



New Hampshire

Department of Education

BAE-RFP-2022-002

**ADULT EDUCATION –
STRATEGIC PLANNING**

ISSUED: MARCH 4, 2022

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
Adult Education Strategic Planning**

BAE-RFP 2022-002

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Section 1 – Overview and Schedule

1.A Executive Summary

The NH Department of Education, Bureau of Adult Education is seeking proposals from a qualified vendor to develop a 5-year strategic plan to set overall goals and an action plan for the provision of statewide adult education services designed to improve student success through efficient program administration.

The recent pandemic and its impact on adult education services has highlighted the need for the entire system to examine its structure to ensure that it is adaptable to the changing needs of New Hampshire residents. The system needs to address the “new” world of work from both a staffing and student perspective.

Just as the K-12 education system in New Hampshire has introduced multiple, innovative pathways for learner-centered education, so should the adult education system. Identification of opportunities for growth and strategies for strengthening the system for the future are primary goals of this project.

Proposals should include a multi-day, in-person workshop for State staff, local program administrators and other stakeholders at a central location in New Hampshire in the spring or summer of 2022 with the final strategic plan completed by September 30, 2022.

1.B Schedule

The following table provides a Schedule of Events for this RFP through contract finalization and approval. The Agency reserves the right to amend this Schedule at its sole discretion and at any time through a published Addendum.

EVENT	DATE	LOCAL TIME
RFP Released to Proposers (Advertisement)	3/4/2022	
Optional Vendor Conference (online) Registration required at: https://us02web.zoom.us/meeting/register/tZlpcOGtpzkrGtHKrhT1XVGR7vJZwOul5eiP	3/14/2022	9:00 am
Proposer Inquiry Period Ends	3/25/2022	4 PM
Final Agency Responses to Proposer Inquiries	3/28/2022	4:00 PM
Proposers Submit Proposals	4/8/2022	4:00 PM
Estimate Timeframe for Proposer Oral Presentations and Interviews (if applicable)	4/11 – 4/15/2022	TBD
Estimated Notification of Selection and Begin Contract Negotiations	4/18/2022	
Governor & Council Approval	May 2022	

Section 2 - Description of Agency/Program Issuing the Request for Proposals

The New Hampshire Department of Education (NHDOE) is committed to helping students, parents and education meet the educational needs of each student. The NHDOE advances learner-centered opportunities that create bright futures through accountability, integrity, innovation, transparency and professionalism.

The Bureau of Adult Education supports educational services to adults who have not received a high school credential; who do not have the academic skills equivalent to a high school diploma or who do not read, write or speak English. The mission is to:

- Provide a variety of educational opportunities to empower adults to become lifelong learners
- To support individuals in identifying and achieving their potential academic and/or career goals; and
- To assist students to become active participants in their communities

The Bureau of Adult Education currently provides two distinct adult education programs; Adult Education & Literacy (AEL) and the Adult Diploma Program (ADP). Each program is administered in accordance with its funding source; AEL programs is operated under the rules and regulations established by the Workforce Innovation and Opportunity Act of 2014 (WIOA) and ADP programs are operated under state rules and regulations established by the State Board of Education. There are twenty-one (21) AEL programs and twenty-one (21) ADP programs. Some adult education centers offer both programs, others only offer one or the other.

The Bureau awards funding through a multi-year competitive process for all programs. The next competition is scheduled for the spring of 2023. A strategic plan developed under this contract will assist the Bureau with the development of the Request for Proposals and guide the administration of those programs over the course of the following three years.

In an effort to improve adult education services, the 2020 competition introduced new requirements including the provision of year-round programming; a required local funding match; designated staffing roles for each center; quarterly data reporting; a funding formula by region; and the establishment of AEL comprehensive centers and minimum of one ADP in each region.

Current priorities include increasing instructional hours and program quality; improving program performance; promoting efficiency through regional collaboration and consolidation.

2.A Challenges

New Hampshire has historically experienced a number of challenges in providing effective adult education services including staffing, student recruitment and retention, expending funding within the required period, and meeting performance targets.

- NH's low unemployment rate (currently 2.6%) has impacted both the local provider's ability to hire qualified staff and student's ability to attend classes while working.
- As of 2021, NH ranks 9th in the country for high school attainment with 93% of NH residents having completed high school. There are approximately 54,000 individuals without a high school credential, but 21,000 of them are not in the labor force.

