

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EMPLOYMENT SECURITY
BANKING SERVICES FOR PROCESSING STATE AND FEDERAL
UNEMPLOYMENT COMPENSATION FUNDS**

RFP NHES-2018-02

Section 1 – Overview and Schedule

A. Executive Summary

New Hampshire Department of Employment Security, hereinafter referred to as “NHES” or “Agency”, is seeking proposals to obtain banking services for processing State and Federal unemployment compensation funds. Respondents may be a single banking institution or an association of more than one banking institution, but must be authorized to do business in New Hampshire with suitable in-network locations throughout the State of New Hampshire, as defined below. The intent of this RFP is to enable NHES to process State and Federal funds used in the operation of the Unemployment Compensation Program, and to provide for convenient service to the individuals served by the Agency. In furtherance of these objectives, the Respondent must provide in-network locations within reasonable proximity to NHES’ twelve (12) Local Offices located in the cities and towns of Berlin, Claremont, Concord, Conway, Keene, Laconia, Littleton, Manchester, Nashua, Portsmouth, Salem, and Somersworth. “In-network locations” is defined as a system of ATM and teller locations at which NHES customers may present NHES benefit checks for payment or electronic access cards for cash withdrawal without any charge, whether or not they are account holders. As referenced above, “reasonable proximity” is defined as no more than 50 miles from each NHES office location listed above and as further described in Appendix A.

B. Schedule

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

EVENT	DATE	LOCAL TIME
RFP Released to Proposers	09/12/2017	
Proposer Inquiry Period Ends	09/27/2017	4:00 PM EST
Final Agency Responses to Proposer Inquiries	09/29/2017	4:00 PM EST
Proposers Submit Proposals	10/20/2017	4:00 PM EST
Estimate Timeframe for Proposer Oral Presentations and Interviews (if applicable)	TBD	TBD
Estimated Notification of Selection and Begin Contract Negotiations	TBD	TBD

Section 2 – Description of Agency and Programs Served

A. Introduction

NHES provides unemployment compensation and reemployment services to the public at twelve (12) offices located throughout New Hampshire. The Unemployment Compensation Program provides income replacement to workers who are temporarily unemployed through no fault of their own. State and/or Federal funds are used to support unemployment benefit payments. Pursuant to NH RSA 282-A, NHES is responsible for the collection of employer unemployment tax contributions and for the payment of unemployment benefits utilizing two separate accounts: a “Benefit Account” from which benefit payments are issued and a “Clearing Account” through which unemployment tax contribution collections and/or refunds are processed. In addition, NHES requires a third account to be known as a “Revolving Fund Account.”

B. Employer Contributions

The funds used to pay most unemployment benefits are provided by subject employers in the State of New Hampshire (approximately 41,000 employers). Employers pay unemployment tax contributions based on the first \$14,000 (current taxable wage base amount) paid to each individual employee annually, and those payments are deposited into the Clearing Account. Employer unemployment tax contributions are due four times each year, on or before the last day of the month following the close of the calendar quarter.

Since employers pay unemployment tax contributions only on the first \$14,000 of wages for each employee annually, the heaviest volume of funds is processed during the first and second quarters of each calendar year. During the twelve-month period ending on December 31, 2016, a total of 68,763 items representing checks totaling \$60,470,614 and a total of 20,522 items representing electronic fund transfers (EFT) totaling \$10,905,418 were processed and deposited into the Clearing Account, with an average daily balance in the amount of \$232,094. NHES currently receives unemployment tax contributions from employers by paper checks and EFT transactions via the NHES on-line WEBTAX application. NHES utilizes remote deposit scanners to scan and deposit checks. NHES also receives EFT payments to the Clearing Account from the US Treasury under the Treasury Offset Program.

One requirement of the Unemployment Compensation Program is to have funds wire transferred from the Clearing Account to the State’s Unemployment Trust Fund Account, maintained by the United States Treasury Department in Washington, DC, not later than two business days from the date of deposit. Daily wire transfers are performed by the State’s Unemployment Trust Fund Treasurer. In addition to the checks deposited, approximately 982 checks per year are written against the Clearing Account.

Through the normal process associated with the Clearing Account, the balance in the account will accumulate an earnings credit which shall be applied against the cost of maintaining the Clearing Account.

Any cost in excess of balance earnings credit shall be invoiced to NHES – Fiscal Management Section on a monthly basis and will be paid from administrative funds outside of the Clearing Account.

