



State of New Hampshire  
Department of Health and Human Services

**REQUEST FOR PROPOSALS**

FOR

Material Adverse Impact on Critical Access Hospitals

RFP-2024-OCOM-03-MATER

RELEASE DATE: November 3, 2023

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**New Hampshire Department of Health and Human Services**  
 Material Adverse Impact on Critical Access Hospitals

**1. PURPOSE AND OVERVIEW**

**1.1. Introduction**

The New Hampshire Department of Health and Human Services, Division of Legal and Regulatory Services (“Department”) is seeking responses to this Request for Proposals (solicitation) from qualified Vendors to provide analytical review and specialized reporting services of material adverse impacts to Critical Access Hospitals (CAH), in compliance with RSA 151:4-a, II(b).

The Department anticipates awarding multiple contracts for the services in this solicitation.

**1.2. Key Information**

The information in the table below is as anticipated by the Department and is subject to change. All resulting contracts are contingent upon State approval.

<b>Contract Effective Date</b>	<b>Upon State Approval</b>
<b>Contract End Date</b>	<b>February 28, 2027</b>
<b>Renewal Options</b>	The Department may extend contracted services for up to six (6) additional years.
<b>Point of Contact</b>	Christy Adamson, Contract Specialist Christy.D.Adamson@dhhs.nh.gov 603-271-9540
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. Compensation**

Pursuant to RSA 151-4:a(6)<sup>1</sup>, the Department will not be awarding funding to the selected Vendor(s). The cost of any fees associated with the retention and work completed by selected Vendor(s) to provide the services required in this RFP must be shared equally between the proposed health care facility and the CAH. These costs must be paid to the selected Vendor(s) in advance of any services performed.

The selected Vendor(s) must propose costs for these services as outlined in Section 6.4.1.

**1.4. Procurement Timetable**

All times are according to Eastern Time. The Department reserves the right to modify these dates and times at its sole discretion.		
Item	Action	Date
1.	Solicitation Released	11/3/2023

<sup>1</sup> [Chapter 151 RESIDENTIAL CARE AND HEALTH FACILITY LICENSING \(state.nh.us\)](http://www.state.nh.us/rsa/151/151-4-a.htm)

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2.	Letter of Intent Submission Deadline (optional)	11/9/2023
3.	Questions Submission Deadline	11/16/2023 <b>12:00PM</b>
4.	Department Response to Questions Published	11/27/2023
5.	Vendor Solicitation Response Due Date	12/4/2023 <b>12:00PM</b>

### 1.5. Background

#### 1.5.1. New Hampshire Department of Health and Human Services, Division of Legal and Regulatory Services

The Health Facilities Administration (HFA) is responsible for the oversight and enforcement of basic standards designed to promote safe and appropriate care of persons receiving care and treatment in hospitals and other medical facilities, residential facilities, and through nonresidential health care providers. HFA is comprised of several specific program areas, including:

- The Health Facility Licensing Unit
- Life Safety Code & Health Facility Construction
- The Health Facility Certification Unit
- The Community Residences Certification Unit
- Clinical Laboratory Improvement Amendments (CLIA) Certificates

#### 1.5.2. Objective

1.5.2.1. The Department seeks to retain qualified Vendor(s) with experience in analytical review and specialized reporting services of material adverse impacts to CAHs, pursuant to RSA 151:4-a<sup>2</sup>. Selected Vendor(s) must carry out the objectives of this solicitation pursuant to statutory requirements outlined below:

1.5.2.1.1. Any person or entity proposing to establish an ambulatory surgical center, emergency medical care center, hospital, birthing center, drop-in or walk-in care center, dialysis center, or special health care service within a radius of 15 miles of the primary physical location of a New Hampshire hospital certified as a CAH pursuant to 42 C.F.R 485.610, gives written notice of the intent to establish a health care facility within a 15 mile radius with a description of the

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<sup>2</sup> [Section 151:4-a Requirements for Licensure Near Critical Access Hospitals. \(state.nh.us\)](https://www.state.nh.us/rsa/151/4-a/Requirements%20for%20Licensure%20Near%20Critical%20Access%20Hospitals.pdf)

facility or special health care service to the chief executive officer of the hospital by certified mail.

