



State of New Hampshire
Department of Health and Human Services

REQUEST FOR PROPOSALS

FOR

Community Navigator Program

RFP-2023-DCYF-01-COMMU

RELEASE DATE: July 18, 2022

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1. PURPOSE AND OVERVIEW

1.1. Introduction

The New Hampshire Department of Health and Human Services is seeking responses to this Request for Proposals (“RFP” or “Solicitation”) from qualified vendors to provide Community Navigator outreach services to families who do not rise to the level of being assessed by the Division for Children Youth and Families (DCYF), by educating professional reporters and families on available resources in their specific region and assisting families with navigating referrals to specific resource(s) in order to connect families with community supports and services.

The New Hampshire Department of Health and Human Services (Department) anticipates awarding one (1) or more contract(s) for the services in this Solicitation.

1.2. Key Information

The information below 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.

Contract Effective Date	Upon Governor and Executive Council approval in 2023 State Fiscal Year.	
Contract End Date	06/30/24	
Funding for the resulting contract(s) is anticipated to be approximately:	\$345,845 at a cost reimbursement rate of \$172,922 for SFY 2023, and \$172,923 SFY 2024.	
Renewal Options	The Department may extend contracted services for up to two (2) additional years.	
Funding Source	The Department anticipates using Federal funds for resulting contract(s).	
	Catalog of Federal Domestic Assistance (CFDA) #	93.669
	American Rescue Plan Act of 2021- Child Abuse and Neglect State Grants	Administration for Children and Families
Match Requirements	N/A	
Point of Contact	Jennifer Hackett, Administrator IV jennifer.s.hackett@dhhs.nh.gov 603-271-9605	
From the date of release of this solicitation until an award is made and announced regarding the selection of a 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 at its sole discretion.		
Item	Action	Date
1.	Solicitation Released	July 18, 2022
2.	Vendors Conference Date (optional)	July 26, 2022 10:00 a.m. to 12:00 p.m.
3.	Questions Submission Deadline	July 28, 2022 12:00PM
4.	Department Response to Questions Published	August 11, 2022
5.	Vendor Solicitation Response Due Date	August 29, 2022 12:00PM

1.4. Background

1.4.1. New Hampshire Department of Health and Human Services, DCYF

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

The NH DHHS Division for Children, Youth, and Families (DCYF) provides and manages services that strengthen families, keep children safe, and help families thrive. Through its responsibilities in both Child Protection and Juvenile Justice, DCYF works to support children, youth, and families together in their own homes and communities whenever possible. To achieve this, DCYF partners closely with families, the provider community, and other DHHS divisions.

1.4.2. Objective

DCYF envisions a child-and-family-serving system where families are supported in a variety of ways to include being connected to appropriate supports and community resources without being involved with DCYF. Families should receive the right services at the right time and place to meet their needs.

Creation and Distribution of New Hampshire's Child and Family Well-Being Guide

At the onset of COVID, DCYF engaged community members, providers, and parents to develop the Child and Family Well-Being Guide. The brief guide leads community helpers – educators, law enforcement, medical personnel, neighbors, anyone – through a supportive process to engage with children and families and help connect them to resources. Focusing upon the reality that all families need support, the guide aims to destigmatize and encourage families and community members to seek and accept assistance. The guide was featured in press coverage; distributed to tens of thousands of people through providers, the NH Department of Education, the NH Department of Justice, the NH National Guard, and others; and has been used to support a transformation of practice at the state's child abuse and neglect hotline.

Shifting Child Abuse Hotline Practice to Connect Reporters with Supportive Family Resources

An early focus in the transformation of our child and family serving system has been to find ways to ensure that the right intervention is made available when concerns about a family are made to the child abuse and neglect hotline. New Hampshire's hotline historically provided a binary response to concerns of abuse or neglect: calls were either screened-in or screened-out. Recognizing that a child protection investigation is not always the best intervention and may in fact result in families turning away from supports, work was initiated to identify the types of concerns that tend to result in low risk/unfounded assessments. Over the past year, the hotline has screened-out more of those types of concerns and has more frequently connected reporters with community resources – home visiting programs, families resource centers (FRCs), or sometimes simply providing the Child and Family Well-Being guide.

In a similar effort, in late 2020, DCYF initiated work with Casey Family Programs and Evident Change, formerly known of the National Council on Crime and Delinquency, to create a web-based community response guide. The project is being led by a team that includes representatives of DCYF, parents, the Child Advocate, Waypoint, CASA, the Granite State Children's Alliance, the Children's Hospital at Dartmouth Hitchcock, the Division of Public Health Services, and the Division of Economic and Housing Stability. The goal is to create a web-based tool to help people concerned about the safety or well-being of a child determine if a report to the child abuse hotline is indicated, or, rather, if a community resource is the best way to support the family. If the latter is indicated, the user will be provided with information for the appropriate local resources to support the family.

The Department anticipates a second phase of the Community Navigator Program to include calls from individuals who accessed the web-based Community Response Guide and were led to a Community Navigator with expertise in connecting families with local resources. We will be looking to evolve the Community Navigator Program in tandem with the Community Response Guide, which will likely include new variables in terms of reporter/family willingness to participate, volume of reports through intake and future Community Response Guide users. DCYF is committed to working closely with the selected vendor to ensure that the program is sized adequately to meet demand, which could include the need to shift/enhance staffing models over time.

Currently DCYF has observed a gap in services to families who do not rise to a formal investigation level but the Department recognizes could benefit from community supports to create successful progress in the family. The Community Navigation Program is being established to not only outreach families but reporters too with the goal of enhancing their knowledge of the appropriate community services and resources available to support families in need. The overall goal is to help educate reporters and provide them with a helpful skillset to work directly with the families in need, to help shift their role from just reporting concerns to actively supporting families in need; and to help families navigate and engage with the available community resources designed to support families in need. Through this program we also aim to address the disproportionality amongst increased reporting regarding families of color New Hampshire. Data has revealed that reports are filed more frequently on Black families but substantiated less frequently. As summarized by the Children's Bureau publication, *Child Welfare Practice to Address Racial Disproportionality and Disparity*¹, disproportionate and disparate need among families contributes to disproportionality in the system. If families are able to access the necessary resources, know what is available in their community and engage with supportive services, disproportionality could be reduced and New Hampshire's children will experience an improvement in their overall wellbeing.

