

**STATE OF NEW MEXICO  
AUDIT CONTRACT**

This CONTRACT is made and entered into this 15th day of June, 2005, by and between the **Gadsden Independent Schools**, hereinafter referred to as the Agency and **Dunbar, Broaddus, Gibson, LLP**, hereinafter referred to as the Contractor.

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**1. SCOPE OF WORK** (Include in Section 25 any expansion of scope)

The Contractor shall conduct a financial and compliance audit of the following applicable statements and schedules of the school district, regional education cooperative, or cooperative education services for the period from **July 1, 2004 through June 30, 2005**:

- Basic Financial Statements consisting of the government-wide financial statements, fund financial statements, budgetary comparison statements for the general fund and major special revenue funds (per GASB 34 footnote 53), and the notes to the financial statements;
- Required supplemental information (RSI), if applicable, consisting of budgetary comparison schedules for the general fund and major special revenue fund data presented on a fund, organization, or program structure basis because the budgetary information is not available on the GAAP fund structure basis for those funds (*GASB Statements No. 41, Budgetary Comparison Schedules—Perspective Differences an amendment of GASB Statement No. 34*) must be audited and included in the auditor's opinion (AAG-SLV 14.51);
- Supplemental Information (SI) that must be audited and included in the auditor's opinion (AAG-SLV 14.51), if applicable, consisting of:
  - Component unit fund financial statements and related combining statements (if there are no separately issued financial statements on the component unit per AAG-SLV 3.20);
  - Combining financial statements;
  - Individual fund budget comparison statements for remaining funds that have a legally adopted budget (including proprietary funds) that did not appear as basic financial statement budget comparisons for the general fund or major special revenue funds, or as RSI as described above; and
  - A schedule of changes in assets and liabilities for any agency funds required by Section 2.2.2.10.BB(2) of 2.2.2 NMAC.

The contractor shall apply certain limited procedures to the following required supplemental information (RSI) (if applicable) and report deficiencies in or the omission of required information in accordance with the requirements of SAS AU 558.06.

- The Management Discussion and Analysis (MD&A);
- RSI data required by Statements 25 and 27 regarding pension plans and postemployment healthcare plans administered by defined benefit pension plans; and
- Schedules derived from asset management systems (GASB 34 paragraphs 132 to 133).

Such audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, *Government Auditing Standards*, OMB Circular A-133, and *Requirements for Contracting and Conducting Governmental Audits* (2.2.2 NMAC).

## **2. DELIVERY AND REPRODUCTION**

A. In order to meet the delivery terms of this Contract, the Contractor shall deliver to the State Auditor **FIVE** copies of the Agency's audit report **on or before November 15, 2005**.

B. After the State Auditor's Office has officially released the audit report by issuance of a release letter, the Contractor shall deliver 50 copies of the audit report to the Agency. Every member of the Agency's governing authority shall receive a copy of the report.

C. The Agency, upon delivery of its audit report, shall submit the required copies of the data collection form, audit report and corrective action plan to the federal clearinghouse designated by OMB and each federal awarding agency when the schedule of findings and questioned costs disclose audit findings directly related to federal awards.

D. Unjustified failure to deliver the audit report in accordance with Sections 1 and 2 above shall constitute a material breach of Contract.

E. A material breach of any of the terms of this Contract shall be grounds for immediate termination of this Contract. Contractors knowingly making false statements, false assurances or false disclosures will be automatically disqualified from contracting for audit services with the State of New Mexico. The State Auditor on behalf of the Agency or the Agency may seek damages and any other further relief to which it is entitled from the Contractor for such material breach.

### 3. COMPENSATION

A. The Agency shall pay to the Contractor an amount not to exceed Thirty two thousand six hundred ninety six and 00/100 dollars (\$ 32,696.00 ) for services rendered under this contract.