- 1.5.2.1.2. If, within 30 days of receipt of the notification, the CAH notifies the Department that it objects to the establishment of the proposed health care facility and articulates a detailed basis for its objection, an expert report must be completed by a selected Vendor retained by the Department, and approved by the CAH and proposed health care facility, to determine whether or not the new facility will have a material adverse impact.
- 1.5.2.1.3. If the CAH and proposed health care facility cannot agree on a selected Vendor, the Department's commissioner must independently designate a selected Vendor to perform the assessment and create the expert report.
- 1.5.2.1.4. Within 30 days of retention of the expert, the Department must publish a notice on the Department's Internet website to notify the public of the proposed health care facility and solicit public comment for a period of at least seven (7) calendar days. All public comments must be provided to the expert for use in the analysis.
- 1.5.2.1.5. If the report finds that the proposed health care facility will have a material adverse impact, then the proposed health care facility must not be allowed to apply for licensure. If the proposed health care facility fails to provide the requested information to the expert, for which the expert is unable to complete its findings, the proposed health care facility must not be allowed to apply for licensure. If the CAH fails to provide the requested information to the expert, for which the expert is unable to complete its findings, no material adverse impact must be found and the facility may apply for licensure.
- 1.5.2.1.6. The Department must provide a copy of the report within 10 days of receipt to the proposed health care facility and CAH.

## **1.6. Terminology**

- 1.6.1. Critical Access Hospital - a designation given to eligible rural hospitals by the Centers for Medicare & Medicaid Services (CMS). The CAH designation is designed to reduce the financial vulnerability of rural hospitals and improve access to healthcare by keeping essential services in rural communities.

- 1.6.2. Health care services – means any of the following currently provided by the CAH to the service area: inpatient care, inpatient or outpatient surgery, emergency services, labor and delivery services, addiction and recovery services, mental health services, or coordination with emergency response systems.
- 1.6.3. Material adverse impact - means that granting the application would more likely than not tangibly minimize the CAH's ability to continue providing the health care services.
- 1.6.4. Service area - means the area by which a majority of patients are served by the CAH according to the hospital discharge data provided by the CAH in accordance with RSA 126:25<sup>3</sup>.

## **2. STATEMENT OF WORK**

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

- 2.1.1. The selected Vendor(s) must provide analytical review and specialized reporting services of material adverse impacts to CAHs, which includes, but is not limited to, the information outlined in Section 2.1.3.2.
- 2.1.2. The Vendor(s) report must be completed within 90 days of the retention of the expert unless an extension is granted by the Department. Such an extension must not exceed 30 days.
- 2.1.3. Reporting
  - 2.1.3.1. The selected Vendor(s) must issue objective opinions and provide expert report(s) that are clear, relevant, and concise.
  - 2.1.3.2. The expert report must incorporate:
    - 2.1.3.2.1. How the proposed project will impact the health care services in the service area in terms of utilization;
    - 2.1.3.2.2. Patient charges;
    - 2.1.3.2.3. Market share;
    - 2.1.3.2.4. Physician referral patterns; and
    - 2.1.3.2.5. Personnel resources.
  - 2.1.3.3. The selected Vendor(s) must review all public comments in the analysis and development of expert report(s).
  - 2.1.3.4. The selected Vendor(s) must collect data from both the proposed health care facility and the objecting CAH to ensure they can perform their duties under the contract.
  - 2.1.3.5. The proposed health care facility and CAH must provide any information requested by the expert to complete its report. Information obtained at the request of the expert shall not be

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<sup>3</sup> [Section 126:25 Data Collection. \(state.nh.us\)](https://www.state.nh.us/rsa/126/25)

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considered confidential under RSA 151:13, unless the Department determines that it should be exempt from disclosure under RSA 91-A:5.

- 2.1.3.6. The selected Vendor(s) must provide analysis on whether there is a material adverse impact on the CAH. This analysis shall be comprised of information from both the proposed health care facility and CAH and any other pertinent information obtained by the selected vendor.
- 2.1.3.7. The selected Vendor(s) must provide an objective report on the material adverse impact to the CAH after reviewing and analyzing information from all sources. Their report shall detail their findings and reach an ultimate conclusion.
- 2.1.3.8. The selected Vendor(s) is ultimately responsible for their work, analysis and determinations under the contract, not the Department.