Based on this input from other similar programs and review of the current service array, DCYF developed an overarching structure for the desired outcome goals of the Community Navigator Program. Providers selected to provide Community Navigator will deliver the service on screen out reports appropriate for a Community Navigator to follow up by:

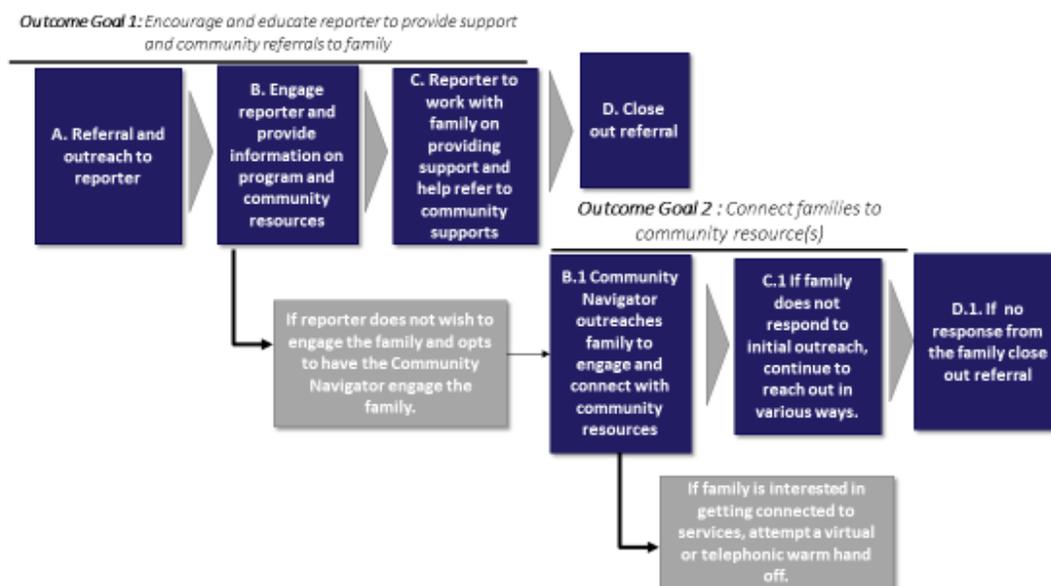
- Outcome Goal 1: Engaging reporters who file reports by outreaching the identified reporter and educating them on supporting a family and applicable referrals to community services in the area of which the family resides.

¹ Child Welfare Practice to Address Racial Disproportionality and Disparity by the Children's Bureau April, 2021 https://www.childwelfare.gov/pubpdfs/racial_disproportionality.pdf

- Outcome Goal 2: Connecting families identified in DCYF Central Intake screen out reports to community resources and referrals.

Below is an example of how organizations could potentially structure delivery of navigator services; however, DCYF looks to seek any new solutions for most effective service delivery.

Community Navigator: Two desired outcome goals



1.4.3. Covered Populations

- The primary target population for the Community Navigator program includes families who are reported to DCYF Central Intake but do not meet the stated criteria for a formal assessment and as a result has been screened out but could benefit from continued community supportive services referral by the Community Navigator Program. The Division receives an average of 8,000 screen out assessments statewide on an annual basis. Although this is the number of average screen out reports the Division receives on an annual basis, the Community Navigator will only receive a fraction of these reports to follow up on. Based on a review of family types that often meet this criteria, the priority population served include but are not limited to:
 - A primary caregiver under the age of twenty-six (26) years old (around 300 screen out reports a year).
 - A child in the household under the age of three (3) (around 700 screen out reports a year).

- A primary caregiver who is the legal guardian of minor(s) in the residence (around 200 screen out reports a year).
- A pregnant female (number of screen out reports a year is unknown as this is not tracked).

2. STATEMENT OF WORK

2.1. Scope of Services

- 2.1.1. The Selected Vendor(s) must provide Community Navigator outreach services to families in order to offer education on available resources in the families' specific region, and connect the family by providing information or meeting directly with the families to assist with navigating the referral to specific resources in the community.
- 2.1.2. The Selected Vendor(s) must provide prompt but limited duration, outreach to the families and offer resources to supportive services in their community allowing for a warm hand off to those resources entities.
- 2.1.3. The Selected Vendor(s) must receive reports from DCYF of families who have been screened out and has been determined no formal assessment will be needed.
- 2.1.4. The Selected Vendor(s) once contact with the family is made, must work on establishing rapport with the family and inquire about specific supports the family may benefit from.
- 2.1.5. The Selected Vendor(s) must ensure Community Navigators offer appropriate community resources/referrals to the family based on their self-reported need or other supportive services.
- 2.1.6. The Selected Vendor(s) must attempt to refer the family to the local Family Resource Center (FRC) and/or appropriate resources/referrals via a warm handoff (virtual or by conference call).
- 2.1.7. The Selected Vendor(s) must ensure families are successfully engaged with the Family Resource Centers in order to reduce the rate of recidivism and future DCYF involvement.
- 2.1.8. The Selected Vendor(s) must call identified reporters by phone to discuss the concerns in the report and review different approaches the reporter can take with the family to engage them in accessing available community resources/referrals (on reports in which the reporter has agreed to speak with a Community Navigator).
- 2.1.9. In the event the reporter does not wish to be contacted by the Community Navigator, or the reporter does not wish to engage the family, the Community Navigator will outreach the family via phone and text message. If the family does not respond to the call or text in the first

few days of initial outreach, the Community Navigator will send a letter in the mail.

- 2.1.10. The Selected Vendor(s) must help the reporters who are willing to further engage a family, understand the importance of a warm hand off or how a facilitated referral between a family and community resource is evidenced to be more successful.
- 2.1.11. The Selected Vendor(s) must ensure services are provided in a culturally competent manner to ensure services reach diverse populations within the covered population.
- 2.1.12. The Selected Vendor(s) must ensure that participating families sign a vendor produced consent for services form.
- 2.1.13. The Selected Vendor(s) must ensure Community Navigators possess at a minimum qualifications including but not limited to:
 - 2.1.13.1. Appropriate “lived experience” with the child and family serving system to support families, including, but not limited to, experience as a caregiver in who has needed and accessed appropriate public resources/services to support themselves and their children, this can be, but does not necessarily have to be experience with DCYF directly; and
 - 2.1.13.2. Diploma;
 - 2.1.13.3. GED; or
 - 2.1.13.4. HiSET.
- 2.1.14. Reporting Education Services for Professional Callers:
 - 2.1.14.1. The Selected Vendor(s) must provide information to educate professional callers including but not limited to:
 - 2.1.14.1.1. Local resources available to families.
 - 2.1.14.1.2. How they operate and how a family and connect with the services.
 - 2.1.14.1.3. What the family can expect when working with the community support service.
 - 2.1.14.1.4. Skills and techniques of how to approach families to offer support.
 - 2.1.14.1.5. Techniques on how to engage with a family to get them to better connect with a service.

