



State of New Hampshire  
Department of Health and Human Services

**REQUEST FOR APPLICATIONS**

FOR

Cold Weather Shelter Program

RFA-2024-DBH-03-COLDW

RELEASE DATE: June 29, 2023

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## 1. PURPOSE AND OVERVIEW

### 1.1. Introduction

The New Hampshire Department of Health and Human Services, Division for Behavioral Health (“Department”) is seeking responses to this Request for Applications (solicitation) from qualified Vendors for the provision of services to assist with the operation of cold weather solutions for individuals and families experiencing homelessness, including shelters, hotel stays, and other solutions.

The Department anticipates awarding one (1) contract per county in New Hampshire. Vendors may apply to provide services in one (1) or more county. If the Vendor applies to provide services in more than one (1) county, the Vendor must submit a separate application for each county. The application must be inclusive of the entire county and may include multiple strategies and providers. The Department will issue an award to the Vendor with the highest score per county.

### 1.2. Key Information

The information in the table below is as anticipated by the Department. All information is subject to change, the availability of funds, and/or approval by the Governor and Executive Council.

<b>Contract Effective Date</b>	<b>October 1, 2023</b>	
<b>Contract End Date</b>	<b>June 30, 2025</b>	
<b>Renewal Options</b>	The Department may extend contracted services for up to two (2) additional years.	
<b>Funding for the resulting contract(s) is anticipated to be approximately:</b>	The Department anticipates funding awards on a cost reimbursement basis in the overall amount of \$2,000,000 inclusive of all contracts. Funding will be allocated by county as specified in Section 2.3. below.	
<b>Funding Source</b>	The Department anticipates using General funds for resulting contract(s).	
	Assistance Listing #	N/A
	Award Name	N/A
<b>Match Requirements</b>	N/A	
<b>Point of Contact</b>	Amy Marchildon, Contract Specialist amy.e.marchildon@dhhs.nh.gov 603-271-6533	
From the date of release of this solicitation until an award is made and announced regarding the selection of each Vendor, all communication with personnel employed by or under contract with the Department regarding this solicitation is prohibited unless first approved by the Point of Contact listed above. Department employees have been directed not to hold conferences and/or discussions concerning this solicitation with any potential contractor during the selection process,		

unless otherwise authorized by the Point of Contact. Vendors may be disqualified for violating this restriction on communications.

### 1.3. Procurement Timetable

All times are according to Eastern Time. The Department reserves the right to modify these dates and times at its sole discretion.		
Item	Action	Date
1.	Solicitation Released	6/29/2023
2.	Questions Submission Deadline	7/7/2023 <b>12:00PM</b>
3.	Department Response to Questions Published	7/20/2023
4.	Vendor Solicitation Response Due Date	7/24/2023 <b>12:00PM</b>

### 1.4. Background

#### 1.4.1. New Hampshire Department of Health and Human Services, Division for Behavioral Health (DBH)

The Department is responsible for promoting the health, safety, and well-being of the citizens of New Hampshire. To achieve that goal, the Department provides services for children, families, individuals, and seniors in areas such as mental health, developmental disabilities, substance abuse, and public health. The Department does this work through partnerships with families, community groups, providers, other state and local entities, and New Hampshire citizens.

The Bureau of Homeless Services assists with connecting individuals and families who are currently experiencing homelessness or are at risk of becoming homeless with emergency sheltering and ongoing housing support and services.

#### 1.4.2. Objective

The Department will provide funding to one entity in each of New Hampshire's counties to assist with mitigation of the negative outcomes of homelessness during the winter and cold weather months, which is defined for the purposes of this solicitation as approximately October 1 through April 30 per state fiscal year. Funds are to be used to assist with the operation of cold weather shelters, hotels, or other solutions that are determined to meet the needs of the particular county, and all towns/municipalities within the county must have the opportunity to access the funds. These funds are targeted for a winter specific response and are not to support year round emergency shelters.

### **1.4.3. Covered Populations**

The covered population to receive these services are individuals who:

- 1.4.3.1. Are experiencing homelessness in NH;
- 1.4.3.2. Are in need of appropriate shelter during the winter and cold weather months; and
- 1.4.3.3. Meet the criteria of 'Literally Homeless' as follows:
  - 1.4.3.3.1. Has a primary nighttime residence that is a public or private place not meant for human habitation;
  - 1.4.3.3.2. Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state and local government programs); or
  - 1.4.3.3.3. Is exiting an institution where they resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

## **2. STATEMENT OF WORK**

### **2.1. Scope of Services**

- 2.1.1. The selected Vendor(s) must provide access to emergency shelter and related services specifically to provide safety in cold weather, to individuals experiencing homelessness as defined in Section 1.4.3., who are unable to access year-round emergency shelter services. The selected Vendor(s) must:
  - 2.1.1.1. Ensure that for those community plans that include a cold weather shelter, the shelter must be designed to meet the basic needs of individuals and families who have no other housing options and who would otherwise be without a place to sleep during the awarded contract term.
  - 2.1.1.2. Ensure basic needs of each individual are met, that at a minimum include a safe, protective, and sanitary environment, on a short-term emergency or transitional basis, as described in RSA 126-A:26.