NHES does not currently offer debit/credit card payment services but plans to offer the opportunity to employers and claimants to utilize these services at some future date. Pricing for such debit/credit card payment services should be provided in Appendix B – Cost Proposal, along with other cost related items.

C. Payment of Unemployment Benefits

Unemployment insurance claimants are paid benefits once per week for each week of eligibility. Unemployment benefit payments are currently provided by NHES in the form of paper check and EFT drawn against the Benefit Account. During the twelve-month period ending on December 31, 2016, a total of 56,658 checks were written to pay \$15,651,132 in unemployment benefits. Approximately 131,765 EFT transactions were processed to pay \$40,744,719 in unemployment benefits for the same period. The average daily balance of the Benefit Account for the same period was \$87,622. The current ratio of paper checks to EFTs is approximately 30/70. The overall volume of activity in the Benefit Account fluctuates depending on the unemployment rate in the State.

The largest source of deposits into the Benefit Account is wire and ACH transfers from the State's Unemployment Trust Fund Account maintained by the US Treasury Department in Washington, DC. The US Treasury wire transfers funds directly to the Benefit Account daily. Other sources of deposits include Federal program funds as well as benefit overpayment recoveries received from claimants. NHES also receives EFT payments to the Benefit Account from the US Treasury under the Treasury Offset Program.

A compensating balance is maintained in the Benefit Account, and the earnings credit on that balance shall be applied against the cost of maintaining the Benefit Account. Any cost in excess of compensating balance earnings credit shall be invoiced to NHES – Fiscal Management Section on a monthly basis and will be paid from administrative funds outside of the Benefit Account.

NHES does not currently offer but plans to implement electronic access cards (EAC) as a means of unemployment benefit payment at some future date. Pricing for such electronic access card services should be provided in Appendix B - Cost Proposal, along with all other cost related items.

D. General/Regulatory Banking Requirements

The Respondent must agree to enter into a separate collateralization agreement to cover all funds in excess of the FDIC insured limit. The collateralization agreement must include a provision to periodically adjust the collateralized amount to reflect changes in the amount of funds deposited in the Banking Institution.

Because of federal regulations found in the Cash Management Improvement Act (CMIA), NHES draws funds from the Unemployment Trust Fund Account in the US Treasury in accordance with a check

clearance pattern established in the Federal CMIA agreement. While this requirement is intended to be interest neutral, it creates the possibility, however slim, that there may not be sufficient funds in the Benefit Account to cover all checks presented for clearance. In such a case, NHES would be able to cover any shortfall once notified by the Respondent as part of the regular morning reporting on the account balances. The Respondent must agree to provide overdraft protection for the Benefit Account in the event there is a short-term overdraft and agree never to refuse to cash a valid NHES benefit check.

The Respondent must be willing to cover the overdraft without imposing the standard per check fee, by proposing a fee system based on the cost for covering the overdraft plus an agreed upon number of basis points over the average Federal Funds Rate for the previous seven days. Any overdraft costs incurred must be included on the monthly invoice to NHES for payment from administrative fund sources.

As stated previously, a compensating balance is maintained in the Benefit Account, and the earnings credit on that balance shall be applied against the cost of maintaining the Benefit Account. In the event that Benefit Account compensating balance earnings credit exceeds the costs in any given month, the excess earnings credit is to be carried forward as a credit against the future month's service charges. Any cost in excess of compensating balance earnings credit shall be invoiced to NHES – Fiscal Management Section on a monthly basis and will be paid from administrative funds outside of the Benefit Account. Additionally, costs in excess of Clearing Account balance earnings shall be invoiced to NHES – Fiscal Management Section on a monthly basis and will be paid from administrative funds outside of the Clearing Account. The selected Respondent will be compensated for the services provided to NHES for any costs in excess of compensating balance earnings credit for the Benefit Account and Clearing Account. The average balance of approximately \$10,000 maintained in the Revolving Fund Account should be sufficient to cover the service charges associated with that account.