- 2.1.14.1.6. Information on the success of a warm handoff approach.
- 2.1.14.2. The selected Vendor(s) must provide reporting education services to any professional callers including but not limited to:
 - 2.1.14.2.1. Law Enforcement.
 - 2.1.14.2.2. School Staff.
 - 2.1.14.2.3. Medical Personnel.
 - 2.1.14.2.4. Therapists/Counselors.
 - 2.1.14.2.5. Crisis Advocates.
- 2.1.15. The Selected Vendor(s) must participate in meetings with the Department on a monthly basis, or as otherwise requested by the Department.
- 2.1.16. The Selected Vendor(s) shall participate in on-site reviews conducted by the Department on an annual basis, or as otherwise requested by the Department.
- 2.1.17. The Selected Vendor(s) shall facilitate reviews of files conducted by the Department on a quarterly basis, or as otherwise requested by the Department, that may include, but are not limited to:
- 2.1.18. The Selected Vendor(s) shall ensure staff participate in annual training as required by the Department, topics include but are not limited to:
 - 2.1.18.1. Relevant services throughout the state
 - 2.1.18.2. Engagement skills
 - 2.1.18.3. Engagement techniques
 - 2.1.18.4. Motivational Interviewing
- 2.1.19. Reporting
 - 2.1.19.1. The Selected Vendor(s) shall submit monthly reports within ten (10) days following the end of the reporting period, to the Department, to ensure timely and effective outreach to families, which include, but are not limited to:
 - 2.1.19.1.1. Number of families connected with FRC's
 - 2.1.19.1.2. Number of families who did not respond to assistance

2.1.19.1.3. Number of reporters who engaged

2.1.19.1.4. Number of reporters engaged and followed up with family without a Navigator call to the family needed.

2.1.19.1.5. Number of families being successfully connected to Family Resource Centers

2.1.19.2. The Selected Vendor(s) may be required to provide other key data and metrics to the Department in a format specified by the Department.

2.1.20. Performance Measures

2.1.20.1. The Department will monitor performance of the Selected Vendor(s) by monitoring the amount of successful family and reporter engagements. Performance shall be measured based on reporting areas per Section 2.1.19.

2.2. Mandatory Questions

Q1 *Describe the structure of the team that would directly operate, facilitate and oversee the Community Navigators, including (a) the anticipated roles and staff types that your agency will use and (b) the specific duties and responsibilities that will be assigned to each of those roles.*

Q2 *Please provide a detailed description of how your agency will implement the Community Navigator Program for a family that has been referred for the program, including but not limited to:*

a. *How will your agency participate in pre-referral “handoffs” from DCYF, process referrals, and initially engage families referred to your program. What strategies will your agency use to ensure families seamlessly transition and successfully engage in the service?*

b. *What is your agency’s experience with engaging clients on a voluntary level and making a cold call? What is your experience in working with resistant clients? What is your experience in working with a diverse population to include families who do not speak English?*

c. *Timeline such that Community Navigators would be operational within thirty days of the contract effective date.*

Q3 *Please provide your agency’s experience in the following areas:*

a. *Successfully launching a new service, business unit, or program or adding a significant new component or practice to an existing service, business unit or program?*

b. *Any notable successes providing services to the target population or*

similar populations. Based on your experience or research, what do you see as the key needs of the population?

- c. *Providing outreach services to one or more regions, specifically addressing the challenges and potential solutions for delivering such services in different population constructs. If you do not have experience in these specific areas, what capacity does your organization have that would lend itself to executing on this service?*

Q4 *How will you provide outreach and educational services? Include your proposed plan that ensures you will reach a diverse population within the covered population. Include the anticipated number of individuals to be served.*

Q5 *Please provide your proposed staffing plan including but not limited to the following:*

- a. *If you are planning on using existing staff for this service, what are the most important capacities they have in order to execute the Community Navigator Program and supervisory functions detailed in this RFP? Please describe their qualifications and experience.*
- b. *If you are planning on hiring any new staff, describe your plan for recruiting and hiring staff with the qualifications, capabilities and experience needed to perform the duties described in this RFP.*

Q6 *What is your plan to stay current on available community resources and services Statewide?*

3. SOLICITATION RESPONSE EVALUATION

3.1. The Department will evaluate vendor responses to mandatory technical questions based upon the criteria and standards contained in this Solicitation and by applying the points set forth below.

TECHNICAL RESPONSE	POSSIBLE SCORE
Team Structure (Q1)	20 Points
Implementation (Q2)	40 Points
Experience (Q3)	50 Points
Outreach and Education (Q4)	50 Points
Staffing (Q5)	40 Points
Access and Availability to Services (Q6)	30 Points
Technical Response – Total Possible Score	230 Points

COST PROPOSAL	POSSIBLE SCORE
Budget Sheet (Appendix F)	35 Points
Program Staff List (Appendix G)	15 Points
Cost Proposal – Total Possible Score	50 Points

MAXIMUM POSSIBLE SCORE	280 Points
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3.2. Technical Response Evaluation Criteria

3.2.1. Each set of responses to questions listed in Subsection 3.1. above will result in a stand-alone score. Each question will be scored based on the following scoring matrix:

Criteria	
Low	Does not demonstrate what is requested; lacks detail in description; or information does not pertain to the question.
Medium	Somewhat demonstrates what is requested; contains minimal details in description; information provided reflects and addresses the question.
High	Mostly demonstrates what is requested; sufficient details are provided; information provided clearly pertains to the question asked.

3.3. Cost Proposal Evaluation Criteria

3.3.1. The **Budget Sheet** (Attachment F) will be scored based on the following criteria:

Budget Sheet	
Points	Criteria
Low	Costs are not allowable.
	Reader cannot understand the relationship of cost relative to the proposed services.
	Cost items do not directly align with objectives of the RFP.
	Costs are not reasonable.
	The costs do not represent significant value relative to anticipated outcomes.
Medium	Reader can generally understand the relationship of cost relative to the proposed services.

	Cost items are mostly aligned with the objectives of the RFP.
	Costs are predominantly reasonable.
	Costs relative to outcomes are adequate and meet the objectives of RFP
High	Reader has a thorough understanding of the relationship of cost relative to the proposed services.
	Cost items directly align with objectives of the RFP.
	Costs are reasonable.
	The costs represent significant value relative to anticipated outcomes.

3.3.2. The **Program Staff List** (Attachment G) will be scored based on the following criteria:

Program Staff List	
Points	Criteria
Low	Staffing costs are not reasonable.
	Reader cannot understand the relationship of staffing costs relative to the proposed services.
	Staffing cost items do not directly align with objectives of the RFP.
	The staffing costs do not represent significant value relative to anticipated outcomes.
Medium	Reader can generally understand the relationship of staffing costs relative to the proposed services.
	Staffing cost items are mostly aligned with the objectives of the RFP.
	Staffing costs are predominantly reasonable.
	Staffing costs relative to outcomes are adequate and meet the objectives of RFP
High	Reader has a thorough understanding of the relationship of staffing costs relative to the proposed services.
	Staffing cost items directly align with objectives of the RFP.
	Staffing costs are reasonable.
	Staffing costs represent significant value relative to anticipated outcomes.

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. Questions will only be accepted from those Vendors who have submitted a Letter of Intent by the deadline given in Subsection 1.3, Procurement Timetable. Questions from all other parties will be disregarded. The Department will not acknowledge receipt of questions.
- 4.1.1.3. 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.
- 4.1.1.4. The questions must be submitted by email; however, the Department assumes no liability for ensuring accurate and complete email transmissions.
- 4.1.1.5. Questions must be received by the Department by the deadline given in Subsection 1.3, Procurement Timetable.

4.1.2. Department Answers

- 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 (<http://www.dhhs.nh.gov/business/rfp/index.htm>). Vendors will be sent an email to the contact identified in the Letters of Intent indicating that the Questions and Answers have been posted on the Department's website. This date may be subject to change at the Department's discretion.