- 2.1.1.3. Provide a low-barrier shelter, with no pre-conditions for entry during cold weather. Terminations from shelter must only be due to threats to the safety of the individual or others.
- 2.1.1.4. Ensure services are provided in a facility in accordance with Section 8.3. Operation of Facilities, that includes at a minimum:
  - 2.1.1.4.1. Building maintenance and repair;
  - 2.1.1.4.2. Security systems;
  - 2.1.1.4.3. Heating and possible cooling equipment;
  - 2.1.1.4.4. Property and business insurance;
  - 2.1.1.4.5. Utilities and furnishings; and
  - 2.1.1.4.6. Amenities such as bathrooms.
- 2.1.2. The selected Vendor(s) must evaluate and assess appropriate housing needs throughout the county. If a centralized building is not accessible for the entire county or logical given the geographic location, the selected Vendor(s) must provide alternatives to a centralized shelter.
- 2.1.3. The selected Vendor(s) must refer clients to the appropriate [Regional Access Point](#), as indicated in Appendix E, for supportive services.
- 2.1.4. The selected Vendor(s) must engage with all municipalities, related providers, and other stakeholders for the proposed county. The selected Vendor(s) must:
  - 2.1.4.1. Be flexible and reflective of the needs of the particular county, and include a mix of responses, including, but not limited to:
    - 2.1.4.1.1. Partial funding of a cold weather shelter.
    - 2.1.4.1.2. Hotel stays.
    - 2.1.4.1.3. Other alternatives to provide shelter.
    - 2.1.4.1.4. Coordination of referrals to related services.
    - 2.1.4.1.5. Transportation to shelter solution.
  - 2.1.4.2. Coordinate with the municipal welfare director(s) within the county served to leverage funds in order to serve all people experiencing homelessness who present for services.
  - 2.1.4.3. Build off of existing resources for such services and not replace what a community is responsible to provide under RSA 165.

- 2.1.5. The selected Vendor(s) must enter client data into the Homeless Management Information System, as described in the [NH HMIS Policy and Procedure Manual](#).
- 2.1.6. The selected Vendor(s) must participate in meetings with the Department as requested by the Department.
- 2.1.7. **Reporting**
  - 2.1.7.1. The selected Vendor(s) must submit monthly Reports, which include, but are not limited to:
    - 2.1.7.1.1. Homeless Management Information System (HMIS) Annual Performance Report (APR) detailing:
      - 2.1.7.1.1.1. Number of people served each month;
      - 2.1.7.1.1.2. Cumulative number of people served;  
and
      - 2.1.7.1.1.3. Number of referrals to Regional Access Point.
  - 2.1.7.2. The selected Vendor(s) must provide key data in a format and at a frequency specified by the Department for the following performance measures:
    - 2.1.7.2.1. Number of people served each month.
    - 2.1.7.2.2. Percentage of people who were referred to the Regional Access Point.
  - 2.1.7.3. The selected Vendor(s) may be required to provide other data and metrics to the Department in a format specified by the Department.

## 2.2. Mandatory Questions

- 2.2.1. In response to this solicitation, Vendor(s) must respond to the Mandatory Questions attached in Appendix D, Technical Response to Questions separately for each county applied for.

**Q1 - What is your capacity to provide a county-wide cold weather emergency shelter response for individuals and families experiencing homelessness, and to coordinate with relevant service providers to ensure safe and positive support and resources to the population?**

**Q2 - Describe your approach to collaborating with municipalities, related providers and other stakeholders within the proposed county as indicated in Subsection 2.1.4., as it relates to the overall Scope of Services.**

**Q3 - Describe your experience in opening or operating a shelter facility, utilizing hotels and/or other housing facilities to meet community needs. If applicable, describe your experience providing a regional, cold weather shelter facility.**

**Q4 - Describe your knowledge of the county(ies) and population needs for services within the county(ies) for which you are applying. Include your experience in assisting the target population.**

**2.3. Finance**

2.3.1. Funding has been calculated utilizing a base rate plus the preliminary number of Point in Time (PIT) counts, as reported, in each county in New Hampshire for those experiencing unsheltered homelessness from the January 2023 PIT. The Base and PIT allocations are as follows:

<b>County</b>	<b>2023 Unsheltered</b>	<b>% of total</b>	<b>Base</b>	<b>+PIT allocation</b>	<b>Total (For entire contract term)</b>
Coos	6	2%	\$ 100,000.00	\$ 20,000.00	\$ 120,000.00
Grafton	21	6%	\$ 100,000.00	\$ 60,000.00	\$ 160,000.00
Carroll	43	13%	\$ 100,000.00	\$ 130,000.00	\$ 230,000.00
Belknap	22	6%	\$ 100,000.00	\$ 60,000.00	\$ 160,000.00
Sullivan	6	2%	\$ 100,000.00	\$ 20,000.00	\$ 120,000.00
Merrimack	45	13%	\$ 100,000.00	\$ 130,000.00	\$ 230,000.00
Strafford	5	1%	\$ 100,000.00	\$ 10,000.00	\$ 110,000.00
Rockingham	19	6%	\$ 100,000.00	\$ 60,000.00	\$ 160,000.00
Cheshire	20	6%	\$ 100,000.00	\$ 60,000.00	\$ 160,000.00
Hillsborough	152	45%	\$ 100,000.00	\$ 450,000.00	\$ 550,000.00
	339	100%	\$ 1,000,000.00	\$ 1,000,000.00	\$ 2,000,000.00

2.3.2. Payment for services will be made on a cost reimbursement basis for actual expenditures incurred, and based on approved budgets. Selected Vendors must submit budgets, for Department approval, upon notification of award.

2.3.3. The selected Vendor must submit an invoice no later than the fifteenth (15th) working day of the month following the month in which the services were provided, using a form satisfactory to the Department, which identifies and requests reimbursement for authorized expenses incurred. The selected Vendor must ensure invoices are completed, dated and submitted to the Department to initiate payment.



### 3. SOLICITATION RESPONSE EVALUATION

3.1. The Department will evaluate responses from Vendors based upon the criteria and standards contained in this solicitation and by applying the points set forth below.

TECHNICAL RESPONSE	POSSIBLE SCORE
Capacity (Q1)	20 Points
Collaboration (Q2)	40 Points
Experience (Q3)	20 Points
Knowledge (Q4)	20 Points
Total Possible Score	100 Points

### 4. SOLICITATION RESPONSE PROCESS

#### 4.1. Questions and Answers

##### 4.1.1. Vendors' Questions

- 4.1.1.1. All questions about this Solicitation including, but not limited to, requests for clarification, additional information or any changes to the Solicitation must be made in writing, by email only, citing the Solicitation page number and part or subpart, and submitted to the Contract Specialist identified in Subsection 1.2.
- 4.1.1.2. The Department may consolidate or paraphrase questions for efficiency and clarity. Questions that are not understood will not be answered. Statements that are not questions will not receive a response.
- 4.1.1.3. The questions must be submitted by email; however, the Department assumes no liability for ensuring accurate and complete email transmissions.
- 4.1.1.4. Questions must be received by the Department by the deadline given in Subsection 1.3, Procurement Timetable.

##### 4.1.2. Department Responses

- 4.1.2.1. The Department intends to issue responses to properly submitted questions by the deadline specified in Subsection 1.3, Procurement Timetable. All oral answers given are non-binding. Written answers to questions received will be posted on the Department's website at (<https://www.dhhs.nh.gov/doing-business-dhhs/contracts-procurement-opportunities>). This date may be subject to change at the Department's discretion.

##### 4.1.3. Exceptions

- 4.1.3.1. The Department will require the successful Vendor to execute a contract using the Form P-37, General Provisions and Standard Exhibits, which are attached as Appendix A. To the extent that a Vendor believes that exceptions to Appendix A will be necessary for the Vendor to enter into a Contract, the Vendor must note those issues during the Question Period in Subsection 1.3. Vendors may not request exceptions to the Scope of Services or any other sections of this Solicitation.
- 4.1.3.2. The Department will review requested exceptions and accept, reject or note that it is open to negotiation of the proposed exception at its sole discretion in its response to Vendor questions.
- 4.1.3.3. Any exceptions to the standard form contract and exhibits that are not raised by a Vendor during the Question Period may not be considered. In no event is a Vendor to submit its own standard contract terms and conditions as a replacement for the Department's terms in response to this Solicitation.

#### **4.2. Solicitation Amendment**

- 4.2.1. The Department reserves the right to amend this Solicitation by publishing any addenda, as it deems appropriate, prior to the Submission Deadline on its own initiative or in response to issues raised through Vendor questions. In the event that an addendum is published, the Department, at its sole discretion, may extend the Submission Deadline.