- Student retention in adult education program fluctuates and is often directly connected to the employment rate. Local programs have struggled with offering flexible scheduling to accommodate the needs of students and have relied heavily on a traditional, structured morning or evening in-person classes.
- The Bureau of Adult Education allocates the majority of its funds to local programs annually, but has had significant funds that are unexpended at the end of the program year. Even though funds are redistributed in the subsequent year (if eligible), the total amount available is not available at the beginning of the program year creating unpredictable funding from year to year.
- In a recent monitoring review by the US Department of Education, Office of Career, Technical and Adult Education, it was recommended that NH increase the intensity of its AEL programming in order to achieve better performance rates. While steps have been taken to do this through the requirement of year round programming, increased resources for learning opportunities outside of the classroom and a greater tracking of pre- and post-testing rates, the state still remains in the bottom percentile when compare to adult education in other states.
- In the last decade, NH has seen a dramatic increase in the number of students who remain enrolled in high school under NH’s compulsory attendance law, but have chosen to enroll in the ADP program as an alternative learning path, for credit recovery or for accelerating graduation. These “dual enrolled” students create challenges for school districts and for adult education programs in multiple ways including the large percentage of funding dedicated to serving these students.

2.B Opportunities

There are also some new opportunities available that the adult education system could be integrating to strengthen student success and create efficient programs. This includes some innovative education programming and funding options such as the Education Freedom Accounts, the Career Academy, expanded apprenticeship opportunities and collaborations with regional Career & Tech Ed centers operating under the Perkins grant.

The Bureau of Adult Education has a long history of working closely with local providers and various stakeholders in the creation and development of policies and procedures. It is expected that the strategic planning process will include these groups as well.

Section 3 – Proposed Scope of Work

The purpose of this contract is to conduct a strategic planning process that solicits data and feedback from stakeholders including State office staff, NHDOE leadership, local adult education providers, local education agencies, WIOA core partners and others in order to develop a written 5-year strategic plan to strengthen the adult education system, promote student success and effective program administration.

3.A Required Elements

The successful Vendor selected to facilitate, develop and complete the strategic planning process will be expected to complete the tasks or produce the deliverable products and services as outlined below:

- Develop and carry out a strategy for engagement of a variety of stakeholders to encourage input on the future of adult education. Potential methods may include, but are not limited to:
 - Interviews
 - Dialogue Sessions
 - Focus Groups
 - Surveys
- Lead and facilitate a multi-day, in-person strategic planning workshop for key stakeholders to participate in the strategic planning process.
- Document and analyze the results of the workshop and synthesize the results in a clear and actionable way for future use.
- Draft and develop a 5-year strategic plan that includes the following:
 - Findings from stakeholders
 - Recommendations for revisions to Bureau mission and/or vision as appropriate
 - Prioritized goals and objectives for meeting goals
 - Evaluation of current priorities and recommendations for the development of different or new priorities as needed;
 - Performance criteria to measure the success of strategic directives;
 - Action items with a recommended schedule and strategies for implementing the recommendations
- Presentation of the 5-year strategic plan to key stakeholders

3.B Preferred Vendor Qualifications

The successful Proposer will have subject-matter expertise on adult education, particularly the rules, regulations and performance requirements found in Title II, the Adult Education & Family Literacy Act of the Workforce Innovation & Opportunity Act of 2014. This should include familiarity with Title II programs in other states, experience providing technical assistance to State adult education programs and demonstrated skill using adult education data for the purposes of program improvement.

The successful Proposer will also have experience and expertise in the strategic planning process and developing written strategic plans.

Section 4 – Process for Submitting a Proposal

4.A Proposal Submission, Deadline, and Location Instructions

Proposals submitted in response to this RFP must be received by the NHDOE Bureau of Adult Education, no later than the time and date specified in the Schedule section, herein. Proposals may be submitted by U.S. Mail, Delivery Service, In Person, or Electronically. Proposals must be addressed to:

State of New Hampshire
Department of Education
Bureau of Adult Education
21 South Fruit Street, Suite 20
Concord, NH 03301
AdultEd@doe.nh.gov

Proposals must be clearly marked as follows:

STATE OF NEW HAMPSHIRE
RESPONSE TO BAE-RFP 2022-002
Adult Education – Strategic Plan

Unless waived as a non-material deviation in accordance with Section 6B, late submissions will not be accepted and will be returned to the proposers unopened. Delivery of the Proposals shall be at the Proposer's expense. The time of receipt shall be considered when a Proposal has been officially documented by the Agency, in accordance with its established policies, as having been received at the location designated above. The Agency accepts no responsibility for mislabeled mail or mail that is not delivered or undeliverable for whatever reason. Any damage that may occur due to shipping shall be the Proposer's responsibility.