4.1.3. Vendors Conference

- 4.1.3.1. The Vendors Conference will be held virtually on the date specified in Subsection 1.3, Procurement Timetable. The conference will serve as an opportunity for Vendors to ask specific questions of State staff concerning the technical requirements of the Solicitation.

- 4.1.3.2. Attendance at the Vendors Conference is not mandatory but is highly recommended. Good faith potential vendors and their representatives interested in attending the Vendors Conference must preregister at: <https://nh-dhhs.zoom.us/meeting/register/tZcpce-vqTgoE9W2hTbV4hoaKiv2WvldPlgN>

4.2. Exceptions

- 4.2.1. 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.
- 4.2.2. 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.
- 4.2.3. If the Department accepts a Vendor's exception, the Department will, at the conclusion of the Question Period, provide notice to all potential Contractors of the exceptions that have been accepted and indicate that exception is available to all potential Contractors by publication of the Department's answers on or about the date indicated in Subsection 1.3.
- 4.2.4. Any exceptions to the standard form contract and exhibits that are not raised by a Vendor during the Question Period will 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.

4.3. Solicitation Amendment

- 4.3.1. 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. Vendors who submitted a Letter of Intent will receive notification of the addendum, and addendum with the amended language will be posted on the Department's website.

5. SOLICITATION RESPONSE SUBMISSION

5.1. Submission Instructions

- 5.1.1. Responses to this Solicitation must be submitted electronically via email to rfx@dhhs.nh.gov **AND to the Contract Specialist at the email address specified in Subsection 1.2.**
- 5.1.1.1. The subject line must include the following information:
RFP-2023-DCYF-01-COMMU.
- 5.1.1.2. The maximum size of file attachments per email is 10 MB. Submissions with file attachments exceeding 10 MB must be sent via multiple emails.
- 5.1.2. 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.
- 5.1.3. 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.
- 5.1.4. 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 3.
- 6.2. Vendors must submit a separate electronic document for the Technical Response and a separate electronic document for the Cost Proposal.

6.3. Technical Response Contents

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

- 6.3.1. **Appendix B, Contract Monitoring Provisions**, including:
- 6.3.1.1. **Audited Financial Statements** (four (4) most recently completed fiscal years)
- 6.3.2. **Appendix C - CLAS Requirements**
- 6.3.3. **Appendix D – Transmittal Letter and Vendor Information**
- 6.3.4. **Appendix E – Vendor Technical Response to Mandatory Questions**
- 6.3.5. **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.

6.4. Cost Proposal Contents

- 6.4.1. **Appendix F, Budget Sheet** – Vendors must complete an Appendix F, Budget Sheet for each State Fiscal Year (July 1 through June 30). This is not a low cost award.
- 6.4.2. **Appendix G, Staff List** - Vendors must complete an Appendix G, Staff List for each State Fiscal Year (July 1 through June 30).
- 6.4.3. **Budget Narrative** - Vendors must provide a Budget Narrative that explains the specific line item costs included in the Appendix F, Budget Sheet and their direct relationship to meeting the objectives of this Solicitation. The Budget Narrative must explain how each position included in Appendix G, Program Staff List pertains to the Solicitation Response and what activities they will perform.

7. ADDITIONAL TERMS AND REQUIREMENTS

7.1. Compliance

- 7.1.1. 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.
- 7.1.2. The Selected Vendor(s) must meet all information security and privacy requirements as set by the Department.
- 7.1.1. Prior to making an offer of employment or for volunteer work, the selected Vendor will, after obtaining signed and notarized authorization from the person or persons for whom information is being sought:
 - 7.1.1.1. Obtain and verify at least two (2) references for the person;
 - 7.1.1.2. Submit the person's name for review against the bureau of elderly and adult services (BEAS) state registry maintained pursuant to RSA 161-F:49;
 - 7.1.1.3. Submit the person's name for review against the Division for Children, Youth and Families (DCYF) state Central Registry.
 - 7.1.1.4. Complete a criminal records check to ensure that the person has no history of:
 - 7.1.1.4.1. Felony conviction; or
 - 7.1.1.4.2. Any misdemeanor conviction involving:

- 7.1.1.4.3. Physical or sexual assault;
 - 7.1.1.4.4. Violence;
 - 7.1.1.4.5. Exploitation;
 - 7.1.1.4.6. Child pornography;
 - 7.1.1.4.7. Threatening or reckless conduct;
 - 7.1.1.4.8. Theft;
 - 7.1.1.4.9. Driving under the influence of drugs or alcohol; or
 - 7.1.1.4.10. Any other conduct that represents evidence of behavior that could endanger the well-being of a consumer; and
- 7.1.2. Unless the selected Vendor requests and obtains a waiver from the Department, it will not hire any individual or approve any individual to act as a volunteer if:
- 7.1.2.1. The individual's name is on the BEAS state registry and DCYF state Central Registry.
 - 7.1.2.2. The individual has a record of a felony conviction; or
 - 7.1.2.3. The individual has a record of any misdemeanors specified in Subparagraph 3.2.32.3.
- 7.1.3. The selected Applicant will ensure employees involved in delivering services through the resulting Agreement, will sign an attestation agreeing to access, view, store, and discuss confidential data in accordance with Federal and State laws and regulations and the Department's Exhibit K, Security Requirements, by signing an attestation. The Selected applicant shall ensure said individuals have a justifiable business need to access confidential data. The Contractor must provide attestations upon Department request.
- 7.1.4. Upon request, the selected Vendor must allow the Department to conduct a Privacy Impact Assessment (PIA) of its system if Personally Identifiable Information (PII) is collected, used, accessed, shared, or stored. To conduct the PIA the selected Vendor must provide the Department access to applicable systems and documentation sufficient to allow the Department to assess, at minimum, the following:
- 7.1.4.1. How PII is gathered and stored;
 - 7.1.4.2. Who will have access to PII;

- 7.1.4.3. How PII will be used in the system;
 - 7.1.4.4. How individual consent will be achieved and revoked; and
 - 7.1.4.5. Privacy practices.
 - 7.1.4.6. The Department may conduct follow-up PIA's in the event there are either significant process changes or new technologies impacting the collection, processing or storage of PII.
- 7.1.5. Individual's Right to Fair Hearing
- 7.1.5.1. Such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.
 - 7.1.5.2. The Selected Vendor(s) shall notify any person who has been found ineligible for services of their right to appeal the adverse decision by requesting a fair hearing in accordance with New Hampshire RSA 126-A:5.
 - 7.1.5.3. In any such fair hearing proceeding, the Selected Vendor(s) and the applicant shall be the parties. The Department reserves the right to file a motion to intervene.
- 7.1.6. The Selected Vendor(s) must maintain the following records during the resulting contract term where appropriate and as prescribed by the Department:
- 7.1.6.1. 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).
 - 7.1.6.2. 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.
 - 7.1.6.3. Statistical, enrollment, attendance or visit records for each recipient of services, which records 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.

- 7.1.6.4. 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).