Section 3 – Proposed Scope of Work

The Respondent must be able to provide the particular services requested within this RFP, as well as all usual and customary banking services for the Clearing Account, Benefit Account and Revolving Fund Account. In responding to the RFP, Respondents must be able to confirm their capacity to meet the following specifications for the performance of services:

- A. Respondent will provide NHES on-line access to information contained within its accounts. On-line banking system shall enable NHES to view on-line balances and posted transactions, initiate stop payments/voids of checks, initiate wire transfers, initiate EFT/ACH batches, initiate transfers between NHES accounts, verify payment statuses, obtain check copies for up to 180 calendar days as well as other customary banking activities. Respondent will provide the necessary software and training for on-line banking system.
- B. Respondent will provide on-line access to daily summary activity reports, daily detail activity reports, and daily check return files of the Benefit Account, Clearing Account, and Revolving Fund Account as noted below:

- i. Daily Summary Report: Daily reports to include the following summarized information for each NHES account: date of report, opening ledger amount, closing ledger amount, opening available amount, closing available amount, sweep closing balance, total float amount, 1 day float amount, 2 or more days float amount, number of credits, total credit amount, number of debits, total debit amount, grand total credit less grant total debit amount, total debit less wire transfer and charge-backs; total debit (without return items) amount, and total checks paid amount.
 - ii. Daily Detail Reports: Daily reports to include details of all transactions. Details separated by NHES account shall include but are not limited to those found under Daily Check Return file below plus dishonored checks and failed EFTs. EFT (ACH/FedWire) details such as originator, amount, effective date, sender, sender's banking institution, sender's address, reference number, recipient name, etc. shall also be included.
 - iii. Daily Check Return File: Data for each check includes the bank account number, check number, check amount and clear date. Data containing check information must be provided in a machine readable format that is suitable for import into third-party database systems (e.g. Oracle).
- C. Respondent will enable NHES to transfer check and EFT data files daily to the Respondent (both electronically via secure means (SFTP) and via on-line banking software) and also provide the ability to securely retrieve data electronically: a daily checks paid file, a daily void check file and a daily rejected check/EFT file for the purpose of uploading data to our UI benefit and tax systems. Data containing this information must be provided in a machine readable format that is suitable for import into third-party database systems (e.g. Oracle).
- D. Respondent will not charge any fees to non-account holders presenting NHES benefit checks for payment or EACs for cash withdrawal at any in-network location.
- E. Respondent will wire transfer funds from the Clearing Account to the US Treasury Department as instructed by NHES. Respondent will take all reasonable steps to assure that checks deposited into the Clearing Account are available for transfer within one deposit day.
- F. Respondent will post funds transferred from the US Treasury Department to the Benefit Account on the same day they are transferred.
- G. Respondent will process Wires to the Internal Revenue Service and EFT debit/credit batches as needed. Respondent will process EFT batches to / from employers and claimants. Respondent will post EFTs on effective date provided in the transmitted file.
- H. Respondent will prepare the ETA-8413, Income-Expense Analysis, UC Fund, Benefit Account (see Appendix C for sample form), and the ETA-8414, Income-Expense Analysis, UC Fund, Clearing Account (see Appendix D for sample form) according to instructions provided by NHES, and forward both reports to NHES not later than 10 calendar days after the close of each month.

- I. Respondent will provide a semi-monthly reconciliation of the Clearing Account, Benefit Account and Revolving Fund Account within 10 calendar days after the end of the reconciliation period. Images of cashed checks (front and back) must be provided semi-monthly for all three accounts. Data containing check information must be provided in a machine readable format that is suitable for import into third-party database systems (e.g. Oracle). Software and necessary training must also be provided for independent query, review and printing of single or multiple check images. Data may be provided either through secure electronic data transfer (e.g. SFTP, HTTPS) or physical media (e.g. CD/DVD).
- J. Respondent will provide Full (a/k/a Payee) Positive Pay services on the Benefit and Clearing Accounts including same-day Positive Pay and teller-line Positive Pay with the ability to set a default decision.
- K. Respondent will notify NHES immediately if it finds an error in the daily deposit to NHES accounts. Respondent will research discrepancies and provide timely documentation if changes are made to any account.
- L. Respondent must debit the correct checking account when a check and/or EFT is returned for insufficient funds. If the wrong account is debited, the Respondent will be responsible for making the necessary corrections to the account upon discovering or when notified by NHES.
- M. Following receipt of signed forgery affidavits from NHES, the Respondent will credit the appropriate NHES account for the amount of the forged check. It will be the Respondent's responsibility to investigate and obtain restitution in the amount of the forged check.
- N. Respondent will credit the appropriate account for the amount of any check cashed for which a Stop Payment/Void Order had been previously issued. It will be the Respondent's responsibility to obtain restitution of these funds.
- O. Respondent will accept on-line cancellations of stop payments and lift the stop payment from the check number the same day the cancellation is received. Respondent will resolve any issues if the cancellation is not lifted.
- P. Respondent will not honor NHES checks that are older than 6 months (stale-dated). If a stale-dated check is cashed, the Respondent will credit the appropriate account. It will be the Respondent's responsibility to obtain restitution of these funds.
- Q. Respondent will provide all carbonless deposit slips and check stock at no charge (approximately 100 checks per year for Benefit Account, 100 checks per year for Clearing Account and 50 checks per year for Revolving Account).