All Proposals submitted in response to this RFP must consist of at least:

- a) One (1) electronic copy of the Proposal, including all required attachments;
- b) One electronic copy of the Proposal with all Confidential Information fully redacted, as provided for in Section 7E of this RFP.

Proposers who are ineligible to bid on proposals, bids or quotes issued by the Department of Administrative Services, Division of Procurement and Support Services pursuant to the provisions of RSA 21-I:11-c shall not be considered eligible for an award under this proposal.

4.B Proposal Inquiries

All inquiries concerning this RFP, including but not limited to, requests for clarifications, questions, and any changes to the RFP, shall be submitted via email to the following RFP designated Points of Contact:

TO: AdultEd@doe.nh.gov

Inquiries must be received by the Agency's RFP Points of Contact no later than the conclusion of the Proposer Inquiry Period (see Schedule of Events section, herein). Inquiries received later than the conclusion of the Proposer Inquiry Period shall not be considered properly submitted and may not be considered.

The Agency intends to issue official responses to properly submitted inquiries on or before the date specified in the Schedule section, herein; however, this date is subject to change at the Agency's discretion. The Agency may consolidate and/or paraphrase questions for sufficiency and clarity. The Agency may, at its discretion, amend this RFP on its own initiative or in response to issues raised by inquiries, as it deems appropriate. Oral statements, representations, clarifications, or modifications concerning the RFP shall not be binding upon the Agency. Official responses by the Agency will be made only in writing by the process described above. Vendors shall be responsible for reviewing the most updated information related to this RFP before submitting a proposal.

4.C Restriction of Contact with Agency Employees

From the date of release of this RFP until an award is made and announced regarding the selection of a Proposer, all communication with personnel employed by or under contract with the Agency regarding this RFP is forbidden unless first approved by the RFP Points of Contact listed in the Proposal Inquiries section, herein. Agency employees have been directed not to hold conferences and/or discussions concerning this RFP with any potential contractor during the selection process, unless otherwise authorized by the RFP Points of Contact. Proposers may be disqualified for violating this restriction on communications.

4.D Validity of Proposal

Proposals must be valid for one hundred and eighty (180) days following the deadline for submission of Proposals in Schedule of Events, or until the Effective Date of any resulting Contract, whichever is later.

SECTION 5 - Content and Requirements for a Proposal

Proposals shall follow the below format and provide the required information set forth below:

- Table of Contents
- Glossary of Common Terms
- Company Profile/Background
- Key Personnel
- References

- Executive Summary
- Proposed Project Plan
- Work Plan
- Cost Proposal
- Supporting Documents

5.A Company Profile/Background

Please provide an overview of the company including the number of years in business, the number of employees, location(s), and major business or service areas of the company.

Describe the company's experience working with state adult education agencies including key stakeholders such as local service providers, core WIOA partners and other community service providers.

If this proposal includes subcontractors, the same information must be provided for each subcontractor.

The Proposer must provide evidence of financial stability through audited financial records.

This section shall be limited to two (2) pages, not including audited financial records.

5.B Key Personnel

Although the State recognizes that staff availability can be uncertain, the qualifications for the Project Manager are particularly critical. Therefore, the State requires that the Project Manager be identified.

Please provide resumes or a short biographical summary of key personnel proposed to work on this Project and an organizational chart depicting the Vendor Project Team, particularly identifying the Project Manager and the individual(s) with subject-matter expertise as outlined in [Section 3.B](#). Qualifications of key personnel should include the skills essential to successfully completing this project.

If this proposal includes subcontractors, the same information must be provided for each subcontractor.

This section shall be limited to five (5) pages.

5.C References

Please include a minimum of three (3) references that can attest to the Vendor's experience and capability to complete this type of project.

5.D Executive Summary

The Executive Summary must provide an overview of the Vendor's proposal. Vendors are encouraged to highlight those factors that they believe distinguish their proposal.

This section shall be limited to three (3) pages.

5.E Proposed Project Plan

This section provides detailed descriptions of how the Vendor proposes to meet the deliverables and the specific requirements outlined in [Section 3.A](#).

