



New Hampshire

Department of Education

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION**

**Request for Proposals
Data Analysis and Assessment Literacy Coaches for New Hampshire Schools**

RFP 2022-DOE-OAA-DAAL Coaches-03

The New Hampshire Department of Education does not discriminate on the basis of race, color, religion, marital status, national/ethnic origin, age, sex, sexual orientation, or disability in its programs, activities and employment practices. This statement is a reflection of the Department of Education and refers to, but is not limited to, the provisions of the following laws: Title IV, VI and VII of the Civil Rights Act of 1964-race color, national origin, The Age Discrimination in Employment Act of 1967, The Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 (Title IX)-sex, Section 504 of the Rehabilitation Act of 1973 (Section 504)-disability, The Americans with Disabilities Act of 1990 (ADA)-disability, and NH Law against discrimination (RSA 354-A).

Auxiliary aids and services are available upon request to individuals with disabilities.

Section 1 - Overview and Schedule

A. Executive Summary

The New Hampshire Department of Education (NHDOE) is seeking to retain the services of Data Analysis and Assessment Literacy Coaches to assist in providing professional development and technical support services to NH schools and districts.

Data Analysis and Assessment Literacy Coaches will support NH schools and districts to improve student outcomes by educating school administrators and teachers in utilizing a variety of formative and summative assessments including the NH Statewide Assessments, New Hampshire Statewide Assessment System (NHSAS), SAT, Dynamic Learning Maps (DLM), ACCESS for Ells (English language learners). Coaches will build the capacity of school and district teams to administer, collect, analyze, interpret, and use data to more effectively plan, differentiate, and target instruction based on student needs. Coaches will facilitate data meetings, provide guidance, and conduct professional development activities with teachers and school/district leaders as they examine and analyze school, district and state data, conduct root cause analysis and make data driven decisions for school improvement.

It is anticipated that services will be provided under contracted service arrangements, upon Governor and Council approval through June 30, 2023 with the option for three, one-year renewals.

B. Background Information

On August 5, 2021, the New Hampshire Department of Education (NH DOE) received approval for the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) State Plan. The Plan includes how the NH DOE will support schools and districts to implement individualized instruction to recover any learning loss. A key part of determining that learning loss is through local and statewide assessment tools that encompass formative and summative assessment opportunities for students. The Plan outlines a comprehensive accountability system designed to focus on student growth and academic achievement working toward recovering academic learning loss as well as college and career readiness. Further, the plan provides an overview for how the New Hampshire Department of Education (NH DOE) will support some of our most vulnerable students in their educational journey, including English language learners, migrant students and students that are homeless.

C. 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 posted on the same web site that contains this RFP. The Agency will not attempt to contact proposers regarding the posting of schedule changes. It is the responsibility of each proposer to visit the RFP web site regularly to obtain any alterations.

EVENT	DATE	LOCAL TIME
RFP Released to Proposers (Advertisement)	3/17/22	
Proposer Inquiry Period Ends	3/25/22	4:00 pm ET
Final Agency Responses to Proposer Inquiries	3/31/22	4:00 pm ET
Proposers Submit Proposals	4/08/22	4:00 pm ET
Estimated Notification of Selection and Begin Contract Negotiations	4/15/22	
Contract finalized for internal processing	5/10/22	4:00 pm ET
Contract closing date deadline for G & C meeting on 6/29/22	6/15/22	10:00 am
Governor and Council votes on contract	6/29/22	9:00 am

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

The New Hampshire Department of Education (NHDOE) Division of Learner Support serves school districts by providing resources and professional development in academic areas and assessment through the Bureau of Instructional Support, program of Academics and Assessment. In our commitment to provide meaningful access to quality coaching in data analysis and assessment literacy for New Hampshire educators, the agency is seeking proposals from qualified and experienced Vendors in providing training in Data Analysis and Assessment. Literacy Coaches will support NH schools and districts in order to improve student outcomes by educating school administrators and teachers in utilizing a variety of formative and summative assessments including the NH Statewide Assessments, NHSAS, SAT, DLM, and ACCESS. Coaches will build the capacity of school and district teams to administer, collect, analyze, interpret, and use data to more effectively plan, differentiate, and target instruction based on student needs. Coaches will facilitate data meetings, provide guidance, and conduct professional development activities with teachers and school/district leaders as they examine and analyze school, district and state data, conduct root cause analysis and make data driven decisions for school improvement.