B. Total Compensation will consist of the following:

	<u>Amounts</u>
1. Financial statement audit	\$12,500.00
2. Federal single audit	\$12,500.00
3. Financial statement preparation	\$ 3,900.00
4. Other nonaudit services like depreciation schedule updates	\$ 0.00
5. Other (i.e. charter school or other component units)	\$ 2,000.00
Gross Receipts Tax	\$ 1,796.00
Total Compensation	<u>\$32,696.00</u>

C. The Agency shall pay the Contractor the New Mexico Gross Receipts Tax invoiced by the Contractor.

D. Payment shall be made in accordance with Section 12-6-14 NMSA 1978 and 2.2.2 NMAC, Section 2.2.2.8.J. Based upon demonstration of work in progress, the State Auditor may authorize progress payments to the Contractor, but only for work that has already been completed.

### 4. TERM

This contract is in effect for one (1) year from the date of award. If this contract is being awarded based on a multi-year proposal, this contract may be extended on a year-to-year basis by mutual agreement of both parties and the approval of the State Auditor at the same price, terms and conditions as stated on the proposal.

### 5. TERMINATION

This Agreement may be terminated, without cause, by either of the parties hereto upon written notice delivered to the other party at least 10 days prior to the intended date of termination. By such termination, neither part may nullify obligations already incurred for performance or failure to perform prior to the date of termination. THE PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE OTHER LEGAL RIGHTS AND REMEDIES AFFORDED THE STATE IN SUCH CIRCUMSTANCES AS CONTRACTOR'S DEFAULT/BREACH OF CONTRACT. If terminated by the Agency under this paragraph, Contractor shall be entitled to be compensated for work performed prior to termination. If terminated by Contractor under this paragraph, Contractor shall repay to Agency the full amount of any progress payments for work performed under the terms of the Contract.

## 6. STATUS OF CONTRACTOR

The Contractor, his agents and employees are **independent** contractors performing professional services for the Agency and are not employees of the Agency. The Contractor, his agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to employees of the Agency as a result of this Contract.

## 7. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract.

## 8. SUBCONTRACTING

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Agency and the State Auditor. The Contractor may subcontract only with certified public accountants who have submitted a complete firm profile as defined in 2.2.2 NMAC, Section 2.2.2.8.H. The contract shall be amended to specify the portion subcontracted, who will sign the report(s) and how the subcontractor will be paid.

## 9. RECORDS AND AUDIT

The Contractor shall maintain detailed time records which indicate the date, time, and nature of services rendered. These records shall be subject to inspection by the Agency and the State Auditor. The Agency and the State Auditor shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the Agency or the State Auditor on behalf of the Agency to recover excessive or illegal payments.

## 10. RELEASE

The Contractor, upon receiving final payment of the amount due under the Contract, releases the State Auditor, the Agency, its officers and employees and the State of New Mexico from all liabilities, claims, and obligations whatsoever arising from or under this Contract. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed herein by the State of New Mexico, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority. This paragraph does not release the Contractor from any liabilities, claims or obligations whatsoever arising from or under this Contract.

## 11. CONFIDENTIALITY

All information provided to or developed by the Contractor from any source whatsoever in the performance of this Contract 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 and the State Auditor.

## 12. PRODUCT OF SERVICES; COPYRIGHT AND REPORT USE

Nothing produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright by, or on behalf of, the Contractor. The Agency and the State Auditor may post the audited financial statements on their respective websites. The information in the audited financial statement may be used to compile information regarding New Mexico school districts.

## 13. CONFLICT OF INTEREST

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

## 14. INDEPENDENCE

The Contractor affirms and represents their independence from the Agency in accordance with *Government Auditing Standards 2003 Revision, issued by the Comptroller General of the United States*, and 2.2.2.8 I of 2.2.2 NMAC. The Contractor shall notify the State Auditor and the Agency immediately if any impairment of independence occurs or may occur during the period of this Agreement.