### **5. SOLICITATION RESPONSE SUBMISSION INSTRUCTIONS**

- 5.1. Responses to this Solicitation must be submitted electronically via email to **[rfx@dhhs.nh.gov](mailto:rfx@dhhs.nh.gov)** **AND** to the Contract Specialist at the email address specified in Subsection 1.2.

- 5.1.1. The subject line must include the following information:

RFA-2024-DBH-03-COLDW (email xx of xx).

- 5.2. The maximum size of file attachments per email is 10 MB. Submissions with file attachments exceeding 10 MB must be sent via multiple emails.
- 5.3. The Department must receive submissions by the time and date specified in the Procurement Timetable in Section 1.3 and in the manner specified or it may be rejected as non-compliant, unless waived by the Department as a non-material deviation.
- 5.4. The Department will conduct an initial screening step to verify Vendor compliance with the requirements of this Solicitation. The Department may waive or offer a limited opportunity for a Vendor to cure immaterial deviations from the Solicitation requirements if it is deemed to be in the best interest of the Department.
- 5.5. Late submissions that are not accepted will remain unopened. Disqualified submissions will be discarded. Submission of solicitation responses shall be at the Vendor's expense.

### **6. SOLICITATION RESPONSE REQUIREMENTS**

- 6.1. Acceptable solicitation responses must offer all services identified in Section 2 - Statement of Work, unless an allowance for partial scope is specifically described in Section 2.

## 6.2. Technical Response Contents

Each Technical Response must contain the following, in the order described in this section:

### 6.2.1. Appendix B - Culturally and Linguistically Appropriate Services (CLAS) Requirements

### 6.2.2. Appendix C – Transmittal Letter and Vendor Information, including:

6.2.2.1. **Vendor Code Number** - Prior to executing any resulting contract(s), the selected Vendor(s) will be required to provide a vendor code number issued by the State of New Hampshire Department of Administrative Services upon registering as an authorized vendor with the State. Vendors are strongly encourage to provide a vendor code number in the Appendix D if available. More information can be found at: <https://das.nh.gov/purchasing/vendorresources.aspx>

### 6.2.3. Appendix D – Vendor Technical Response to Mandatory Questions

6.2.4. **Resumes** – Vendors must provide resumes for those key personnel who would be primarily responsible for meeting the terms and conditions of any agreement resulting from this Solicitation. Vendors must redact all personal information from resumes.

## 7. ADDITIONAL TERMS AND REQUIREMENTS

### 7.1. Non-Collusion

The Vendor's required signature on the Appendix C – Transmittal Letter and Vendor Information submitted in response to this Solicitation guarantees that the prices, terms and conditions, and services quoted have been established without collusion with other Vendors and without effort to preclude the Department from obtaining the best possible competitive solicitation response.

### 7.2. Collaborative Solicitation Responses

Solicitation responses must be submitted by one organization. Any collaborating organization must be designated as a subcontractor subject to the terms of Appendix A, P-37 General Provisions and Standard Exhibits.

### 7.3. Validity of Solicitation Responses

Solicitation responses must be valid for one hundred and eighty (180) days following the deadline for submission in the Procurement Timetable above in Subsection 1.3, or until the Effective Date of any resulting contract, whichever is later.

### 7.4. Debarment

Vendors 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 solicitation.

### 7.5. Property of Department

Any material property submitted and received in response to this solicitation will become the property of the Department and will not be returned to the Vendor. The Department reserves

the right to use any information presented in any solicitation response provided that its use does not violate any copyrights or other provisions of law.

#### **7.6. Solicitation Response Withdrawal**

Prior to the Response Submission Deadline specified in Subsection 1.3, Procurement Timetable, a submitted Letter of Intent or solicitation responses may be withdrawn by submitting a written request for its withdrawal to the Contract Specialist specified in Subsection 1.2.

#### **7.7. Confidentiality**

- 7.7.1. Pursuant to RSA 21-G:37, the content of responses to this solicitation must remain confidential until the Governor and Executive Council have awarded a contract. The Vendor's disclosure or distribution of the contents of its solicitation response, other than to the Department, will be grounds for disqualification at the Department's sole discretion.