Additionally, Data Analysis and Assessment Literacy Coaches will help to establish data to guide learning loss and school improvement, provide supports that foster a data-driven culture, and guide district and school personnel in the examination and analysis of data to support the on-going cycle of data driven school improvement.

Section 3 – Proposed Scope of Services and Requirements

Data Analysis Coaches will:

- Collaborate with NH DOE staff, school/district leaders, and teachers to create partnerships to embrace the analysis and effective use of data.

- Conduct workshops, webinars, and online and in-person training sessions to train teachers/administrators in data analysis/interpretation.
- Assist school/district leaders and teachers in using data analytics to drive school improvement and learning loss recovery.
- Assist districts and schools in the development and training of data teams designed to sustain data informed school improvement practices.
- Lead collaborative data conversations among team members around topics such as, but not limited to, item analysis and the differentiation of instruction.
- Support school/district leaders and teachers in accessing, analyzing, interpreting, and presenting NH DOE iExplore dashboard and iReport accountability data.
- Promote and track training and support activities.
- Maintain student confidentiality and adhere to all New Hampshire and FERPA data privacy guidelines.

In addition to on-site and virtual district and school training, the Data Analysis Coaches may be expected to work or attend meetings at the NH Department of Education in Concord.

Qualifications/Certifications Required:

To provide the required support, Data Analysis and Assessment Literacy Coaches are required to have:

- Experience in creating successful school improvement partnerships and success in working with a variety of school district personnel, and outstanding communication skills.
- Extensive understanding of the NH statewide assessments including the NHSAS, SAT, DLM and ACCESS tests, as well as experience in providing professional development and coaching on the administration of these specific assessments and data analysis on the results.
- Knowledge of formative and summative assessments and how to develop and utilize these assessments to determine learning loss.
- Extensive understanding of the NH state standards including the common core standards for ELA and mathematics, Next generation science standards, and English language proficiency standards.
- Experience in providing district and school level professional development services.
- Evidence of successful differentiation based on student learning data.
- Demonstrated ability to model best practices for differentiation based on data analysis.
- Strong data literacy skills, experience in root cause analysis, and evidenced ability to disaggregate, interpret, and analyze data.
- Demonstrated ability to lead and manage small and large groups.

Data Analysis and Assessment Literacy Coaches will be assigned a user role for state level data systems. Coaches must have the ability to navigate the systems to retrieve and analyze data sets.

Absolute Priority #1:

The professional development must provide training that supports the application of assessment literacy of the NHSAS, SAT, DLM and ACCESS tests and includes:

- evidence-based research of data analysis and implementation of instructional practices to increase student academic achievement and to address student learning loss;
- strategies to increase educators' knowledge of the NH statewide assessment system tools and to effectively implement usage of these available tools in addition to other formative and summative assessments;
- training on test administration, set up, accommodations to support students in accessing the assessments, particularly the Test Information Distribution Engine (TIDE) for NHSAS and SAT;
- use of NHSAS modular and interim assessments;
- implementation of the NH state standards and utilizing assessments to determine mastery of content standards.

Absolute Priority #2:

The training package must also include Data Analysis Coaching for school administrators and teachers that includes the following:

- successful differentiation based on student learning data;
- modeling best practices for differentiation based on data analysis;
- developing data literacy skills, experience in root cause analysis, and evidenced ability to disaggregate, interpret, and analyze data.

Absolute Priority #3:

The Vendor must have in place a system for registering trainees, tracking teacher participation and achievement of learning outcomes, and paying teachers a pre-determined stipend for some designated training sessions if needed. Vendor will share participant data with NHDOE.

Competitive Preference Priorities:

1. Vendors will coordinate with NHDOE throughout the contractual period. Based on participant feedback and NHDOE input, the Vendor will make every attempt to adjust delivery of content and/or internal processes and systems as needed.
2. All trainers hired or employed by the Vendor for data analysis and assessment literacy coaching must possess:
 - experience in creating successful school improvement partnerships and success in working with a variety of school district personnel, and outstanding communication skills;
 - an extensive understanding of the NH statewide assessments including the NHSAS, SAT, DLM and ACCESS tests, as well as experience in providing professional development and coaching on the administration of these specific assessments and data analysis on the results;

- knowledge of formative and summative assessments and how to develop and utilize these assessments to determine learning loss;
- an extensive understanding of the NH state standards including the common core standards for ELA and mathematics, Next generation science standards, and English language proficiency standards;
- experience in providing district and school level professional development services;
- evidence of successful differentiation based on student learning data.
- a demonstrated ability to model best practices for differentiation based on data analysis;
- strong data literacy skills, experience in root cause analysis, and evidenced ability to disaggregate, interpret, and analyze data;
- a demonstrated ability to lead and manage small and large groups.