- R. Respondent will enter into a separate collateralization agreement to cover all funds in excess of the Federal Deposit Insurance Corporation (FDIC) insured limit.
- S. Respondent will provide two (2) check scanners for electronic check processing/deposits.
- T. Respondent will provide NHES the ability to block unauthorized debit/credit transactions on its accounts.
- U. Respondent will notify NHES immediately of any known or suspected security breach pursuant to applicable State and Federal laws.
- V. Respondent will propose a solution for NHES to consider and implement should it choose to make debit/credit card payment services available.
- W. Respondent will propose a solution for NHES to consider and implement should it choose to utilize electronic access cards (EAC) as an means to make unemployment insurance benefit payments.
- X. Respondent will provide overdraft protection for NHES accounts.

The proposal must include a detailed listing of each cost or costs to be charged for services delineated in this RFP, as well as the current earnings rate, what that rate is based on, and the frequency with which the rate is customarily changed. Banking costs to be charged that are not listed Appendix B must be detailed in the “Additional Costs to be Charged” section of Appendix B.

Section 4 – Process for Submitting a Proposal

A. Proposal Submission, Deadline, and Location Instructions

Proposals submitted in response to this RFP must be received by NHES, no later than the time and date specified in the Schedule of Events section, herein. Proposals may be delivered by U.S. Mail, Delivery Service, or In Person. Proposals may not be submitted via email. Proposals must be addressed to:

**State of New Hampshire
 Department of Employment Security
 c/o Jill Revels, Business Administrator
 Fiscal Management Section
 45 South Fruit Street
 Concord, NH 03301-4857**

Proposals must be clearly marked as follows:

**STATE OF NEW HAMPSHIRE
 DEPARTMENT OF EMPLOYMENT SECURITY
 RESPONSE TO RFP NHES-2018-02**

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

All Proposals submitted in response to this RFP must include of at least one (1) original and five (5) clearly identified copies of the Proposal, including all required attachments.

B. Proposal Inquiries

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

TO: Jill.D.Revels@nhes.nh.gov
CC: Doris.I.Beaulieu@nhes.nh.gov

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

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

C. Restriction of Contact with Agency Employees

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

communications. This restriction shall not serve to limit communications with the current NHES banking vendor that are unrelated to this RFP or RFP process.

D. Validity of Proposal

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

Section 5 - Content and Requirements for a Proposal

Proposals submitted by the Respondent should be concise. Respondents are requested to address required RFP items in no more than 15 pages. Please be sure to follow this format when developing a proposal. A transmittal letter signed by the Banking Institution President or other authorized official must accompany the proposal. Proposals shall follow the following format and provide the required information set forth below:

1. Company Background/Qualifications – Provide a brief description of the Respondent’s organization, including size, asset base, and the location of the main branch or branches which will service the accounts, as well as any additional proposed in-network locations throughout the State. Please include a list of Banking Institution personnel who will be assigned to the accounts and the specific areas for which they will be responsible. Include management, technical support and fraud investigation staff. Respondent shall also:
 - a. Provide written assurance that the Respondent will comply with the requirements found in Section 3 – Proposed Scope of Work, and all other requirements outlined in this RFP.
 - b. Respond to each requirement in the RFP, in the order listed in the RFP and explain how it intends to meet each requirement. It will not be sufficient to simply indicate that the Respondent will comply. Proposals that do not adequately address the items listed in Section 3 – Proposed Scope of Work, may be rejected.
 - c. Follow the format found in Appendix B – Cost Proposal, being sure to include any detail and other necessary service costs not already listed.
 - d. Outline how the Respondent would provide electronic access card and debit/credit card processing services to NHES. Indicate whether the services are performed by the Respondent itself or by a third-party administrator.
 - e. Describe how NHES will earn credits on funds deposited in the Benefit, Clearing and Revolving Fund accounts, including what the credits are based on and how they are calculated. Please provide a prior 12-month history of the earnings credit rate. What is the Respondent’s expectation for the rate in the next 24 months? What are the payment terms if the costs exceed the earnings credit? Understanding any costs which exceed earnings credit cannot be paid from the Benefit and/or Clearing Accounts, how does the Respondent propose to charge NHES for the costs, if any?
 - f. Outline how the Respondent will collateralize the Department’s deposits in excess of the FDIC insured amount.
 - g. Outline how the Respondent will provide overdraft protection for NHES accounts.
 - h. Explain Respondent policies and procedures regarding wire transfers, posting of deposits, float, overnight deposit of funds, hours of operation, account reconciliation, dishonored checks, check