#### **7.8. Public Disclosure**

- 7.8.1. The information submitted in response to this solicitation (including all materials submitted in connection with it, such as attachments, exhibits, addenda, and presentations), any resulting contract, and information provided during the contractual relationship may be subject to public disclosure under Right-to-Know laws, including RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this solicitation will be made accessible to the public online via the New Hampshire Secretary of State website (<https://sos.nh.gov/>).
- 7.8.2. Confidential, commercial or financial information may be exempt from public disclosure under RSA 91-A:5, IV. If a Vendor believes any information submitted in response to this solicitation should be kept confidential, the Vendor must specifically identify that information where it appears in the submission in a manner that draws attention to the designation and must mark/stamp each page of the materials that the Vendor claims must be exempt from disclosure as "CONFIDENTIAL." Vendors must also provide a letter to the person listed as the point of contact for this solicitation, identifying the specific page number and section of the information considered to be confidential, commercial or financial and providing the rationale for each designation. Marking or designating an entire submission, attachment or section as confidential shall neither be accepted nor honored by the Department. Vendors must also provide a separate copy of the full and complete document, fully redacting those portions and shall note on the applicable page or pages that the redacted portion or portions are "confidential."
- 7.8.3. Submissions which do not conform to these instructions by failing to include a redacted copy (if necessary), by failing to include a letter specifying the rationale for each redaction, by failing to designate the redactions in the manner required by these instructions, or by including redactions which are contrary to these instructions or operative law may be rejected by the Department as not conforming to the requirements of the solicitation.
- 7.8.4. Pricing, which includes but is not limited to, the administrative costs and other performance guarantees in responses or any subsequently awarded contract

shall be subject to public disclosure regardless of whether it is marked as confidential.

- 7.8.5. Notwithstanding a Vendor's designations, the Department is obligated under the Right-to-Know law to conduct an independent analysis of the confidentiality of the information submitted in response to the solicitation. If a request is made to the Department to view or receive copies of any portion of the response that is marked confidential, the Department shall first assess what information it is obligated to release. The Department will then notify the Vendor that a request has been made, indicate what, if any, information the Department has assessed is confidential and will not be released, and specify the planned release date of the remaining portions of the response. To halt the release of information by the Department, a Vendor must initiate and provide to the Department, prior to the date specified in the notice, a court action in the Superior Court of the State of New Hampshire, at its sole expense, seeking to enjoin the release of the requested information.
- 7.8.6. By submitting a response to this solicitation, Vendors acknowledge and agree that:
- 7.8.7. The Department may disclose any and all portions of the response or related materials which are not marked as confidential and/or which have not been specifically explained in the letter to the person identified as the point of contact for this solicitation;
- 7.8.8. The Department is not obligated to comply with a Vendor's designations regarding confidentiality and must conduct an independent analysis to assess the confidentiality of the information submitted; and
- 7.8.9. The Department may, unless otherwise prohibited by court order, release the information on the date specified in the notice described above without any liability to a Vendor.

#### **7.9. Electronic Posting of RFA Results and Resulting Contract**

- 7.9.1. At the time of receipt of responses, the Department 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 solicitation, the Department will post the name, rank or score of each responding Vendor. In the event that the resulting contract does not require Governor & Executive Council approval, the Agency will disclose the rank or score at least five (5) business days before final approval of the contract.
- 7.9.2. Pursuant to RSA 91-A and RSA 9-F:1, the Secretary of State will post to the public any document submitted to G&C for approval, including contracts resulting from this solicitation, and posts those documents on its website (<https://sos.nh.gov/administration/miscellaneous/governor-executive-council/>). By submitting a response to this solicitation, vendors acknowledge and agree that, in accordance with the above mentioned statutes and policies, (and regardless of whether any specific request is made to view any document relating to this solicitation), any contract resulting from this solicitation that is submitted to G&C for approval will be made accessible to the public online.

### **7.10. Non-Commitment**

Notwithstanding any other provision of this solicitation, this solicitation does not commit the Department to award a contract. The Department reserves the right to reject any and all responses to this solicitation or any portions thereof, at any time and to cancel this solicitation and to solicit new solicitation responses under a new procurement process.

### **7.11. Liability**

By submitting a response to this solicitation, the Vendor agrees that in no event shall the Department be either responsible for or held liable for any costs incurred by a Vendor in the preparation or submittal of or otherwise in connection with a solicitation response, or for work performed prior to the Effective Date of a resulting contract.

### **7.12. Request for Additional Information or Materials**

The Department may request any Vendor to provide additional information or materials needed to clarify information presented in the solicitation response. Such a request will be issued in writing and will not provide a Vendor with an opportunity to change, extend, or otherwise amend its solicitation response in intent or substance.

### **7.13. Oral Presentations and Discussions**

The Department reserves the right to require some or all Vendors to make oral presentations of their solicitation response. The purpose of the oral presentation is to clarify and expound upon information provided in the written solicitation response. Vendors are prohibited from altering the original substance of their solicitation response during the oral presentations. The Department will use the information gained from oral presentations to refine the technical review scores. Any and all costs associated with an oral presentation shall be borne entirely by the Vendor.