Proposals should include a description of the professional staff and/or professional standards required of employees/trainers.

3. Proposer should provide:

- an example of the scope and sequence for the proposed training including how content is organized and delivered over time; how many hours of instructional time is included; and whether or not the proposed program is face to face, on-line (synchronous or asynchronous), or hybrid;
- a description of trainee-engagement strategies and techniques;
- a description of assessment methodology and frequency of assessments;
- a description of how on-going feedback or check for understanding will be provided to trainees;
- a description of how opportunities for on-demand or timely learning support will be provided for trainees;
- evidence of success from prior trainees or contractors.

4. Cost Summary (per Part V of proposal):

- The proposer should present a budget that is reasonable and contains sufficient detail and justification for the services to be provided. Hourly rates must be competitive.
- Because of the scope of this project, we believe it should be possible for different proposers to arrive at vastly differing estimates of resources required. It is anticipated that this shall allow the proposers to explain exactly what the State shall receive for this amount of funds and shall allow evaluators to determine the best proposals based upon the qualifications and the description of what the State shall receive in exchange for this amount.

5. Vendor Deliverables:

The Vendor shall be responsible for all tasks and deliverables required to complete the project as described in the Scope of Work. It is anticipated that this shall include but not be limited to:

- Providing one person who will be responsible for all activities required to fulfill said contract and who will be vested with the authority to make decisions and commitments on behalf of the contracted party during the contractual period.
- Communicating and meeting with NHDOE staff in person and/or via teleconference throughout the contractual period.

6. The New Hampshire Department of Education

The specific responsibilities of the NHDOE are as stated below:

- Provide a contact person to work with the vendor to ensure quality control
- Review and approve timeframes and work plans
- Provide available information to assist the vendor

Section 4 – Process for Submitting a Proposal

Proposal Submission, Deadline, and Location Instructions:

Proposals submitted in response to this RFP containing the required documentation and materials must be received by the New Hampshire Department of Education, Office of Academics & Assessment, no later than the time and date specified in the Schedule section, herein, that is **Friday April 8, 2022, 4:00 PM Eastern Daylight Savings Time.**

Proposals must be delivered electronically via email and include three attachments. Two copies of the Proposer's proposal should be attached to the email, one unredacted and one with redacted information divided into two separate sections. See details below.

Subject line must read **Response to RFP 2022-DOE-OAA-DAAL Coaches-03.**

Please send emails to **Ellie Riel**, Eleanor.M.Riel@doe.nh.gov.

Unless waived as a non-material deviation in accordance with Section 6B, late submissions via email or hardcopy 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 by the person designated above. The Agency accepts no responsibility for mislabeled mail or email that is not delivered or undeliverable for whatever reason

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.

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 Point of Contact:

Ellie Riel, Eleanor.M.Riel@doe.nh.gov

Inquiries must be received by the Agency's RFP Point 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 deadline for submitting written questions by email is **Friday, March 25, 2022 at 4:00 p.m.**

Copies of all questions submitted and the responses shall be posted on the NH DOE website here: [Working with NH DOE | Department of Education](#). The NHDOE's responses shall be available to the general public no later than **Thursday, March 31, 2022**. Questions and answers shall become part of the final Contract as an attachment. Written responses provided for the questions are binding.

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. Proposers shall be responsible for reviewing the most updated information related to this RFP before submitting a proposal.

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 Point 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 Point of Contact. Proposers may be disqualified for violating this restriction on communications.

Validity of Proposal:

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

Section 5 - Content and Requirements for a Proposal

The proposal shall be prepared in 12-point Arial font with double-spaced text. Charts and graphs may be single-spaced. 1” side, top, and bottom margins must be used. Proposal must include a footer at the bottom of each page with page number. Each required component of the proposal must be labeled. Required forms that are to be included in the body of the proposal are not subject to page limitations.