The proposed plan should also include, but is not limited to:

- A brief description of the strategic planning model
- A timeline for the planning process
- A plan for engaging appropriate stakeholders
- A logistic plan for the multi-day, in-person workshop including possible sites and an agenda
- An outline or template for the completed written plan

This section shall be limited to ten (10) pages.

5.F Work Plan

This section provides a detailed description of the process that the Vendor will take to complete the Project. Specific milestone associated with deliverables should be identified and an anticipated schedule for meeting those milestones provided. The following table is an example of how this might be presented.

Table 1: Example of Work Plan

Activity, Deliverable or Milestone	Deliverable Type	Project Delivery Date
Conduct Project Kickoff Meeting	Meeting	By 3/15/2022

This section should include tasks and activities associated with this project and result in a completed project prior to the end of the period of performance.

This section shall be limited to two (2) pages.

5.G Cost Proposal

It is the Vendor's responsibility to include detailed costs aligned with the activities, deliverables or milestones submitted on the Work Place described in [Section 5.F](#). This includes, but is not limited to, salaries, workshop facility expenses, travel expenses, and consumable materials. The Bureau of Adult Education will provide stipends for workshop participants.

The cost proposal may include payments made over the course of the contract period based upon completion of specific activities, deliverables or milestones or may be provided at the completion of the entire project.

Please indicate how invoicing or statements will be provided and their frequency.

5.H Supporting Documents (optional)

Please use this section to include any extra materials that will support the proposal.

SECTION 6 – Evaluation of Proposals

6.A Criteria for Evaluation and Scoring

Each responsive Proposal will be evaluated and considered with regard to the following criteria:

- Company Profile/Background including Key Personnel and References
- Proposed Project Plan
- Proposed Work Plan
- Cost Proposal

If the Agency, determines to make an award based on these evaluations, the Agency will notify the selected Proposer(s). Should the Agency be unable to reach agreement with the selected Proposer(s) during Contract discussions, the Agency may then undertake Contract discussions with the next preferred Proposer and so on, or the Agency may reject all proposals, cancel this RFP, or solicit new Proposals under a new acquisition process.

The Agency will use a scoring scale of 100 points, a maximum of 20 points awarded based on the Price Proposal, which will be distributed as set forth in the table below.

CATEGORIES	POINTS
Company Experience & Background including Key Personnel and References	20
Project Plan	50
Work Plan	10
PRICE PROPOSAL POTENTIAL MAXIMUM POINTS	20
TOTAL POTENTIAL MAXIMUM POINTS AWARDED	100

The Agency will select a Proposer based upon the criteria and standards contained in this RFP and from applying the weighting in this section. Oral interviews and reference checks, to the extent they are utilized by the Agency, will be used to refine and finalize scores.

6.A.1 Company Background & Experience including Key Personnel and References

Company background and experience as described in the following sections will be awarded a maximum of 20 points:

- [Section 3.B](#) Preferred Vendor Qualifications
- [Section 5.A](#) Company Profile/Background
- [Section 5.B](#) Key Personnel
- [Section 5.C](#) References

Points will be awarded on the Proposer's background and experience working with state adult education agencies through the provision of technical assistance; understanding the Workforce Innovation and Opportunity Act of 2014; demonstrated skill using adult education data for program improvement; experience with facilitation the strategic planning process; designation of key personnel with subject matter expertise; and references from similar projects.

6.A.2 Project Plan

The Project Plan as described in [Section 3.A](#) and [5.E](#) will be awarded a maximum of fifty (50) points based on the Proposer's ability to incorporate all of the required components; the reasonableness and effectiveness of the proposed approach to stakeholder engagement; thoroughness of the strategic planning process; and the appropriateness of the proposed format for the written strategic plan.

6.A.3 Work Plan

The Work Plan as described in [Section 5.F](#) will be awarded a maximum of ten (10) points based on the proposed detailed summary of the milestone; the practicality of the activities associated with each milestone; and the likelihood that completion of milestone within the proposed timeframe will result in a completed project within the period of performance.

6.A.4 Cost Proposal

The Proposer's Price Proposal will be allocated a maximum potential score of twenty (20) points. Proposers are advised that this **is not a low bid award** and that the scoring of the price proposal will be combined with the scoring of the proposal to determining the overall highest scoring Proposer.