clearance, stop payment orders and forged checks, positive pay, and all deadlines which will impact the delivery of services, such as deposit deadlines and ACH/wire transfer deadlines.

- i. Provide an overview of information security policies and procedures. Describe how the Respondent will ensure compliance with all applicable State and Federal requirements for information security.
- j. Provide a Disaster Recovery Plan to ensure a sufficient level of fail-safe and disaster recovery operations so that disruptions to services are transparent to claimants and employers. Respondent must ensure uninterrupted banking services for all electronic services.

2. References – Provide three references who can speak to the Respondent’s performance of services similar or identical to those requested in this RFP. Extra points are available for public sector references. See Section 6.

3. Cost Proposal – Appendix B must contain all of the necessary cost proposal elements required under this RFP.

Section 6 – Evaluation of Proposals

A. Criteria for Evaluation and Scoring

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

The Agency will use a scoring scale of 100 points, a maximum of 45 points awarded based on the Price Proposal, a maximum of 55 points awarded for the Technical Proposal, which will be distributed as set forth in the table below.

CATEGORIES	POINTS
TECHNICAL PROPOSAL with the following potential maximum scores for each Technical Proposal category;	55
1. Adequate staff resources, experience, qualifications, knowledge and competence to provide requested level of services	10
2. Demonstrates capacity to perform all services required by the RFP	10
3. Best meets NHES and our customers' needs (including suitable statewide branch locations and no fee charged to non-account holder to cash NHES checks)	20
4. References from clients for whom services have been performed, with 5 points reserved for public sector client references	10 Plus 5
PRICE PROPOSAL POTENTIAL MAXIMUM POINTS	45
TOTAL POTENTIAL MAXIMUM POINTS AWARDED	100

The Agency will select a Proposer based upon the criteria and standards contained in this RFP and from applying the weighting in this section as described in more detail below.

Should the Agency be unable to reach agreement with the selected Proposer during Contract discussions, the Agency may then undertake Contract discussions with the second preferred Proposer and so on, or the Agency may reject all proposals, cancel this RFP, or solicit new Proposals under a new acquisition process.

B. Planned Evaluations

The Agency plans to use the following process:

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

C. Initial Screening

The Agency will conduct an initial screening step to verify Proposer compliance with the technical submission requirements set forth in the RFP and the minimum content set forth in Section 5 of this RFP. The Agency may waive or offer a limited opportunity to cure immaterial deviations from the RFP requirements if it is determined to be in the best interest of NHES and the State.

D. Preliminary Technical Scoring of Proposals

The Agency will establish an evaluation team to initially score the Technical Proposals. This evaluation team will be comprised of the Deputy Commissioner, Director of the Unemployment Compensation Bureau, Fiscal Business Administrator, Trust Fund Treasurer, Legal Counsel and other appropriate technical and/or legal staff. The Department reserves the right to call on other technical and/or legal staff as may be required for this review. The evaluation team will review the technical proposals and give a preliminary score to the technical proposals under the guidelines set forth in Section 6.

E. Oral Interviews and Product Demonstrations

If the Agency determines that it is appropriate, proposers may be invited to oral interviews and/or product demonstrations including demonstrations of any proposed automated systems or technology components. The Agency retains the sole discretion to determine whether to conduct oral interviews, with which proposers; and the number of interviews. Proposers are advised that the Agency may decide to conduct interviews with less than all responsive proposers.

The purpose of oral interviews and product demonstrations is to clarify and expound upon information provided in the written Proposals. Proposers are prohibited from altering the basic substance of their Proposals during the oral interviews and product demonstrations. The Agency may ask the Proposer to

provide written clarifications of elements in their Technical Proposal regardless of whether it intends to conduct Oral Interviews.

Information gained from oral interviews and product demonstrations will be used to refine technical review scores assigned from the initial review of the Proposals.