### **7.14. Successful Vendor Notice and Contract Negotiations**

If a Vendor is selected, the Department will send written notification of their selection and the Department's desire to enter into contract negotiations. Until the Department successfully completes negotiations with the selected Vendor(s), all submitted solicitation responses remain eligible for selection by the Department. In the event contract negotiations are unsuccessful with the selected Vendor(s), the evaluation team may recommend another Vendor. The Department will not contact Vendor(s) that are not initially selected to enter into contract negotiations.

### **7.15. Scope of Award and Contract Award Notice**

- 7.15.1. The Department reserves the right to award a service, part of a service, group of services, or total solicitation response and to reject any and all solicitation responses in whole or in part. A contract award is contingent on approval by the Governor and Executive Council.
- 7.15.2. If a contract is awarded, the selected Vendor(s) must obtain written consent from the State before any public announcement or news release is issued pertaining to any contract award.

### **7.16. Site Visits**

The Department may, at its sole discretion, at any time prior to contract award, conduct a site visit at the Vendor's location or at any other location deemed appropriate by the Department, to determine the Vendor's capacity to satisfy the terms of this solicitation. The Department

may also require the Vendor to produce additional documents, records, or materials relevant to determining the Vendor's capacity to satisfy the terms of this solicitation. Any and all costs associated with any site visit or requests for documents shall be borne entirely by the Vendor.

#### **7.17. Protest of Intended Award**

Any challenge of an award made or otherwise related to this solicitation shall be governed by RSA 21-G:37, and the procedures and terms of this solicitation. The procedure set forth in RSA 21-G:37, IV, shall be the sole remedy available to challenge any award resulting from this solicitation. In the event that any legal action is brought challenging this solicitation and selection process, outside of the review process identified in RSA 21-G:37, IV, and in the event that the State of New Hampshire prevails, the challenger agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation.

#### **7.18. Contingency**

Aspects of the award may be contingent upon changes to state or federal laws and regulations.

#### **7.19. Ethical Requirements**

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

#### **7.20. Liquidated Damages**

The selected Vendor agrees that liquidated damages may be determined by the Department as part of the contract specifications, as failure to achieve required performance levels will more than likely substantially delay and disrupt the Department's operations.

### **8. COMPLIANCE**

- 8.1.** The selected Vendor(s) must be in compliance with applicable federal and state laws, rules and regulations, and applicable policies and procedures adopted by the Department currently in effect, and as they may be adopted or amended during the contract period.
- 8.2.** The selected Vendor(s) may be required to participate in monitoring activities for the resulting contract(s), at the sole discretion of the Department, including, but not limited to:
  - 8.2.1.** Site visits.

8.2.2. File reviews.

8.2.3. Staff training.

### **8.3. Operation of Facilities**

8.3.1. In the operation of any facilities for providing services, the selected Vendor(s) must comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the selected Vendor(s) will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the selected Vendor(s) hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by laws and regulations.

### **8.4. Records**

8.4.1. The selected Vendor(s) must maintain the following records during the resulting contract term where appropriate and as prescribed by the Department:

8.4.1.1. Books, records, documents and other electronic or physical data evidencing and reflecting all costs and other expenses incurred by the selected Vendor(s) in the performance of the resulting contract(s), and all income received or collected by the selected Vendor(s).

8.4.1.2. All records must be maintained in accordance with accounting procedures and practices, which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.

8.4.1.3. Statistical, enrollment, attendance or visit records for each recipient of services, which shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.

8.4.2. During the term of the resulting contract(s) and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the resulting contract(s) for purposes of audit, examination, excerpts and transcripts. Upon the purchase by the Department of the maximum number of units provided for in the resulting contract(s) and upon payment of the price limitation hereunder, the selected Vendor(s) and all the obligations of the parties hereunder (except such



obligations as, by the terms of the resulting Contract(s) are to be performed after the end of the term of the contract(s) and/or survive the termination of the Contract(s) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the selected Vendor(s) as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the selected Vendor(s).

#### **8.5. Credits and Copyright Ownership**

- 8.5.1. All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the resulting Contract(s) must include the following statement, "The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services."
- 8.5.2. All written, video and audio materials produced or purchased under the contract must have prior approval from the Department before printing, production, distribution or use.
- 8.5.3. The Department will retain copyright ownership for any and all original materials produced, including, but not limited to:
  - 8.5.3.1. Brochures.
  - 8.5.3.2. Resource directories.
  - 8.5.3.3. Protocols.
  - 8.5.3.4. Guidelines.
  - 8.5.3.5. Posters.
  - 8.5.3.6. Reports.
- 8.5.4. The selected Vendor(s) must not reproduce any materials produced under the contract without prior written approval from the Department.