7.1.7. Credits and Copyright Ownership

- 7.1.7.1. 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) shall 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*."
- 7.1.7.2. All written, video and audio materials produced or purchased under the contract shall have prior approval from the Department before printing, production, distribution or use.
- 7.1.7.3. The Department will retain copyright ownership for any and all original materials produced, including, but not limited to:
- 7.1.7.3.1. Brochures.
 - 7.1.7.3.2. Resource directories.
 - 7.1.7.3.3. Protocols.
 - 7.1.7.3.4. Guidelines.
 - 7.1.7.3.5. Posters.

7.1.7.3.6. Reports.

7.1.7.4. The Selected Vendor(s) shall not reproduce any materials produced under the contract without prior written approval from the Department.

7.1.8. Culturally and Linguistically Appropriate Services

7.1.8.1. Vendors are expected 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.

7.1.8.2. Vendors are required to complete the TWO (2) steps listed in the **Appendix C, 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.

7.1.8.3. The Selected Vendor(s) will be:

7.1.8.3.1. 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

7.1.8.3.2. Monitored on their Federal civil rights compliance using the Federal Civil Rights Compliance Checklist, which can be found in the Vendor/RFP section of the Department's website.

7.2. State Owned Devices, Systems and Network Usage

7.2.1. If the Contractor's workforce or its subcontractor's workforce is authorized by the Department's Information Security Office to use a Department issued device (e.g. computer, iPad, cell phone) or access the State network in the fulfillment of this Agreement they shall:

7.2.2. Sign and abide by applicable Department and NH Department of Information Technology (DOIT) use agreements, policies, standards, procedures and/or guidelines;

7.2.3. Use the information solely for conducting official Department business;

- 7.2.4. Not access or attempt to access information in a manner inconsistent with the approved policies, procedures, and/or agreement relating to system entry/access;
- 7.2.5. Not copy, share, distribute, sub-license, modify, reverse engineer, rent, or sell software licensed, developed, or being evaluated by the state. At all times the Contractor must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other agreement executed by the state. Only equipment or software owned, licensed, or being evaluated by the State can be used by the contractor. Non-standard software shall not be installed on any equipment unless authorized by the Department's Information Security Office:
- 7.2.6. Agree that email and other electronic communication messages created, sent, and received on a state-issued email system are the property of the State of New Hampshire and to be used for business purposes only. Email is defined as "internal email systems" or "state-funded email systems." The Contractor understands and agrees that use of email shall follow Department and DOIT standard policies. When utilizing the Department's email system the Contractor shall:
 - 7.2.6.1. Include in the signature lines information identifying the contractor as a non-state employee; and
 - 7.2.6.2. Contain the following embedded confidentiality notice:

CONFIDENTIALITY NOTICE: "This message may contain information that is privileged and confidential and is intended only for the use of the individual(s) to whom it is addressed. If you receive this message in error, please notify the sender immediately and delete this electronic message and any attachments from your system. Thank you for your cooperation."
- 7.2.7. The State internet/Intranet is to be used for access to and distribution of information in direct support of the business of the State of New Hampshire according to policy. At no time should the State's internet be used for personal use or used by the Contractor without written approval by the Department's Information Security Office.
- 7.2.8. All members of the Contractor's or its subcontractor's workforce, with a workspace in a Department building/facility, shall sign the Department's Business Use and Confidentiality Agreement upon execution of the agreement and annually until contract end.

7.3. Contract End-of-Life Transition Services

- 7.3.1. If applicable, upon termination or expiration of the Contract the Parties agree to cooperate in good faith to effectuate a smooth secure transition of the Services from the Contractor to the Department and, if applicable, the Vendor engaged by the Department to assume the Services previously performed by the Contractor 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 Contractor shall 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 Contractor.
- 7.3.2. The Contractor shall use reasonable efforts to assist the Recipient, in connection with the transition from the performance of Services by the Contractor and its 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 Contractor 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.
- 7.3.3. 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.
- 7.3.4. The internal planning of the Transition Services by the Contractor 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.
- 7.3.5. Should the data Transition extend beyond the end of the Contract, the Contractor 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.

7.3.6. In the event where the contractor has comingled Department Data and the destruction or Transition of said data is not feasible, the Department and Contractor will jointly evaluate regulatory and professional standards for retention requirements prior to destruction.

7.3.7. Audit Requirements

7.3.7.1. The Selected Vendor(s) must email an annual audit to dhhs.act@dhhs.nh.gov if **any** of the following conditions exist:

7.3.7.1.1. 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.

7.3.7.1.2. 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.

7.3.7.1.3. Condition C - The selected Vendor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.

7.3.7.2. 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.

7.3.7.3. 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 Contractor's fiscal year.

7.3.7.4. 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 Contractor is high-risk.

7.3.7.5. 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.

7.4. Non-Collusion

- 7.4.1. The Vendor's required signature on the Appendix D – 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.

7.5. Collaborative Solicitation Responses

- 7.5.1. 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.

7.6. Validity of Solicitation Responses

- 7.6.1. 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.

7.7. Debarment

- 7.7.1. 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.

7.8. Property of Department

- 7.8.1. 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.

7.9. Solicitation Response Withdrawal

- 7.9.1. 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.

7.10. Public Disclosure

- 7.10.1. 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. At the time of receipt of Proposals, 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 Vendor. 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.
- 7.10.2. The content of each Solicitation Response and addenda thereto will become public information once the Governor and Executive Council have approved a contract. Any information submitted as part of a response to this Solicitation 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 Solicitation will be made accessible to the public online via the website Transparent NH (www.nh.gov/transparentnh/). Accordingly, 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.
- 7.10.3. Insofar as a Vendor seeks to maintain the confidentiality of its confidential commercial, financial or personnel information, the Vendor must clearly identify in writing the information it claims to be confidential and explain the reasons such information should be considered confidential. This must be done by separate letter identifying by page number and Solicitation Response section the specific information the Vendor claims to be exempt from public disclosure pursuant to RSA 91-A:5. The Vendor is strongly encouraged to provide a redacted copy of their Solicitation Response.
- 7.10.4. Each Vendor acknowledges that the Department is subject to the Right-to-Know Law New Hampshire RSA Chapter 91-A. The Department shall maintain the confidentiality of the identified confidential information insofar as it is consistent with applicable laws or regulations, including but not limited to New Hampshire RSA Chapter 91-A. In the event the Department receives a request for the information identified by a Vendor as confidential, the Department shall notify the Vendor and specify the date the Department intends to release the requested information. Any effort to prohibit or enjoin the release of the information shall be the Vendor's responsibility and at the Vendor's sole expense. If the Vendor fails to obtain a court order enjoining the disclosure, the Department may release the information on the date the Department specified in its notice to the Vendor without incurring any liability to the Proposer.

7.11. Non-Commitment

7.11.1. 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, to cancel this Solicitation, and to solicit new Solicitation Responses under a new procurement process.

7.12. Liability

7.12.1. 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.

7.13. Request for Additional Information or Materials

7.13.1. 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.

7.14. Oral Presentations and Discussions

7.14.1. 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.