Two copies of the Proposer’s proposal should be attached to the email, one that is unredacted and one with redacted information. Indicate in the “comments” section of the Cover Page if the accompanying proposal is redacted or unredacted. Each page of the **unredacted proposal** and all attachments shall be identified with the name of the Proposer. The REDACTED version should be divided into two sections and sent as two separate attachments. This version shall be submitted in two (2) SECTIONS and LABELED to indicate redacted or unredacted. The first section shall remove all Proposer identifying information (REDACTED) and will be used by the evaluation committee for reviewing technical quality. The REDACTED section shall include Part I, Part II, and Part III. The second section shall remain UNREDACTED and retain identifying Proposer information. This section shall include Part IV, Part V, Part VI and Part VII. Please use the naming protocol for each file submitted.

Naming PDF documents whereas “AcademicExcel” is the hypothetical Proposer:

All Parts I - VII name as **AcademicExcel_Unredact_RFP 2022-DOE-OAA-DAAL Coaches-03**

Parts I - III name as **AcademicExcel_EVAL_Redact_RFP 2022-DOE-OAA-DAAL Coaches-03**

Parts IV - VII name as **AcademicExcel_Sec.2_RFP 2022-DOE-OAA DAAL Coaches-03**

Complete proposals shall consist of Parts I - VII including the Cover Page, Part I (Appendix A). The proposals must be prepared and organized in a clear and concise manner that is easily understandable. The proposal shall address the tasks to be accomplished, processes to be undertaken to accomplish those tasks and a proposed timeline for completion. Examples of materials that demonstrate the quality of work completed by the proposer on similar projects should be included in Part VII.

Proposals shall be organized in the following order, with each section clearly indexed into one single PDF file (unredacted version) and two (2) PDFs with two (2) sections for the redacted version.

Part I—Cover Page

Part II—Executive Summary

Part III— Proposal Response to Scope of Services, Requirements and Timeline

Part IV—Summary of Experience and Demonstrated Success

Part V—Cost Summary

Part VI—References

Part VII—Additional Supporting Documents

Part I—Cover Page

Please use Appendix A as your cover page. Be sure to sign and date the page.

Part II—Executive Summary

The Proposer must provide an Executive Summary of two (2) pages or less, giving a brief summation of the proposal and the underlying philosophy of the firm for providing the specified service.

Part III—Proposal Response to Scope of Services and Requirements

The Proposer must provide a description of services and capabilities as outlined in the “Scope of Services and Requirements” section of this RFP. The proposal must address the three absolute priorities; competitive priority responses are highly recommended. The proposal shall be clear, concise and not overly lengthy. Make clear any exceptions taken to the specifications outlined in this RFP. If the Proposer does not have a response to a requirement, the Proposer shall state, “unable to perform.”

Professional Development for Eligible Teachers

Proposal must include a detailed plan describing how the existing training will build both the teacher’s content knowledge and pedagogical knowledge of the essential elements of ELA, mathematics and science content standards. Training must direct participants to implement effective data analysis supported by scientifically- based research. The training must foster a direct explicit instructional sequence that provides scaffolding and follows the gradual release of responsibility model. The Proposer must include a detailed description of the training, the minimum and maximum number of participants per training session, the number of days per training, and the sequence of the training components. Proposals should indicate whether or which parts of the training are face-to-face and/or virtual. Virtual training components should include interactive content as well as an assessment of participant knowledge and/or checks for understanding.

Alignment to Standards

The training must be aligned to the *Common Core State Standards for English Language Arts & mathematics, Next Generation Science Standards and WIDA English Language Proficiency standards*.

Part IV—Summary of Experience and Demonstrated Success

This section shall contain a brief summary of the Proposer’s business experience, evidence of success providing the scope of services in this RFP, and individual experience for personnel who will provide this product or service.

Part V—Cost Summary

The Proposer shall provide information on any costs that The New Hampshire Department of Education may incur for “as needed” services. Proposals must include the Proposer’s pricing structure and any related policies. The Proposer must specify all costs (i.e., administrative fees, processing fees, rush fees, etc.) associated with providing the services herein. The Proposer must provide a complete fee and cost detail supporting all elements of the Proposal.

