
Mailing Address _____
Phone _____ Fax _____

4. Firm Name _____
Contact _____
Title _____ E-mail _____
Mailing Address _____
Phone _____ Fax _____

5. Firm Name _____
Contact _____
Title _____ E-mail _____
Mailing Address _____
Phone _____ Fax _____

LAS CRUCES PUBLIC SCHOOLS DISTRICT

EXHIBIT A

**ADMINISTRATIVE SERVICES AGREEMENT
FOR
IRS SECTION 125 FLEXIBLE BENEFITS PLAN**

Pursuant to Section V. of Administrative Services Agreement between the Employer and 3RD Party Administrator, the employer hereby grants exclusive marketing rights at all employer sites for the following products except for those products offered by an independent Insurance carrier to accommodate transfer employees and for those Employees who may hold insurance policies not carried by the 3RD Party Administrator. This, in no way, shall prevent the 3RD-Party Administrator from reaching to all District employees looking for alternative polices or services.

1. Short Term Disability
 2. Cancer
 3. Accidental Injury
 4. Universal Life
 5. Term Life
 6. Critical Illness/Specified Diseases
 7. Vision
 8. Hospital Indemnity
 9. Unreimbursed Medical Expense Benefit
-

LAS CRUCES PUBLIC SCHOOL DISTRICT
EMPLOYER

SIGNATURE

PRINT NAME

TITLE

DATE

LAS CRUCES PUBLIC SCHOOLS DISTRICT

EXHIBIT B:

INDEPENDENT INSURANCE CARRIERS

Purpose: This proposal also seeks offers from other independent insurance carriers to address the need of Las Cruces Public Schools Employees for additional After-Tax Whole life insurance policies via other carriers that are not established and approved by the Chief Financial Officer (CFO) to participate in the School District’s voluntary payroll deduction via LCPS Infinite Visions Payroll System. Reference **Exhibit B** for statement of work for offerors insurance requirements. IICs shall submit proposals of offers pursuant to the requirements of this RFP and according to **Exhibit B. The IIC shall:**

- A. Provide proposal content as requested in section for submittal requirement in the RFP with a focus on Independent Insurance offers to accommodate employee needs not serviced by the 3RD – Party Administrator.
- B. Provide proof of licensure and proof of carrier’s or company’s A.M. Best’s rating of at least **A.XX (Excellent) rating** by the A.M. Best’s National Scale Rating Guide.
- C. Not offer carrier’s insurance offered or marketed by the 3RD – Party Administrator.
- D. Agree and adhere to the CFO authority to make selection and authorize approval of IICs to provide services to assist District Employees for After-Tax Policy needs.
- E. Ensure policy products are not of the same company offered by the 3RD – Party Administrator’s. This will be deemed a conflict of interest offer that would jeopardize termination of the IIC to conduct business via LCPS PAYROLL DEDUCTION SYSTEM.
- F. Complete questionnaire pertaining to applicable universal and whole life insurance policies.
- G. The school district reserves it rights to make selection of IIC, or reject all, some, or none IIC proposals, as necessary if not in the best interest of the District.

By virtue of signature of the below Authorized Independent Insurance Carriers, carrier assumes responsibility of proposal submittal and understands all provisions of this procurement and potential related agreement based upon selection.

SIGNATURE

PRINT NAME

TITLE

DATE

Exhibit C:

Currents Product that may be made available for Employee Benefits Distribution:

Cancer
Critical Illness
Universal Life
Term Life
Short Term
Disability
Accidental
Hospital
Indemnity

Cancer Questionnaire

1. Which diseases are covered? _____
2. Amount of wellness benefit _____
3. Amount of initial diagnosis payment: _____ Adult _____ Child
4. Additional diagnosis riders available: _____
5. Amount paid for outpatient surgery: _____ Inpatient _____
6. Hospitalization amount per day: _____
7. Amount of chemotherapy coverage: _____
8. Amount of radiation therapy coverage: _____
9. Amount of blood/plasma/platelet coverage: _____
10. Amount paid for new/experimental drug therapy: _____
11. Amount paid for stem cell transplant: _____
12. Amount of ICU confinement: _____
13. Portable with no rate increase: _____ With rate increase: _____

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14. Bi-weekly Premiums: _____

15. Rate Guarantee period: _____

Critical Illness Questionnaire

1. Guaranteed Issue? _____ Any age limit? _____

2. Lump sum benefit levels: _____

3. Categories of Illness for which benefits paid? _____

4. Amount of wellness benefit: _____

5. Reoccurrence benefit available? _____

6. Portable with no rate increase: _____ Rate increase: _____

7. Rate Guarantee period: _____

8. Bi-weekly premiums: _____

Universal Life Questionnaire

1. Permanent coverage? _____

2. Rate guarantee until age: _____

3. Dependent coverage available: _____

4. Portable with rate increase: _____ No increase: _____

5. Bi-weekly premiums: _____

6. Rate Guarantee period: _____

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Term Life Questionnaire

1. Guaranteed issue? _____
2. Guaranteed term period: _____
3. Dependent coverage available? _____
4. Portable with conversion rate: _____ No increase: _____
5. Rate Guarantee period: _____
6. Bi-weekly premiums: _____

Accident Questionnaire

1. Coverage on and off job? _____
2. Amount and length of coverage: _____
3. Amount of coverage for medical expenses: _____
4. Amount of hospital confinement coverage: _____
5. Portable with conversion rate: _____ No rate increase: _____
6. Rate Guarantee period: _____
7. Bi-weekly premiums: _____

Hospital Indemnity Questionnaire

1. Guaranteed issue? _____
2. Hospital confinement benefits: _____
3. Inpatient or outpatient benefits: _____

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4. Amount paid for doctor's office visits: _____ Frequency: _____

5. Portable with conversion rate: _____ No rate: _____

6. Rate Guarantee period: _____

7. Bi-weekly premiums: _____

Short Term Disability Questionnaire

1. Percentage of income replacement: _____

2. Covers on and off job? _____

3. Maximum benefit paid: _____

4. Benefit waiting period: _____

5. Multiple elimination periods and benefit levels available? _____

6. Rate Guarantee period: _____

7. Bi-weekly premiums per \$100 of payroll: _____

Vision Questionnaire

1. Eye exam co-pay amount: _____

2. Lenses co-pay: _____ Any allowances? _____

3. Frame co-pay: _____ Any allowances? _____

4. Contact lens co-pay: _____ Any allowances: _____

5. Laser vision benefit: _____

6. Multiple eye glass benefit: _____

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7. Is there a network available? _____

8. Bi-weekly premiums: _____

9. Rate Guarantee period: _____