7.15. Successful Vendor Notice and Contract Negotiations

7.15.1. 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.

7.16. Scope of Award and Contract Award Notice

7.16.1. 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.

- 7.16.2. If a contract is awarded, the Contractor must obtain written consent from the State before any public announcement or news release is issued pertaining to any contract award.

7.17. Site Visits

- 7.17.1. 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.

7.18. Protest of Intended Award

- 7.18.1. 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.

7.19. Contingency

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

7.20. Ethical Requirements

- 7.20.1. 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.

7.21. Contract Terms and Conditions

7.21.1. The State of New Hampshire sample contract is attached. The Proposer must agree to contractual requirements as set forth in the Appendix A, P-37 General Provisions and Standard Exhibits.

7.22. Liquidated Damages

7.22.1. The Department may negotiate with the awarded vendor to include liquidated damages in the Contract in the event any deliverables are not met.

7.22.2. The Department and the Vendor agree that the actual damages that the Department will sustain in the event the Vendor fails to maintain the required performance standards throughout the life of the contract will be uncertain in amount and difficult and impracticable to determine. The Vendor acknowledges and agrees that any failure to achieve required performance levels by the Contractor will more than likely substantially delay and disrupt the Department's operations. Therefore, the parties agree that liquidated damages may be determined as part of the contract specifications.

8. APPENDICES TO THIS SOLICITATION

8.1. Appendix A – Form P-37 General Provisions and Standard Exhibits

8.2. Appendix B – Contract Monitoring Provisions

8.3. Appendix C – CLAS Requirements

8.4. Appendix D – Transmittal Letter and Vendor Information

8.5. Appendix E - Technical Response to Questions

8.6. Appendix F – Budget Sheet

8.7. Appendix G – Program Staff List

Do Not Return**Subject:** _____

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 New Hampshire Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number () -	1.6 Account Number	1.7 Completion Date Select a Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency Nathan D. White, Director		1.10 State Agency Telephone Number (603) 271-9631	
1.11 Contractor Signature Date:		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature Date:		1.14 Name and Title of State Agency Signatory	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (<i>if applicable</i>) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (<i>if applicable</i>) By: _____ On: _____			
1.17 Approval by the Governor and Executive Council (<i>if applicable</i>) G&C Item number: _____ G&C Meeting Date: _____			

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Contractor Initials _____
Date _____

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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.

Do Not Return

Contractor Initials _____
Date _____

Do Not Return

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

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

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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

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

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

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

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

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

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

Contractor Initials _____
Date _____

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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.

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

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

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

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

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

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

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

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

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

Contractor Initials _____
Date _____

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New Hampshire Department of Health and Human Services



Exhibit A

REVISIONS TO STANDARD CONTRACT PROVISIONS

1 – Revisions to Form P-37, General Provisions

1.1 Paragraph 12, Assignment/Delegation/Subcontracts, is amended by adding subparagraph 12.3 as follows:

12.3 Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed and how corrective action shall be managed if the subcontractor's performance is inadequate. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance.

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Exhibit A - Revisions to Standard Contract Provisions

Contractor Initials _____

Date _____

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New Hampshire Department of Health and Human Services



EXHIBIT B

Scope of Services

To be drafted in accordance with the selected Vendor's proposal, as negotiated with the Department through the procurement process.

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Vendor Name

Page 1 of 1

Contractor Initials _____

Date _____

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New Hampshire Department of Health and Human Services



EXHIBIT C

Payment Terms

To be drafted in accordance with the selected Vendor's proposal, as negotiated with the Department through the procurement process.

VENDOR NAME

Exhibit C

Contractor Initials _____

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Date _____

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New Hampshire Department of Health and Human Services
Exhibit D

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
 NH Department of Health and Human Services
 129 Pleasant Street,
 Concord, NH 03301-6505

1. The grantee certifies that it will or will continue to provide a drug-free workplace by:
 - 1.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - 1.2. Establishing an ongoing drug-free awareness program to inform employees about
 - 1.2.1. The dangers of drug abuse in the workplace;
 - 1.2.2. The grantee's policy of maintaining a drug-free workplace;
 - 1.2.3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 1.2.4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - 1.3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - 1.4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
 - 1.4.1. Abide by the terms of the statement; and
 - 1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - 1.5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 1.4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency

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Exhibit D – Certification regarding Drug Free
 Workplace Requirements
 Page 1 of 2

Vendor Initials _____

Date _____

CU/DHHS/110713



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New Hampshire Department of Health and Human Services
Exhibit D

has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

- 1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted
 - 1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- 1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.

- 2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check if there are workplaces on file that are not identified here.

Vendor Name:

_____ Date

_____ Name:
_____ Title:

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CERTIFICATION REGARDING LOBBYING

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

Programs (indicate applicable program covered):

- *Temporary Assistance to Needy Families under Title IV-A
- *Child Support Enforcement Program under Title IV-D
- *Social Services Block Grant Program under Title XX
- *Medicaid Program under Title XIX
- *Community Services Block Grant under Title VI
- *Child Care Development Block Grant under Title IV

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.)
3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Vendor Name:

Date

Name:
Title:

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**New Hampshire Department of Health and Human Services
Exhibit F**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS**

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.
6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

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New Hampshire Department of Health and Human Services
Exhibit F

information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- 10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

PRIMARY COVERED TRANSACTIONS

- 11. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - 11.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - 11.2. have not within a three-year period preceding this proposal (contract) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 11.3. are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (I)(b) of this certification; and
 - 11.4. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

LOWER TIER COVERED TRANSACTIONS

- 13. By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
 - 13.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 - 13.2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).
- 14. The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Vendor Name: _____

Date

Name:
Title:

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Vendor Initials _____

Date _____



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New Hampshire Department of Health and Human Services
Exhibit G

**CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO
 FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND
 WHISTLEBLOWER PROTECTIONS**

The Vendor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

Vendor will comply, and will require any subgrantees or subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;
- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;
- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);
- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;
- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;
- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;
- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;
- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;
- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

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Exhibit G

Vendor Initials _____

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections

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Rev. 10/21/14

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Date _____



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**New Hampshire Department of Health and Human Services
Exhibit G**

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

The Vendor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Vendor agrees to comply with the provisions indicated above.

Vendor Name:

Date

Name:
Title:

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Exhibit G

Vendor Initials _____

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections

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New Hampshire Department of Health and Human Services
Exhibit H



CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Vendor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

- 1. By signing and submitting this contract, the Vendor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.

Vendor Name:

Date

Name:
Title:

Do Not Return



Exhibit I

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

(1) Definitions.

- a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
- b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.
- h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164 and amendments thereto.
- i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
- j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
- k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.



Exhibit I

- I. “Required by Law” shall have the same meaning as the term “required by law” in 45 CFR Section 164.103.
- m. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- n. “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- o. “Unsecured Protected Health Information” means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.
- p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH Act.

(2) Business Associate Use and Disclosure of Protected Health Information.

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
- I. For the proper management and administration of the Business Associate;
 - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
 - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business



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Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) Obligations and Activities of Business Associate.