**Q1** *Provide a summary of your experience with analytical review and specialized reporting services of material adverse impacts to CAHs. Include a sample report that reflects the criteria referenced in Sections 2.1.3.1. and 2.1.3.2., above.*

- 2.1.4. The selected Vendor(s) must adhere to the following timeframes:
  - 2.1.4.1. Within 90 days of retention, the selected Vendor(s) must complete their analytical review of the proposed healthcare facility and prepare a final report.
  - 2.1.4.2. Requests for extensions must be made to the Department in writing, and must not exceed 30 days.

**Q2** *Describe how you will ensure that review and completion of reporting is carried out in compliance with the timeframes outlined in RSA 151:4-a, II(b).*

- 2.1.5. The selected Vendor(s) must ensure there is no conflict of interest in providing the services requested in this RFP. The selected Vendor(s) must:
  - 2.1.5.1. Have no interest and not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The selected Vendor(s) must not employ any individual or entity having any such known interests, including subsidiaries or entities that could be misconstrued as having a joint relationship.
  - 2.1.5.2. Notify the Department of all actual, apparent, or potential conflicts of interest no later than five (5) calendar days of identifying an actual, apparent, or potential conflicts of interest.
- 2.1.6. The selected Vendor(s) must communicate with the proposed healthcare facility and CAH to:
  - 2.1.6.1. Understand important migration patterns.

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- 2.1.6.2. Compose financial and operational assessments.
- 2.1.6.3. Determine if the proposed healthcare facility would impact requirements set forth in Section 1820(c)(2) of the Social Security Act (Critical Access Hospitals).
- 2.1.6.4. Determine if the proposed healthcare facility would impact requirements set forth in 42 USC 256b(a)(4)(L)(i) (340B Drug Pricing Program).

**Q3** *Provide your proposed Work Plan to provide timely reviews. Include methods by which information will be transmitted between parties, which will ensure that information remains confidential according to applicable laws and state policy.*

- 2.1.7. The selected Vendor(s) must participate in meetings with the Department as requested by the Department.

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**3. SOLICITATION RESPONSE EVALUATION**

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

<b>TECHNICAL RESPONSE</b>	<b>POSSIBLE SCORE</b>
Experience (Q1)	50 Points
Capacity (Q2)	20 Points
Work Plan to Meet Timelines (Q3)	30 Points
<b>Technical Response – Total Possible Score</b>	<b>100 Points</b>

<b>COST PROPOSAL</b>	<b>POSSIBLE SCORE</b>
Rate Sheet (Appendix D)	25 Points
<b>Cost Proposal – Total Possible Score</b>	<b>25 Points</b>

<b>MAXIMUM POSSIBLE SCORE</b>	<b>125 Points</b>
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**3.2. Preliminary Scoring of Technical Responses**

3.2.1. The Department will establish an evaluation team. This evaluation team will review the Technical Proposals and give a preliminary score. Should a Vendor fail to achieve **70 minimum points** in the preliminary scoring, it will receive no further consideration from the evaluation team and the Vendor’s Cost Proposal will remain unopened.

**3.3. Cost Proposal Evaluation**

3.3.1. The Rate Sheet (Attachment D) will be scored based on the following equation:

$$\text{Lowest Proposed Average Hourly Rate Across State Fiscal Years (SFYs)/Vendor Proposed Average Hourly Rate Across SFYs} \times 25 = \text{Points Assessed.}$$

For the purpose of this formula, the Lowest Proposed Average Hourly Rate Across State Fiscal Years (SFYs) is defined as the lowest average hourly rate proposed by a Vendor who meets the minimum score as specified in Subsection 3.2.1 and the requirements specified in Section 2, Statement of Work, and Section 6, Solicitation Response Requirements.