In order to be considered, Proposers must submit a proposal that includes a budget narrative that addresses all costs for services, expenses, and products specified in the solicitation. This shall

include the number of personnel proposed to be assigned to the contract and the total estimated cost of the labor portion of the contract (include a sample chart). Identify all non-labor costs and their estimated totals. Indirect costs shall not be allowed.

Part VI—References

The Proposer shall submit a minimum of three (3) verifiable references. It is recommended that if the Proposer has performed related services previously, those references be listed.

Part VII—Additional Required or Supporting Documents

Other Training Materials Submission

Consider making available examples of training material and resources through online shared folder(s). Provide the link in this section and indicate content included in the link. Examples may include training materials, pre-recorded presentations, teacher resources, etc. Be sure the link is set for sharing.

Section 6 – Evaluation of Proposals

Criteria for Evaluation and Scoring:

Each responsive Proposal will be evaluated and considered with regard to the following criteria. If the Agency determines to make an award, the Agency will issue an “intent to negotiate” notice to a Proposer based on these evaluations. Should the Agency be unable to reach agreement with the selected Proposer during Contract discussions, the Agency may then undertake Contract discussions with the second preferred Proposer and so on, or the Agency may reject all proposals, cancel this RFP, or solicit new Proposals under a new acquisition process.

Proposal Evaluation and Scoring:

RFP-2022-OAA-DAAL Coaches-03, Data Analysis and Assessment Literacy Coaches for New Hampshire Schools

The purpose of this request for proposal is to retain the services of Data Analysis and Assessment Literacy Coaches to assist in providing professional development and technical support services to NH schools and districts.

Data Analysis and Assessment Literacy Coaches will support NH schools and districts to improve student outcomes by educating school administrators and teachers in utilizing a variety of formative and summative assessments including the NH Statewide Assessments, NHSAS, SAT, DLM, ACCESS. Coaches will build the capacity of school and district teams to administer, collect, analyze, interpret, and use data to more effectively plan, differentiate, and target instruction based on student needs. Coaches will facilitate data meetings, provide guidance, and conduct professional development activities with teachers and school/district leaders as they examine and analyze school, district and state data, conduct root cause analysis and make data driven decisions for school improvement.

Evaluation Criteria and Possible Points:

Scoring Rubric – Technical Score					
Science of Reading Training Program RFP LS-2022-001					
(Proposals will be scored independently by Evaluation Team)					
Absolute Priority #1 <i>Training supports Assessment Literacy for NHSAS, SAT, DLM and ACCESS tests</i>	25 points	12 points	5 points	0 points	Points Awarded
	Proposal addresses all elements of Assessment Literacy training. Alignment to priority is clear and strongly evident throughout project proposal.	Proposal addresses most of the elements of Assessment Literacy training. Alignment to priority is evident throughout project proposal.	Proposal addresses a few of the elements of Assessment Literacy training. Alignment to priority is somewhat evident throughout project proposal.	Proposal is out of alignment with Assessment Literacy training	
Absolute Priority #2 <i>Data Analysis Coaching</i>	12 points	8 points	4 points	0 points	Points Awarded
	Proposal addresses all elements of Data Analysis Coaching from RFP. Alignment to priority is clear and strongly evident throughout project proposal.	Proposal addresses most of the elements of Data Analysis Coaching from RFP. Alignment to priority is somewhat evident throughout project proposal.	Proposal addresses a few of the elements of Data Analysis Coaching from RFP. Alignment to priority is not evident throughout project proposal.	Proposal lacks evidence of Data Analysis Coaching from RFP.	
Absolute Priority #3 <i>System for managing requirements of training</i>	15 points	10 points	5 points	0 points	Points Awarded
	Vendor has in place a robust system for managing training requirements as described in RFP.	A system for managing training requirements is offered; description lacks detail.	The system for managing training requirements is not in place and/or lacks components.	Proposal lacks evidence of a training management system.	
Competitive Priority: <i>Quality of trainers and training materials</i>	15 points	10 points	5 points	0 points	Points Awarded
	Trainers are very experienced and highly qualified. Materials are of high standard.	Trainers are experienced and qualified. Materials are adequate.	Trainers lack experience or qualifications. Materials are inadequate.	Trainers lack experience and qualifications.	