The following formula will be used to assign points for costs:

$$\text{Proposer's Price Score} = \left(\frac{\text{Lowest Proposed Price}}{\text{Proposer's Proposed Price}} \right) \times \text{Number of Points for Score}$$

For the purpose of use of this formula, the lowest proposed price is defined as the lowest price proposed by a Proposer who has scored above the minimum necessary for consideration on the Score.

6.B Planned Evaluations

The Agency plans to use the following process:

- Initial screening to ensure that the Proposals are in compliance with submission requirements;
- Preliminary evaluation of the Proposals;
- Oral interviews and Product Demonstrations (if necessary);
- Final Evaluation of Proposals and scoring;
- Select the highest scoring Proposer (s) and begin contract negotiation.

6.C Initial Screening

The Agency will conduct an initial screening step to verify Proposer compliance with the technical submission requirements set forth in the RFP and the minimum content set forth in

[Section 5](#) of this RFP. The Agency may waive or offer a limited opportunity to cure immaterial deviations from the RFP requirements if it is determined to be in the best interest of the State.

6.D Preliminary Scoring of Proposals

The Agency will establish an evaluation team to initially score the Proposals. This evaluation team will review the proposals and give a preliminary score to the proposals under the guidelines set forth in Section 6. Should a Proposer fail to achieve 75 Points in the preliminary scoring, it will receive no further consideration from the evaluation team.

6.E Oral Interviews and Product Demonstrations

If the Agency determines that it is appropriate, proposers may be invited to oral interviews. The Agency retains the sole discretion to determine whether to conduct oral interviews, with which proposers; and the number of interviews. Proposers are advised that the Agency may decide to conduct interviews with less than all responsive proposers.

The purpose of oral interviews is to clarify and expound upon information provided in the written Proposals. Proposers are prohibited from altering the basic substance of their Proposals during the oral interviews. The Agency may ask the Proposer to provide written clarifications of elements in their Proposal regardless of whether it intends to conduct Oral Interviews. Information gained from oral interviews will be used to refine technical review scores assigned from the initial review of the Proposals.

6.F Final Scoring of Proposals

Following Oral Interviews, Reference Checks (if appropriate) and/or review of written clarifications of proposals requested by the Agency, the evaluation team will determine a final score for each Proposal.

6.G No Best and Final Offer

The Proposal should be submitted initially on the most favorable terms which the proposer can offer. There will be no best and final offer procedure. The Proposer should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of the Proposal.

6.H Final Selection

The Agency will conduct a final selection based on the final evaluation of the initial proposals and begin contract negotiations with the selected Proposer(s).

6.I Rights of the Agency in Accepting and Evaluating Proposals

The Agency reserves the right to:

- Make independent investigations in evaluating Proposals;
- Request additional information to clarify elements of a Proposal;
- Waive minor or immaterial deviations from the RFP requirements, if determined to be in the best interest of the State;
- Omit any planned evaluation step if, in the Agency's view, the step is not needed;

- At its sole discretion, reject any and all Proposals at any time; and
- Open contract discussions with the second highest scoring Proposer and so on, if the Agency is unable to reach an agreement on Contract terms with the higher scoring Proposer(s).

SECTION 7 – Terms and Conditions Related To The RFP Process

7.A RFP Addendum

The Agency reserves the right to amend this RFP at its discretion, prior to the Proposal submission deadline. In the event of an addendum to this RFP, the Agency, at its sole discretion, may extend the Proposal submission deadline, as it deems appropriate.

7.B Non-Collusion

The Proposer’s signature on a Proposal submitted in response to this RFP guarantees that the prices, terms and conditions, and Work quoted have been established without collusion with other Proposers and without effort to preclude the Agency from obtaining the best possible competitive Proposal.

7.C Property of the Agency

All material received in response to this RFP shall become the property of the State and will not be returned to the proposer. Upon Contract award, the State reserves the right to use any information presented in any Proposal.

7.D Confidentiality of a Proposal

Unless necessary for the approval of a contract, the substance of a proposal must remain confidential until the Effective Date of any Contract resulting from this RFP. A Proposer’s disclosure or distribution of Proposals other than to the Agency will be grounds for disqualification.