**4. SOLICITATION RESPONSE PROCESS**

**4.1. Letter of Intent**

- 4.1.1. A Letter of Intent to submit a Response to this solicitation is optional.
- 4.1.2. Receipt of the Letter of Intent by Department will be required to receive electronic notification of any solicitation amendments, in the event such are produced; any further materials on this project, including electronic files containing tables required for response to this solicitation; any addenda,

corrections, or schedule modifications; notifications regarding any informational meetings for Vendors; or responses to comments or questions.

- 4.1.3. The Letter of Intent must be transmitted by email to the Contract Specialist identified in Subsection 1.2 and include the name, telephone number, mailing address and email address of the Vendor's designated contact. **Notwithstanding the Letter of Intent, Vendors remain responsible for reviewing the most updated information related to this solicitation before submitting a response.**

## **4.2. Questions and Answers**

### **4.2.1. Vendors' Questions**

- 4.2.1.1. 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.
- 4.2.1.2. The Department may consolidate or paraphrase questions for efficiency and clarity. Questions that are not understood will not be answered. Statements that are not questions will not receive a response.
- 4.2.1.3. The questions must be submitted by email; however, the Department assumes no liability for ensuring accurate and complete email transmissions.
- 4.2.1.4. Questions must be received by the Department by the deadline given in Subsection 1.3, Procurement Timetable.

### **4.2.2. Department Responses**

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

### **4.2.3. Exceptions**

- 4.2.3.1. The Department will require the successful Vendor to execute a contract using the Form P-37, General Provisions and Standard Exhibits, which are attached as Appendix A. To the extent that a Vendor believes that exceptions to Appendix A will be necessary for the Vendor to enter into a Contract, the Vendor must note those issues during the Question Period in Subsection 1.3. Vendors may not request exceptions to the Scope of Services or any other sections of this Solicitation.

4.2.3.2. The Department will review requested exceptions and accept, reject or note that it is open to negotiation of the proposed exception at its sole discretion in its response to Vendor questions.

4.2.3.3. Any exceptions to the standard form contract and exhibits that are not raised by a Vendor during the Question Period may not be considered. In no event is a Vendor to submit its own standard contract terms and conditions as a replacement for the Department's terms in response to this Solicitation.

#### **4.3. 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.

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

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

5.1.1. The subject line must include the following information:

RFP-2024-OCOM-03-MATER (email xx of xx).

**5.2.** The maximum size of file attachments per email is 10 MB. Submissions with file attachments exceeding 10 MB must be sent via multiple emails.

**5.3.** The Department must receive submissions by the time and date specified in the Procurement Timetable in Section 1.3 and in the manner specified or it may be rejected as non-compliant, unless waived by the Department as a non-material deviation.

**5.4.** The Department will conduct an initial screening step to verify Vendor compliance with the requirements of this Solicitation. The Department may waive or offer a limited opportunity for a Vendor to cure immaterial deviations from the Solicitation requirements if it is deemed to be in the best interest of the Department.

**5.5.** Late submissions that are not accepted will remain unopened. Disqualified submissions will be discarded. Submission of solicitation responses must be at the Vendor's expense.

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

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

**6.2.** 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 must contain the following, in the order described in this section:

6.3.1. **Appendix B – Transmittal Letter and Vendor Information**

6.3.2. **Appendix C – Vendor Technical Response to Questions**

6.3.3. **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 D, Rate Sheet** – Vendors must complete an Appendix D, Rate Sheet, including the rate per hour for each State Fiscal year (July 1 through June 30).

**7. ADDITIONAL TERMS AND REQUIREMENTS**

**7.1. Non-Collusion**

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

**7.2. Collaborative Solicitation Responses**

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

**7.3. Validity of Solicitation Responses**

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

**7.4. Debarment**

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

**7.5. Property of Department**

Any material property submitted and received in response to this solicitation will become the property of the Department and will not be returned to the Vendor. The Department reserves the right to use any information presented in any solicitation response provided that its use does not violate any copyrights or other provisions of law.

**7.6. Solicitation Response Withdrawal**

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

**7.7. Confidentiality**

Pursuant to RSA 21-G:37, the content of responses to this solicitation must remain confidential until appropriate State approval. The Vendor's disclosure or distribution of the

contents of its solicitation response, other than to the Department, will be grounds for disqualification at the Department's sole discretion.