Competitive Priority: <i>Scope and Sequence of deliverables is clear and comprehensive</i>	15 points	10 points	5 points	0 points	Points Awarded
	Proposal has a thorough description of how deliverables will be met, and scope and sequence of services is comprehensive.	Proposal has a description of how deliverables will be met, and scope and sequence of services are described but missing components.	Proposal is missing the description of how deliverables will be met, but the scope and sequence of services is comprehensive.	Proposal omits the description of how deliverables will be met, and the scope and sequence of services is unclear.	
Competitive Priority: <i>Cost Summary</i>	18 points	12 points	6 points	0 points	Points Awarded
	Cost summary narrative is logical, easy to understand, and aligns with needs. Budget is fair, reasonable, and complete.	Cost summary narrative describes needs. Budget is complete.	Cost summary narrative is illogical and/or does not align with needs. Budget lacks detail.	Cost summary narrative lacks description and/or is not aligned to needs. Budget is incomplete and/or unreasonable.	

Planned Evaluations

The Agency plans to use the following process:

- Initial screening to ensure that the Proposals are in compliance with submission requirements;
- Independent blind scoring by Evaluation Team;
- Review of Price Proposals and supporting documents for final technical scoring; and
- Select the highest scoring Proposer(s) and begin contract negotiation.

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.

Final Technical Scoring of Proposals

Following review of written clarifications of proposals requested by the Agency (if necessary), the evaluation team will determine a final score for each Proposal.

Price Proposal Review

Price proposals will be reviewed upon completion of the final technical scoring of proposals. 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 Technical Score. The Proposer's Price Proposal will be allocated a maximum potential score of 18 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 technical proposal to determine the overall highest scoring Proposer.

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

Proposer's Price Score = (Lowest Proposed Price / Proposer's Proposed Price) x Number of Points for Score

The Agency will select a Proposer based upon the criteria and standards contained in this RFP and from applying the weighting in this section. Materials included in Part VI & Part VII of the application as well as oral interviews and reference checks, to the extent they are utilized by the Agency, will be used to refine and finalize scores.

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.

Final Selection

The Agency will conduct a final selection based on the final evaluation of the initial proposals or, if requested, as a result of the Best and Final Offer and begin contract negotiations with the selected Proposer(s).

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

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.

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.

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.

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.

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/transparenth/>). 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.

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.

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.

H. Ethical Requirements

From the time this RFP is published until a contract is awarded, no proposer 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 proposer that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any proposer 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 proposer shall be disqualified from bidding on any RFP or similar request for submission issued by any state agency. A proposer 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.

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.

Section 8 – Contract Terms and Award

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.

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.

C. Standard Contract Terms

The Agency will require the successful proposer to execute a Firm Fixed Price/Not to Exceed Contract using the Standard Terms and Conditions of the State of New Hampshire which is attached as Appendix B.

The Term of the Contract will be upon Governor and Council approval through June 30, 2023. The contract term may be extended by three additional one (1) year terms 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.

D. Additional Documents Required at Time of Contract Signing

Certificate of Authority - granting the person signing the contract documents the authority to do so. The person signing the contract cannot be the same person signing the Certificate of Authority. Please note, if the Certificate of Authority makes mention of the company By-laws, a copy of the By-laws will also need to be provided.

Certificate of Insurance - See Section 14. and 15. of the General Provisions, P-37 (Appendix B), for the necessary coverage. Please note, the Department of Education will need to be the "Certificate Holder".

APPENDIX A
Cover Sheet



New Hampshire

Department of Education

RFP Number:		Bureau:	
Applicant (Organization) Name:			
Applicant Main Contact	Address	Phone Number	Email Address
Summary of Attachments			
Attachment		Number of Pages	
Total Number of Pages in this Packet Including Coversheet:			
Comments			
<p><i>I certify that I have reviewed this application and that information given is complete and accurate to the best of my knowledge.</i></p> <p>Signature of Applicant _____ Date _____</p>			
NHDOE Official Use Only		Received Date _____	
<input type="checkbox"/> Complete, received by NHDOE by required Deadline: accepted	<input type="checkbox"/> Not received by NHDOE by required Deadline: rejected		
<input type="checkbox"/> Incomplete, returned to Applicant	<input type="checkbox"/> Other _____		
First Reviewer _____	Second Reviewer _____		
Comments:			

APPENDIX B

Standard Terms and Conditions of the State of New Hampshire (P-37)

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 <div style="text-align: right;">Date:</div>		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature <div style="text-align: right;">Date:</div>		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: _____			

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.

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, 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.