7.E Public Disclosure

Pursuant to RSA 21-G:37, all responses to this RFP shall be considered confidential until the award of a contract. At the time of receipt of proposals, the Agency will post the number of responses received with no further information. No later than five (5) business days prior to submission of a contract to the Department of Administrative Services pursuant to this RFP, the Agency will post the name, rank or score of each proposer. In the event that the contract does not require Governor & Executive Council approval, the Agency shall disclose the rank or score of the Proposals at least 5 business days before final approval of the contract.

The content of each Proposer’s Proposal shall become public information upon the award of any resulting Contract. Any information submitted as part of a response to this request for proposal (RFP) may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP will be made accessible to the public online via the website Transparent NH (<http://www.nh.gov/transparentnh/>). However, business financial information and proprietary information such as trade secrets, business and financials

models and forecasts, and proprietary formulas may be exempt from public disclosure under RSA 91-A:5, IV. If you believe any information being submitted in response to this request for proposal, bid or information should be kept confidential as financial or proprietary information; you must specifically identify that information in a letter to the agency, and must mark/stamp each page of the materials that you claim must be exempt from disclosure as “CONFIDENTIAL”. A designation by the Proposer of information it believes exempt does not have the effect of making such information exempt. The Agency will determine the information it believes is properly exempted from disclosure. Marking of the entire Proposal or entire sections of the Proposal (e.g. pricing) as confidential will neither be accepted nor honored.

Notwithstanding any provision of this RFP to the contrary, Proposer pricing will be subject to disclosure upon approval of the contract. The Agency will endeavor to maintain the confidentiality of portions of the Proposal that are clearly and properly marked confidential.

If a request is made to the Agency to view portions of a Proposal that the Proposer has properly and clearly marked confidential, the Agency will notify the Proposer of the request and of the date the Agency plans to release the records. By submitting a Proposal, Proposers agree that unless the Proposer obtains a court order, at its sole expense, enjoining the release of the requested information, the Agency may release the requested information on the date specified in the Agency’s notice without any liability to the Proposers.

7.F Non-Commitment

Notwithstanding any other provision of this RFP, this RFP does not commit the Agency to award a Contract. The Agency reserves the right, at its sole discretion, to reject any and all Proposals, or any portions thereof, at any time; to cancel this RFP; and to solicit new Proposals under a new acquisition process.

7.G Proposal Preparation Cost

By submitting a Proposal, a Proposer agrees that in no event shall the Agency be either responsible for or held liable for any costs incurred by a Proposer in the preparation of or in connection with the Proposal, or for Work performed prior to the Effective Date of a resulting Contract.

7.H Ethical Requirements

From the time this RFP is published until a contract is awarded, no bidder shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who will or has selected, evaluated, or awarded an RFP, or similar submission. Any bidder that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any bidder who has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or who is subject to a pending criminal charge for such an offense, shall be disqualified from bidding on the RFP, or similar request for submission and every such bidder shall be disqualified from bidding on any RFP or similar request for submission issued by any state agency. A bidder that was disqualified under this section because of a pending criminal charge which is subsequently dismissed, results in an acquittal, or is annulled, may notify the department of administrative services, which shall note

that information on the list maintained on the state’s internal intranet system, except in the case of annulment, the information, shall be deleted from the list.

7.I Challenges on Form or Process of the RFP

Any challenges regarding the validity or legality of the form and procedures of this RFP, including but not limited to the evaluation and scoring of Proposals, shall be brought to the attention of the Agency at least ten (10) business days prior to the Proposal Submission Deadline. By submitting a proposal, the Proposer is deemed to have waived any challenges to the agency’s authority to conduct this procurement and the form and procedures of this RFP.

7.J Insurance

The Vendor selected through this RFP must obtain and maintain in force, comprehensive general liability insurance against all claims of bodily injury, death, or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

The Vendor’s employees as well as employees hired under this contract must be covered with workers’ compensation insurance. Proof of insurance will be requested at the time of contracting.

7.K Special Provisions

Proposals must include a statement that the organization submitting the proposal will comply with the provisions of the US Code of Federal Regulation 34 CFR 364 and the following US Circular if applicable: Office of Management and Budget (OBM) circular A-110 ‘uniform Administrative Non-Profit Organizations.’ Agency shall not make any award or permit any award (subgrant or contract) to any party which is barred or suspended or it otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment or Suspension.”

7.L Civil Rights Compliance

Funding for this contract includes Federal funds and therefore obligates the Vendor to comply with civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability and age.

Section 8 – Contract Terms and Award

8.A Non-Exclusive Contract

Any resulting Contract from this RFP will be a non-exclusive Contract. The State reserves the right, at its discretion, to retain other Contractors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal.