- a. The Business Associate shall notify the Covered Entity's Privacy Officer immediately after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.
- b. The Business Associate shall immediately perform a risk assessment when it becomes aware of any of the above situations. The risk assessment shall include, but not be limited to:
- o The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
 - o The unauthorized person used the protected health information or to whom the disclosure was made;
 - o Whether the protected health information was actually acquired or viewed
 - o The extent to which the risk to the protected health information has been mitigated.

The Business Associate shall complete the risk assessment within 48 hours of the breach and immediately report the findings of the risk assessment in writing to the Covered Entity.

- c. The Business Associate shall comply with all sections of the Privacy, Security, and Breach Notification Rule.
- d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (I). The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI



Exhibit I

- pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreement for the purpose of use and disclosure of protected health information.
- f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
 - g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
 - h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
 - i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
 - j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
 - k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
 - l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business



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Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) Termination for Cause

In addition to Paragraph 10 of the standard terms and conditions (P-37) of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) Miscellaneous

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule.



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- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3) l, the defense and indemnification provisions of section (3) e and Paragraph 13 of the standard terms and conditions (P-37), shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

Department of Health and Human Services
The State

Name of the Contractor

Signature of Authorized Representative

Signature of Authorized Representative

Name of Authorized Representative

Name of Authorized Representative

Title of Authorized Representative

Title of Authorized Representative

Date

Date

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CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) COMPLIANCE

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than \$25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of \$25,000 or more. If the initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.

In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any subaward or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique identifier of the entity (DUNS #)
10. Total compensation and names of the top five executives if:
 - 10.1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25M annually and
 - 10.2. Compensation information is not already available through reporting to the SEC.

Prime grant recipients must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of The Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

The below named Contractor agrees to provide needed information as outlined above to the NH Department of Health and Human Services and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

Contractor Name:

_____ Date

_____ Name:
_____ Title:

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FORM A

As the Contractor identified in Section 1.3 of the General Provisions, I certify that the responses to the below listed questions are true and accurate.

1. The DUNS number for your entity is: _____
2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

_____ NO _____ YES

If the answer to #2 above is NO, stop here

If the answer to #2 above is YES, please answer the following:

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

_____ NO _____ YES

If the answer to #3 above is YES, stop here

If the answer to #3 above is NO, please answer the following:

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

Name: _____	Amount: _____

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New Hampshire Department of Health and Human Services**Exhibit K****DHHS Information Security Requirements****A. Definitions**

The following terms may be reflected and have the described meaning in this document:

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information, "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
2. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.
3. "Confidential Information" or "Confidential Data" means all confidential information disclosed by one party to the other such as all medical, health, financial, public assistance benefits and personal information including without limitation, Substance Abuse Treatment Records, Case Records, Protected Health Information and Personally Identifiable Information.

Confidential Information also includes any and all information owned or managed by the State of NH - created, received from or on behalf of the Department of Health and Human Services (DHHS) or accessed in the course of performing contracted services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to Protected Health Information (PHI), Personal Information (PI), Personal Financial Information (PFI), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.

4. "End User" means any person or entity (e.g., contractor, contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives DHHS data or derivative data in accordance with the terms of this Contract.
5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.
6. "Incident" means an act that potentially violates an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of physical or electronic

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mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction.

7. "Open Wireless Network" means any network or segment of a network that is not designated by the State of New Hampshire's Department of Information Technology or delegate as a protected network (designed, tested, and approved, by means of the State, to transmit) will be considered an open network and not adequately secure for the transmission of unencrypted PI, PFI, PHI or confidential DHHS data.
8. "Personal Information" (or "PI") means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, personal information as defined in New Hampshire RSA 359-C:19, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.
9. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
10. "Protected Health Information" (or "PHI") has the same meaning as provided in the definition of "Protected Health Information" in the HIPAA Privacy Rule at 45 C.F.R. § 160.103.
11. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, and amendments thereto.
12. "Unsecured Protected Health Information" means Protected Health Information that is not secured by a technology standard that renders Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

A. Business Use and Disclosure of Confidential Information.

1. The Contractor must not use, disclose, maintain or transmit Confidential Information except as reasonably necessary as outlined under this Contract. Further, Contractor, including but not limited to all its directors, officers, employees and agents, must not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
2. The Contractor must not disclose any Confidential Information in response to a

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request for disclosure on the basis that it is required by law, in response to a subpoena, etc., without first notifying DHHS so that DHHS has an opportunity to consent or object to the disclosure.

3. If DHHS notifies the Contractor that DHHS has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Contractor must be bound by such additional restrictions and must not disclose PHI in violation of such additional restrictions and must abide by any additional security safeguards.
4. The Contractor agrees that DHHS Data or derivative there from disclosed to an End User must only be used pursuant to the terms of this Contract.
5. The Contractor agrees DHHS Data obtained under this Contract may not be used for any other purposes that are not indicated in this Contract.
6. The Contractor agrees to grant access to the data to the authorized representatives of DHHS for the purpose of inspecting to confirm compliance with the terms of this Contract.

II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If End User is transmitting DHHS data containing Confidential Data between applications, the Contractor attests the applications have been evaluated by an expert knowledgeable in cyber security and that said application's encryption capabilities ensure secure transmission via the internet.
2. Computer Disks and Portable Storage Devices. End User may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting DHHS data.
3. Encrypted Email. End User may only employ email to transmit Confidential Data if email is encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
4. Encrypted Web Site. If End User is employing the Web to transmit Confidential Data, the secure socket layers (SSL) must be used and the web site must be secure. SSL encrypts data transmitted via a Web site.
5. File Hosting Services, also known as File Sharing Sites. End User may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data.
6. Ground Mail Service. End User may only transmit Confidential Data via *certified* ground mail within the continental U.S. and when sent to a named individual.
7. Laptops and PDA. If End User is employing portable devices to transmit Confidential Data said devices must be encrypted and password-protected.
8. Open Wireless Networks. End User may not transmit Confidential Data via an open

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wireless network. End User must employ a virtual private network (VPN) when remotely transmitting via an open wireless network.

9. Remote User Communication. If End User is employing remote communication to access or transmit Confidential Data, a virtual private network (VPN) must be installed on the End User's mobile device(s) or laptop from which information will be transmitted or accessed.
10. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If End User is employing an SFTP to transmit Confidential Data, End User will structure the Folder and access privileges to prevent inappropriate disclosure of information. SFTP folders and sub-folders used for transmitting Confidential Data will be coded for 24-hour auto-deletion cycle (i.e. Confidential Data will be deleted every 24 hours).
11. Wireless Devices. If End User is transmitting Confidential Data via wireless devices, all data must be encrypted to prevent inappropriate disclosure of information.