F. Final Technical Scoring of Proposals

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

G. Price Proposal Review

The Proposer's Price Proposal will be allocated a maximum potential score of 45 points. Proposers are advised that this **is not a low bid award** and that the scoring of the price proposal will be combined with the scoring of the technical proposal to determine the overall highest scoring Proposer.

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

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

H. No Best and Final Offer

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

I. Final Selection

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

J. Rights of the Agency in Accepting and Evaluating Proposals

The Agency reserves the right to:

- Make independent investigations in evaluating Proposals;
- Request additional information to clarify elements of a Proposal;
- Waive minor or immaterial deviations from the RFP requirements if determined to be in the best interests of the Agency and the State of New Hampshire;
- Omit any planned evaluation step if, in the Agency's sole discretion, the step is not needed;
- At its sole discretion, reject any and all Proposals at any time; and
- Open contract discussions with the second highest scoring Proposer and so on, if the Agency is unable to reach an agreement on Contract terms with the higher scoring Proposer(s).

Section 7 – Terms and Conditions Related To The RFP Process

A. RFP Addendum

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

B. Non-Collusion

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

C. Property of the Agency

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

D. Confidentiality of a Proposal

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

E. Public Disclosure

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

The content of each Proposer's Proposal shall become public information upon the award of any resulting Contract. Any information submitted as part of a response to this request for proposal (RFP) may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP will be made accessible to the public online via the website Transparent NH (<http://www.nh.gov/transparentnh/>). 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. **If you believe any information being submitted in response to this request for proposal, bid or information should**

be kept confidential as financial or proprietary information; you must specifically identify that information in a letter to the agency, and must mark/stamp each page of the materials that you claim must be exempt from disclosure as “CONFIDENTIAL”. A designation by the Proposer of information it believes exempt does not have the effect of making such information exempt. The Agency will determine the information it believes is properly exempted from disclosure. Marking of the entire Proposal or entire sections of the Proposal (e.g. pricing) as confidential will neither be accepted nor honored. Notwithstanding any provision of this RFP to the contrary, Proposer pricing will be subject to disclosure upon approval of the contract. The Agency will endeavor to maintain the confidentiality of portions of the Proposal that are clearly and properly marked confidential. If a request is made to the Agency to view portions of a Proposal that the Proposer has properly and clearly marked confidential, the Agency will notify the Proposer of the request and of the date the Agency plans to release the records. Proposers agree that unless a Proposer obtains a court order, at its sole expense, enjoining the release of the requested information, the Agency may release the requested information on the date specified in the Agency’s notice without any further obligation to the Proposer and may not be held liable for any consequence of the release.

F. Non-Commitment

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

G. Proposal Preparation Cost

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

H. Ethical Requirements

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

I. Challenges on Form or Process of the RFP

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

Section 8 – Contract Terms and Award

A. Award

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

B. Standard Contract Terms

The Agency will require the successful bidder to execute a Not to Exceed Contract using the Standard Terms and Conditions of the State of New Hampshire which is attached as Appendix E (P-37). Any contract entered into as a result of this RFP is subject to approval by Governor & Executive Council and contingent upon continued appropriation of funding for the contract.

The successful Proposer must be prepared at the time of contract execution to provide a Certificate of Good Standing (if applicable) from the NH Secretary of State; a Certificate of Vote or notarized statement authorizing the person signing the contract to bind the company to its terms; and an insurance certificate consistent with the insurance requirements of the P-37 contract form. See Appendix E.

The Term of the Contract will be for three (3) years from the date of approval. The contract term may be extended by up to two (2) additional one (1) year terms at the sole option of the State, subject to the parties' prior written agreement on terms and applicable fees for each extended term, contingent upon satisfactory vendor performance, continued funding and Governor & Executive Council approval.

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

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

- a. **CONFIDENTIALITY AND CRIMINAL RECORD** Contractor and each of its employees working on NHES property will be required to sign and submit **STATEMENT OF CONFIDENTIALITY OF RECORDS FORM** and a **CRIMINAL RECORD AUTHORIZATION FORM** prior to the start of any work. There is a fee for each background check required, which must be paid by the Contractor.
- b. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS IN PRIMARY COVERED TRANSACTIONS** Contractor certifies that the primary participant, and its principals, to the best of its knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or State agency. Contractor will inform NH Employment Security of any changes in the status regarding this statement.
- c. **AMERICANS WITH DISABILITIES ACT** The undersigned Contractor agrees to comply with all Federal, State and Local ADA rules and regulations.
- d. **NON-DISCRIMINATION** In connection with the furnishing of services under the Contract, the Contractor agrees to comply with all laws, regulations, and orders of federal, state, county or municipal authority which impose any obligations or duties upon the Contractor, including but not limited to civil rights laws, non-discrimination laws and equal opportunity laws.