#### **8.6. Culturally and Linguistically Appropriate Services**

- 8.6.1. Vendors are required to consider the need for language services for individuals with Limited English Proficiency as well as other communication needs, served or likely to be encountered in the eligible service population, both in developing their budgets and in conducting their programs and activities.
- 8.6.2. Vendors are required to complete Appendix B, Culturally and Linguistically Appropriate Services (CLAS) Requirements as part of their solicitation response. This is in accordance with Federal civil rights laws and intended to help inform Vendors' program design, which in turn, will allow Vendors to put forth the best possible solicitation response.
- 8.6.3. If awarded a contract, the selected Vendor(s) will be:

- 8.6.3.1. Required to submit a detailed description of the language assistance services they will provide to LEP persons to ensure meaningful access to their programs and/or services, within ten (10) days of the date the contract is approved by Governor and Council; and
- 8.6.3.2. Monitored on their Federal civil rights compliance using the Federal Civil Rights Compliance Checklist, as made available by the Department.

## **1.1. Background Checks**

- 1.1.1. Prior to permitting any individual to provide services under this Agreement, the selected Vendor must ensure that said individual has undergone:
  - 1.1.1.1. A criminal background check, at the selected Vendor's expense, and has no convictions for crimes that represent evidence of behavior that could endanger individuals served under this Agreement;
  - 1.1.1.2. A name search of the Department's Bureau of Elderly and Adult Services (BEAS) State Registry, pursuant to RSA 161-F:49, with results indicating no evidence of behavior that could endanger individuals served under this Agreement;
  - 1.1.1.3. A name search of the Department's Division for Children, Youth and Families (DCYF) Central Registry pursuant to RSA 169-C:35, with results indicating no evidence of behavior that could endanger individuals served under this Agreement.

## **1.2. Privacy Impact Assessment**

- 1.2.1. Upon request, the Contractor must allow and assist the Department in conducting a Privacy Impact Assessment (PIA) of its system(s)/application(s)/web portal(s)/website(s) or Department system(s)/application(s)/web portal(s)/website(s) hosted by the Contractor, if Personally Identifiable Information (PII) is collected, used, accessed, shared, or stored. To conduct the PIA the Contractor must provide the Department access to applicable systems and documentation sufficient to allow the Department to assess, at minimum, the following:
  - 1.2.1.1. How PII is gathered and stored;
  - 1.2.1.2. Who will have access to PII;
  - 1.2.1.3. How PII will be used in the system;
  - 1.2.1.4. How individual consent will be achieved and revoked; and
  - 1.2.1.5. Privacy practices.
- 1.2.2. The Department may conduct follow-up PIAs in the event there are either significant process changes or new technologies impacting the collection, processing or storage of PII.

## **1.3. Department Owned Devices, Systems and Network Usage**

- 1.3.1. If Contractor End Users are authorized by the Department's Information Security Office to access the Department network in the fulfillment of this Agreement, the selected Vendor must ensure End Users:

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- 1.3.1.1. Sign and abide by applicable Department and New Hampshire Department of Information Technology (NH DoIT) use agreements, policies, standards, procedures and guidelines, and complete applicable trainings as required;
  - 1.3.1.2. Use the information that they have permission to access solely for conducting official Department business and agree that all other use or access is strictly forbidden including, but not limited, to personal or other private and non-Department use, and that at no time shall they access or attempt to access information without having the express authority of the Department to do so;
  - 1.3.1.3. Not access or attempt to access information in a manner inconsistent with the approved policies, procedures, and/or agreement relating to system entry/access;
  - 1.3.1.4. Not copy, share, distribute, sub-license, modify, reverse engineer, rent, or sell software licensed, developed, or being evaluated by the Department, and at all times must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other agreement executed by the Department;
  - 1.3.1.5. Only use equipment, software, or subscription(s) authorized by the Department's Information Security Office or designee;
  - 1.3.1.6. Not install non-standard software on any Department equipment unless authorized by the Department's Information Security Office or designee;
  - 1.3.1.7. Agree that email and other electronic communication messages created, sent, and received on a Department-issued email system are the property of the Department of New Hampshire and to be used for business purposes only. Email is defined as "internal email systems" or "Department-funded email systems."
  - 1.3.1.8. Agree that use of email must follow Department and NH DoIT policies, standards, and/or guidelines; and
  - 1.3.1.9. Complete the Department's Annual Information Security & Compliance Awareness Training prior to accessing, viewing, handling, hearing, or transmitting Department Data or Confidential Data.
  - 1.3.1.10. Sign the Department's Business Use and Confidentiality Agreement and Asset Use Agreement, and the NH DoIT Department wide Computer Use Agreement upon execution of the Contract and annually throughout the Contract term.
- 1.3.2. The selected Vendor agrees, if any End User is found to be in violation of any of the above-Department terms and conditions of the Contract, said End User may face removal from the Contract, and/or criminal and/or civil prosecution, if the act constitutes a violation of law.