### **7.8. Public Disclosure**

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

New Hampshire, at its sole expense, seeking to enjoin the release of the requested information.

- 7.8.6. By submitting a response to this solicitation, Vendors acknowledge and agree that:
- 7.8.7. The Department may disclose any and all portions of the response or related materials which are not marked as confidential and/or which have not been specifically explained in the letter to the person identified as the point of contact for this solicitation;
- 7.8.8. The Department is not obligated to comply with a Vendor's designations regarding confidentiality and must conduct an independent analysis to assess the confidentiality of the information submitted; and
- 7.8.9. The Department may, unless otherwise prohibited by court order, release the information on the date specified in the notice described above without any liability to a Vendor.

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

- 7.9.1. At the time of receipt of responses, the Department will post the number of responses received with no further information. No later than five (5) business days prior to submission of a contract to the Department of Administrative Services pursuant to this solicitation, the Department will post the name, rank or score of each responding Vendor. In the event that the resulting contract does not require Governor and Executive Council approval, the Agency will disclose the rank or score at least five (5) business days before final approval of the contract.
- 7.9.2. Pursuant to RSA 91-A and RSA 9-F:1, the Secretary of State will post to the public any document submitted to G&C for approval, including contracts resulting from this solicitation, and posts those documents on its website (<https://sos.nh.gov/administration/miscellaneous/governor-executive-council/>). By submitting a response to this solicitation, vendors acknowledge and agree that, in accordance with the above mentioned statutes and policies, (and regardless of whether any specific request is made to view any document relating to this solicitation), any contract resulting from this solicitation that is submitted to G&C for approval will be made accessible to the public online.

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

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

#### **7.11. Liability**

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

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

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

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

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

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

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

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

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

### **7.16. Site Visits**

The Department may, at its sole discretion, at any time prior to contract award, conduct a site visit at the Vendor's location or at any other location deemed appropriate by the Department, to determine the Vendor's capacity to satisfy the terms of this solicitation. The Department may also require the Vendor to produce additional documents, records, or materials relevant to determining the Vendor's capacity to satisfy the terms of this solicitation. Any and all costs associated with any site visit or requests for documents must be borne entirely by the Vendor.

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

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

### **7.18. Contingency**

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

### **7.19. Ethical Requirements**

From the time this solicitation is published until a contract is awarded, no Vendor must 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 must 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, must be disqualified from submitting a response to this solicitation, or similar request for submission and every such Vendor must 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 must note that information on the list maintained on the state's internal intranet system, except in the case of annulment, the information, must be deleted from the list.

## **8. COMPLIANCE**

**8.1.** The selected Vendor(s) must be in compliance with applicable federal and state laws, rules and regulations, and applicable policies and procedures adopted by the Department currently in effect, and as they may be adopted or amended during the contract period.

### **8.2. Records**

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

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

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

### **8.3. Credits and Copyright Ownership**

8.3.1. All written, video and audio materials produced or purchased under the contract must have prior approval from the Department before printing, production, distribution or use.

8.3.2. The Department will retain copyright ownership for any and all original materials produced, including, but not limited to:



- 8.3.2.1. Brochures.
- 8.3.2.2. Resource directories.
- 8.3.2.3. Protocols.
- 8.3.2.4. Guidelines.
- 8.3.2.5. Posters.
- 8.3.2.6. Reports.

8.3.3. The selected Vendor(s) must not reproduce any materials produced under the contract without prior written approval from the Department.

#### **8.4. Background Checks**

8.4.1. Prior to permitting any individual to provide services under this Agreement, the selected Vendor(s) must ensure that said individual has undergone:

- 8.4.1.1. A criminal background check, at the selected Vendor(s) expense, and has no convictions for crimes that represent evidence of behavior that could endanger individuals served under this Agreement.

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

- 9.1. Appendix A – Form P-37 General Provisions, Exhibit A, and Exhibit C**
- 9.2. Appendix B – Transmittal Letter and Vendor Information**
- 9.3. Appendix C – Vendor Technical Response to Questions**
- 9.4. Appendix D – Rate Sheet**