III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

The Contractor will only retain the data and any derivative of the data for the duration of this Contract. After such time, the Contractor will have 30 days to destroy the data and any derivative in whatever form it may exist, unless, otherwise required by law or permitted under this Contract. To this end, the parties must:

A. Retention

1. The Contractor agrees it will not store, transfer or process data collected in connection with the services rendered under this Contract outside of the United States. This physical location requirement shall also apply in the implementation of cloud computing, cloud service or cloud storage capabilities, and includes backup data and Disaster Recovery locations.
2. The Contractor agrees to ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
3. The Contractor agrees to provide security awareness and education for its End Users in support of protecting Department confidential information.
4. The Contractor agrees to retain all electronic and hard copies of Confidential Data in a secure location and identified in section IV. A.2
5. The Contractor agrees Confidential Data stored in a Cloud must be in a FedRAMP/HITECH compliant solution and comply with all applicable statutes and regulations regarding the privacy and security. All servers and devices must have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a

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whole, must have aggressive intrusion-detection and firewall protection.

6. The Contractor agrees to and ensures its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.

B. Disposition

1. If the Contractor will maintain any Confidential Information on its systems (or its sub-contractor systems), the Contractor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the Contractor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure deletion and media sanitization, or otherwise physically destroying the media (for example, degaussing) as described in NIST Special Publication 800-88, Rev 1, Guidelines for Media Sanitization, National Institute of Standards and Technology, U. S. Department of Commerce. The Contractor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and Contractor prior to destruction.
2. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to destroy all hard copies of Confidential Data using a secure method such as shredding.
3. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to completely destroy all electronic Confidential Data by means of data erasure, also known as secure data wiping.

IV. PROCEDURES FOR SECURITY

- A. Contractor agrees to safeguard the DHHS Data received under this Contract, and any derivative data or files, as follows:
 1. The Contractor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services.
 2. The Contractor will maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).

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3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.
4. The Contractor will ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
5. The Contractor will provide regular security awareness and education for its End Users in support of protecting Department confidential information.
6. If the Contractor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will maintain a program of an internal process or processes that defines specific security expectations, and monitoring compliance to security requirements that at a minimum match those for the Contractor, including breach notification requirements.
7. The Contractor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the Contractor and any applicable sub-contractors prior to system access being authorized.
8. If the Department determines the Contractor is a Business Associate pursuant to 45 CFR 160.103, the Contractor will execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.
9. The Contractor will work with the Department at its request to complete a System Management Survey. The purpose of the survey is to enable the Department and Contractor to monitor for any changes in risks, threats, and vulnerabilities that may occur over the life of the Contractor engagement. The survey will be completed annually, or an alternate time frame at the Departments discretion with agreement by the Contractor, or the Department may request the survey be completed when the scope of the engagement between the Department and the Contractor changes.
10. The Contractor will not store, knowingly or unknowingly, any State of New Hampshire or Department data offshore or outside the boundaries of the United States unless prior express written consent is obtained from the Information Security Office leadership member within the Department.
11. Data Security Breach Liability. In the event of any security breach Contractor shall make efforts to investigate the causes of the breach, promptly take measures to prevent future breach and minimize any damage or loss resulting from the breach. The State shall recover from the Contractor all costs of response and recovery from

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the breach, including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

12. Contractor must, comply with all applicable statutes and regulations regarding the privacy and security of Confidential Information, and must in all other respects maintain the privacy and security of PI and PHI at a level and scope that is not less than the level and scope of requirements applicable to federal agencies, including, but not limited to, provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), DHHS Privacy Act Regulations (45 C.F.R. §5b), HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) that govern protections for individually identifiable health information and as applicable under State law.
13. Contractor agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Confidential Data and to prevent unauthorized use or access to it. The safeguards must provide a level and scope of security that is not less than the level and scope of security requirements established by the State of New Hampshire, Department of Information Technology. Refer to Vendor Resources/Procurement at <https://www.nh.gov/doit/vendor/index.htm> for the Department of Information Technology policies, guidelines, standards, and procurement information relating to vendors.
14. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor will notify the State's Privacy Officer and the State's Security Officer of any security breach immediately, at the email addresses provided in Section VI. This includes a confidential information breach, computer security incident, or suspected breach which affects or includes any State of New Hampshire systems that connect to the State of New Hampshire network.
15. Contractor must restrict access to the Confidential Data obtained under this Contract to only those authorized End Users who need such DHHS Data to perform their official duties in connection with purposes identified in this Contract.
16. The Contractor must ensure that all End Users:
 - a. comply with such safeguards as referenced in Section IV A. above, implemented to protect Confidential Information that is furnished by DHHS under this Contract from loss, theft or inadvertent disclosure.
 - b. safeguard this information at all times.
 - c. ensure that laptops and other electronic devices/media containing PHI, PI, or PFI are encrypted and password-protected.
 - d. send emails containing Confidential Information only if encrypted and being sent to and being received by email addresses of persons authorized to receive such information.

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DHHS Information Security Requirements



- e. limit disclosure of the Confidential Information to the extent permitted by law.
- f. Confidential Information received under this Contract and individually identifiable data derived from DHHS Data, must be stored in an area that is physically and technologically secure from access by unauthorized persons during duty hours as well as non-duty hours (e.g., door locks, card keys, biometric identifiers, etc.).
- g. only authorized End Users may transmit the Confidential Data, including any derivative files containing personally identifiable information, and in all cases, such data must be encrypted at all times when in transit, at rest, or when stored on portable media as required in section IV above.
- h. in all other instances Confidential Data must be maintained, used and disclosed using appropriate safeguards, as determined by a risk-based assessment of the circumstances involved.
- i. understand that their user credentials (user name and password) must not be shared with anyone. End Users will keep their credential information secure. This applies to credentials used to access the site directly or indirectly through a third party application.

Contractor is responsible for oversight and compliance of their End Users. DHHS reserves the right to conduct onsite inspections to monitor compliance with this Contract, including the privacy and security requirements provided in herein, HIPAA, and other applicable laws and Federal regulations until such time the Confidential Data is disposed of in accordance with this Contract.

V. LOSS REPORTING

The Contractor must notify the State's Privacy Officer and Security Officer of any Security Incidents and Breaches immediately, at the email addresses provided in Section VI.

The Contractor must further handle and report Incidents and Breaches involving PHI in accordance with the agency's documented Incident Handling and Breach Notification procedures and in accordance with 42 C.F.R. §§ 431.300 - 306. In addition to, and notwithstanding, Contractor's compliance with all applicable obligations and procedures, Contractor's procedures must also address how the Contractor will:

1. Identify Incidents;
2. Determine if personally identifiable information is involved in Incidents;
3. Report suspected or confirmed Incidents as required in this Exhibit or P-37;
4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and

Do Not Return

V5. Last update 10/09/18

Exhibit K
DHHS Information
Security Requirements
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Contractor Initials _____

Date _____

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New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



- 5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different options, and bear costs associated with the Breach notice as well as any mitigation measures.

Incidents and/or Breaches that implicate PI must be addressed and reported, as applicable, in accordance with NH RSA 359-C:20.

VI. PERSONS TO CONTACT

A. DHHS Privacy Officer:

DHHSPrivacyOfficer@dhhs.nh.gov

B. DHHS Security Officer:

DHHSInformationSecurityOffice@dhhs.nh.gov

Do Not Return

V5. Last update 10/09/18

Contractor Initials _____

Date _____