- 1.3.3. The selected Vendor agrees to notify the Department a minimum of three business days prior to any upcoming transfers or terminations of End Users who possess Department credentials and/or badges or who have system privileges. If End Users who possess Department credentials and/or badges or who have system privileges resign or are dismissed without advance notice, the Contractor agrees to notify the Department's Information Security Office or designee immediately.

#### **8.7. Contract End-of-Life Transition Services**

- 8.7.1. If applicable, upon termination or expiration of the resulting Contract(s), the Parties agree to cooperate in good faith to effectuate a smooth secure transition of the Services from the selected Vendor(s) to the Department and, if applicable, the Vendor engaged by the Department to assume the Services previously performed by the selected Vendor(s) for this section the new vendor shall be known as "Recipient"). Contract end of life services shall be provided at no additional cost. Ninety (90) days prior to the end-of the contract or unless otherwise specified by the Department, the selected Vendor(s) must begin working with the Department and if applicable, the new Recipient to develop a Data Transition Plan (DTP). The Department shall provide the DTP template to the selected Vendor(s).
- 8.7.2. The selected Vendor(s) must use reasonable efforts to assist the Recipient, in connection with the transition from the performance of Services by the selected Vendor(s) and their Affiliates to the performance of such Services. This may include assistance with the secure transfer of records (electronic and hard copy), transition of historical data (electronic and hard copy), the transition of any such Service from the hardware, software, network and telecommunications equipment and internet-related information technology infrastructure ("Internal IT Systems") of selected Vendor(s) to the Internal IT Systems of the Recipient and cooperation with and assistance to any third-party consultants engaged by Recipient in connection with the Transition Services.
- 8.7.3. If a system, database, hardware, software, and/or software licenses (Tools) was purchased or created to manage, track, and/or store State Data in relationship to this contract said Tools will be inventoried and returned to the Department, along with the inventory document, once transition of State Data is complete.
- 8.7.4. The internal planning of the Transition Services by the selected Vendor(s) and its Affiliates shall be provided to the Department and if applicable the Recipient on a timely manner. Any such Transition Services shall be deemed to be Services for purposes of this Contract.
- 8.7.5. Should the data Transition extend beyond the end of the resulting Contract(s), the selected Vendor(s) and its affiliates agree Contract Information Security Requirements, and if applicable, the Department's Business Associates Agreement terms and conditions remain in effect until the Data Transition is accepted as complete by the Department.
- 8.7.6. In the event where the selected Vendor(s) has comingled Department Data and the destruction or Transition of said data is not feasible, the Department and selected Vendor(s) will jointly evaluate regulatory and professional standards for retention requirements prior to destruction.

## **8.8. Audit Requirements**

- 8.8.1. The selected Vendor(s) must email an annual audit to [dhhs.act@dhhs.nh.gov](mailto:dhhs.act@dhhs.nh.gov) if any of the following conditions exist:
  - 8.8.1.1. Condition A - The selected Vendor expended \$750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.
  - 8.8.1.2. Condition B - The selected Vendor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of \$1,000,000 or more.
  - 8.8.1.3. Condition C - The selected Vendor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.
- 8.8.2. If Condition A exists, the selected Vendor(s) shall submit an annual single audit performed by an independent Certified Public Accountant (CPA) to the Department within 120 days after the close of the Vendor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.
- 8.8.3. If Condition B or Condition C exists, the selected Vendor(s) shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the selected Vendor's fiscal year.
- 8.8.4. Any selected Vendor that receives an amount equal to or greater than \$250,000 from the Department during a single fiscal year, regardless of the funding source, may be required, at a minimum, to submit annual financial audits performed by an independent CPA if the Department's risk assessment determination indicates the Vendor is high-risk.
- 8.8.5. In addition to, and not in any way in limitation of obligations of the resulting Contract(s), it is understood and agreed by the selected Vendor(s) that the selected Vendor(s) shall be held liable for any state or federal audit exceptions and shall return to the Department all payments made under the resulting Contract(s) to which exception has been taken, or which have been disallowed because of such an exception.

## **9. APPENDICES TO THIS SOLICITATION**

- 9.1. Appendix A – Form P-37 General Provisions and Standard Exhibits**
- 9.2. Appendix B – Culturally and Linguistically Appropriate Services (CLAS) Requirements**
- 9.3. Appendix C – Transmittal Letter and Vendor Information**
- 9.4. Appendix D – Technical Response to Questions**
- 9.5. Appendix E – Regional Access Point List**