## 15. AMENDMENT

This Contract shall not be altered, changed, or amended except by prior written agreement of the parties and approval of the State Auditor. **The engagement letter and/or any documentation included with the engagement letter shall not be interpreted to amend the contract.**

## 16. SCOPE OF CONTRACT

This Contract incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

## 17. APPLICABLE LAW

This Contract shall be governed by the Laws of the State of New Mexico.

## 18. AGENCY BOOKS AND RECORDS

The Agency is responsible for maintaining control of all books and records at all times and the Contractor shall not remove any books and records from the Agency's possession for any reason.

## 19. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico and the New Mexico Department of Education for the performance of



this Contract. If sufficient appropriations and authorization are not made by the Legislature and the Department of Education, this Contract shall terminate 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.

## **20. NOTICE**

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 bribes, gratuities and kickbacks.

## **21. EQUAL OPPORTUNITY COMPLIANCE**

The Contractor agrees to abide by all Federal and State laws, 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, rules and regulations, and executive orders of the Governor of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, 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 Contract. If the Contractor is found to be not in compliance with these requirements during the life of this Contract, the Contractor agrees to take appropriate steps to correct these deficiencies.

## **22. WORKING PAPERS**

A. The working papers are to be retained by the independent public accountant for a minimum of three years from the date shown on the opinion letter of the audit report, or longer if requested by the federal cognizant agency for audit, oversight agency for audit, pass through-entity or the State Auditor. The State Auditor and his designee shall have access to the working papers at the discretion of the State Auditor.

B. When requested by the State Auditor's Office, the original or clear legible copies of all working papers shall be delivered to the State Auditor's Office.

C. The working papers of a predecessor independent public accountant are to be made available to a successor independent public accountant in accordance with SAS No. 84. Any costs incurred are to be borne by the requestor.

## **23. ENGAGEMENT & MANAGEMENT REPRESENTATION LETTERS**

The Contractor shall prepare a written and dated engagement letter which will identify the specific responsibilities of the Agency and the Contractor per 2.2.2 NMAC, Section 2.2.2.8.M. The Contractor shall furnish the Office of the State Auditor (Office), a copy of the engagement letter and list of client prepared documents and delivery dates established within 10 days of the entrance conference.

The Contractor shall submit to the Office, along with the audit report, by the due date, a copy of the following documents: the management representation letter required by SAS 85; the passed adjustments required by SAS 89; and a completed Preliminary Review Guide available at [www.osa.state.nm.us](http://www.osa.state.nm.us). If copies of the engagement and management representation letters, the list of passed adjustments, and the completed Preliminary Review Guide have not been received by the Office with the audit report, or before it is submitted,

the audit report will not be considered received by the Office. If applicable, the report will be considered late and not in compliance with the requirements of Section 2.2.2.9.A of 2.2.2 NMAC.

**24. DESIGNATED ON-SITE STAFF**

The Contractor's on-site individual auditor responsible for supervision of work and completion of the audit is E. Craig Gibson. The Contractor shall notify the Agency and the State Auditor, in writing, of any changes in staff assigned to perform the audit.

**25. OTHER PROVISIONS**

The school district audit will include the audit of any related charter school(s) and their respective foundations that qualify as component units of those charter schools under GASB No. 39, in accordance with the provisions specified in 2.2.2 NMAC, *Requirements for Contracting and Conducting Audits of Agencies*, Sections 2.2.2.10.A. (1) and 2.2.2.12.C. (4).

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first written above.

**AGENCY**

**CONTRACTOR**

**Gadsden Independent Schools**

**Dunbar, Broaddus, Gibson, LLP**

BY: \_\_\_\_\_  
TITLE: Assoc. Supt. for Finance  
DATE: 7/15/05

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

This Contract has been approved by:

**STATE AUDITOR**

BY: \_\_\_\_\_  
**DOMINGO P. MARTINEZ, CGFM**

DATE: \_\_\_\_\_

STATE AUDITOR CONTRACT NO. **05 - 7034**