8.B Award

If the State decides to award a contract as a result of this RFP process, any award is contingent upon approval of the Contract by Governor and Executive Council of the State of New Hampshire and upon continued appropriation of funding for the contract.

8.C Standard Contract Terms

The Agency will require the successful bidder to execute a Not to Exceed Contract using the Standard Terms and Conditions of the State of New Hampshire which is attached as [Appendix A](#).

The Term of the Contract will be from approval by the Governor & Council through September 30, 2022.

The contract term may be extended by an additional term of one (1) year at the sole option of the State, subject to the parties' prior written agreement on terms and applicable fees for each extended term. contingent upon satisfactory vendor performance, continued funding and Governor and Executive Council approval.

To the extent that a Proposer believes that exceptions to the standard form contract will be necessary for the Proposer to enter into the Agreement, the Proposer should note those issues during the Proposer Inquiry Period. The Agency will review requested exceptions and accept, reject or note that it is open to negotiation of the proposed exception at its sole discretion. If the Agency accepts a Proposer's exception the Agency will, at the conclusion of the inquiry period, provide notice to all potential proposers of the exceptions which have been accepted and indicate that exception is available to all potential proposers. Any exceptions to the standard form contract that are not raised during the proposer inquiry period are waived. In no event is a Proposer to submit its own standard contract terms and conditions as a replacement for the State's terms in response to this solicitation.

8.D Special Terms To Be Included In A Contract Resulting From This RFP

The Contractor must comply with the following provisions:

- Appendix B: Contractor Obligation
- Appendix C: Federal Debarment and Suspension
- Appendix D: Anti-Lobbying
- Appendix E: Rights to Inventions Made Under Contract, Copy Rights and Confidentiality
- Appendix F: Compliance with the provisions of the US Code of Federal Regulations, 34 CFR 364 and the US Circular if application Office of Management and Budget (OBM) Circular A-110 "Uniform Administrative Non-Profit Organizations:

Appendix A – Standard Terms and conditions of the State of New Hampshire

FORM NUMBER P-37 (version 12/11/2019)

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name		1.2 State Agency Address	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Number	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency		1.10 State Agency Telephone Number	
1.11 Contractor Signature Date:		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature Date:		1.14 Name and Title of State Agency Signatory	
1.15 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> By: _____ On: _____			
1.17 Approval by the Governor and Executive Council <i>(if applicable)</i> G&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials _____
Date _____

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete

compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor Initials _____
Date _____

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor Initials _____
Date _____

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

17. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

Contractor Initials _____
Date _____

Appendix B: Contractor Obligation

Revised 8/2/19

EXHIBIT D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials _____
Date _____

Appendix C: Federal Debarment and Suspension

Revised 8/2/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
 2. Does not have a proposed debarment pending;
 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.1., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Appendix D: Anti-Lobbying

Revised 8/2/19

Exhibit F

Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Appendix E: Rights to Inventions Made Under Contract, Copy Rights and Confidentiality

Revised 8/2/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials _____
Date _____

Appendix F: Compliance with the provisions of the US Code of Federal Regulations, 34 CFR 364 and the US Circular if application Office of Management and Budget (OBM) Circular A-110 “Uniform Administrative Non-Profit Organizations:

Please include the following signed statement in your proposal.

The organization will comply with the provisions of the US Code of Federal Regulations 34 CFR 364 and the following US Circular, if applicable: Office of Management and Budget (OBM) Circular A-110 “Uniform Administrative Non-Profit Organizations.”

Chief Officer of Agency:

Signature

Date Signed: _____

Appendix G: Required Documentation for Contracting (Not Required at Submission)

Any contract resulting from this RFP will be required to be approved by the Governor and Executive Council. In addition to the contract and the Standard Terms and Conditions included in Appendix A, the following documents will be required.

1. Certificate of Good Standing

- The organization must provide a Certificate of Good Standing from the NH Secretary of State's Office or documentation that the entity is exempt from this requirement.
- For a non-profit corporation, the certificate is valid from the date of issue until December 31 of the next year ending in zero (0) or five (5).
- A copy is acceptable.

2. Certificate of Insurance

- Specific requirements can be found in Section 7J

3. Certificate of Authority

- The governing board of the organization must provide authorization for the individual to sign a contract with the NH Department of Education.