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, disability, national origin, marital status or veteran status, and will take appropriate steps to prevent such discrimination.

RFP NHES-2018-02

Appendix A

NH EMPLOYMENT SECURITY LOCAL OFFICES
151 Pleasant St. Berlin NH 03570-0159
17 Water Street Claremont NH 03743-2261
45 South Fruit Street Concord NH 03301-4857
518 White Mountain Highway Conway NH 03818
149 Emerald Street Keene NH 03431
426 Union Ave. Suite 3 Laconia NH 03246-2894
646 Union St. Suite 100 Littleton NH 03561
300 Hanover St Manchester NH 03104-4957
6 Townsend West Nashua NH 03060-3285
2000 Lafayette Rd Portsmouth NH 03801-5673
29 S Broadway Salem NH 03079-3026
6 Marsh Brook Drive Somersworth, NH 03878-3878

RFP NHES-2018-02

**Appendix B
Cost Proposal**

Item Description	Cost Per Item	Estimated Annual Volume	Estimated Annual Variable Cost	Additional Monthly Fixed Cost	Additional Annual Fixed Cost
Paid Items		115,000	\$ -		
Check Scanner for Deposits		2	\$ -		
Deposits (via scanner)		1,000	\$ -		
Deposits (via teller)		24	\$ -		
Deposited Items (via scanner)		75,000	\$ -		
Deposited Foreign Checks*		5	\$ -		
Stop Payments		5	\$ -		
Wires Incoming		350	\$ -		
Wires Outgoing		300	\$ -		
Imaging		115,000	\$ -		
ACH Items		175,000	\$ -		
ACH File Transmission		625	\$ -		
ACH Failed		450	\$ -		
ACH NOC		400	\$ -		
ACH Reversal		4	\$ -		
Other ACH Fees			\$ -		
Deposited Check Return		100	\$ -		
Positive Pay Services		115,000	\$ -		
Positive Pay Voids		300	\$ -		
Electronic Banking			\$ -		
Account Maintenance			\$ -		
Full Account Reconciliation		115,000	\$ -		
Overdraft Protection			\$ -		
Earnings Credit Rate			\$ -		
Electronic Access Card Functionality			\$ -		
Debit/Credit Payment Acceptance Functionality			\$ -		
* Foreign checks to be deposited in US currency.					
Additional costs to be charged not included above (add lines/pages as needed):					
			\$ -		
			\$ -		
			\$ -		

Proposer Name _____

Print & Sign _____

Address _____

Email/Phone _____

Signing page constitutes agreement and compliance with Request For Proposal requirements.

FORM ETA 8413

U.S DEPARTMENT OF LABOR
 EMPLOYMENT & TRAINING ADMINISTRATION
 INCOME-EXPENSE ANALYSIS, UC FUND
 BENEFIT PAYMENT ACCOUNT

FROM: _____
 TO: _____
 DAY# _____
 ACCT# _____

(AS SHOWN BY THE BOOKS OF THE DEPOSITORY INSTITUTION)

DAY OF MONTH	DAILY LEDGER BALANCE	DEPOSITS		WITHDRAWALS	
		#	AMOUNT	#	AMOUNT
Beg Bal					
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					
26					
27					
28					
29					
30					
31					
	0.00	0	0.00	0	0.00

AVERAGE BALANCE	0.00
LESS: AVERAGE FLOAT	
AVERAGE COLLECTED BALANCE	0.00
LESS RESERVE REQUIREMENT @ _____%	0.00
AVERAGE AVAILABLE BALANCE	0.00
EARNINGS CREDIT ALLOWANCE @ _____%	0.00

EXPENSE ANALYSIS			
Paid Items	@ \$		0.00
Check Scanner for Deposits	@ \$		0.00
Deposits (via scanner)	@ \$		0.00
Deposited Items (via scanner)	@ \$		0.00
Stop Payments	@ \$		0.00
Wires Incoming	@ \$		0.00
Wires Outgoing	@ \$		0.00
Imaging	@ \$		0.00
ACH Items	@ \$		0.00
ACH File Transmission	@ \$		0.00
ACH Failed	@ \$		0.00
ACH NOC	@ \$		0.00
ACH Reversal	@ \$		0.00
Other ACH Fees	@ \$		0.00
Deposited Check Return	@ \$		0.00
Positive Pay Services	@ \$		0.00
Positive Pay Voids	@ \$		0.00
Electronic Banking	@ \$		0.00
Account Maintenance	@ \$		0.00
Full Account Reconciliation	@ \$		0.00
Overdraft Protection	@ \$		0.00
Earnings Credit Rate	@ \$		0.00
	@ \$		0.00
TOTAL COSTS			0.00
NET PROFIT/LOSS			0.00

Appendix C

FORM ETA 8414

U.S DEPARTMENT OF LABOR
 EMPLOYMENT & TRAINING ADMINISTRATION
 INCOME-EXPENSE ANALYSIS, UC FUND
 CLEARING ACCOUNT

FROM: _____
 TO: _____
 DAY# _____
 ACCT# _____

(AS SHOWN BY THE BOOKS OF THE DEPOSITORY INSTITUTION)

DAY OF MONTH	DAILY LEDGER BALANCE	DEPOSITS		WITHDRAWALS				
		#	AMOUNT	#	AMOUNT			
Beg Bal								
1						AVERAGE BALANCE		0.00
2						LESS AVERAGE FLOAT		
3								
4						AVERAGE COLLECTED BALANCE		0.00
5						LESS RESERVE REQUIREMENT @ _____%		0.00
6								
7						AVERAGE AVAILABLE BALANCE		0.00
8								
9						EARNINGS CREDIT ALLOWANCE @ _____%		0.00
10								
11								
12								
13								
14						EXPENSE ANALYSIS		
15						Paid Items	@ \$	0.00
16						Check Scanner for Deposits	@ \$	0.00
17						Deposits (via scanner)	@ \$	0.00
18						Deposited Items (via scanner)	@ \$	0.00
19						Stop Payments	@ \$	0.00
20						Wires Incoming	@ \$	0.00
21						Wires Outgoing	@ \$	0.00
22						Imaging	@ \$	0.00
23						ACH Items	@ \$	0.00
24						ACH File Transmission	@ \$	0.00
25						ACH Failed	@ \$	0.00
26						ACH NOC	@ \$	0.00
27						ACH Reversal	@ \$	0.00
28						Other ACH Fees	@ \$	0.00
29						Deposited Check Return	@ \$	0.00
30						Positive Pay Services	@ \$	0.00
31						Positive Pay Voids	@ \$	0.00
						Electronic Banking	@ \$	0.00
	0.00	0	0.00	0	0.00	Account Maintenance	@ \$	0.00
						Full Account Reconciliation	@ \$	0.00
						Overdraft Protection	@ \$	0.00
						Earnings Credit Rate	@ \$	0.00
							@ \$	0.00
						TOTAL COSTS		0.00
						NET PROFIT/LOSS		0.00

Appendix D

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

AGREEMENT

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

GENERAL PROVISIONS**1. IDENTIFICATION.**

1.1 State Agency Name		1.2 State Agency Address	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Number	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency		1.10 State Agency Telephone Number	
1.11 Contractor Signature		1.12 Name and Title of Contractor Signatory	
1.13 Acknowledgement: State of _____, County of _____ On _____, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace			
[Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature		1.15 Name and Title of State Agency Signatory	
Date:			
1.16 Approval by the N.H. Department of Administration, Division of Personnel (<i>if applicable</i>)			
By: _____		Director, On: _____	
1.17 Approval by the Attorney General (Form, Substance and Execution) (<i>if applicable</i>)			
By: _____		On: _____	
1.18 Approval by the Governor and Executive Council (<i>if applicable</i>)			
By: _____		On: _____	

Appendix E

2. EMPLOYMENT OF CONTRACTOR/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 A 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 1.18, 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 1.14 (“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, and 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 terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account 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 B 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 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 opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright 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 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 (“Equal Employment Opportunity”), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further 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

Appendix E

Agreement. This provision shall survive termination of this Agreement.

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

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, 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 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 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 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.

9.2 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.

9.3 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.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall 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 A.

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.

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. 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 maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

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

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 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.

Appendix E

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 thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

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

16. WAIVER OF BREACH. 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.

17. 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.

18. 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.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be 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.

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 provisions set forth in the attached EXHIBIT C 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 relating hereto.