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**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**Health Market Conduct Examination**

**RFP 2023-7-NHID**

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## Section 1 Overview and Schedule

### 1.1 Goal of This Procurement/Business Needs

The Department is requesting proposals for a Vendor to conduct a targeted market conduct examination in accordance with RSA 400-A:37, and the National Association of Insurance Commissioners' (NAIC) Market Regulation Handbook, to assess compliance with federal and state law.

The scope of this examination includes a review and assessment of carrier claims handling practices, grievance and appeals processes, and prior authorization practices, and shall include data collection, policy and procedure review, and file sampling and testing to determine compliance with NH statutes and rules relative to the timeliness and compliance of prior authorization practices, the timeliness and accuracy of claims handling, and the timeliness and accuracy of grievance and appeals handling.

The contract will commence upon Department approval and continue through the completion of the exam. The company being examined shall be responsible for bearing the costs of the services provided in accordance with RSA 400-A:37, III (d).

### 1.2 Schedule

The following table provides a Schedule of Events for this RFP through contract finalization and approval. The Department 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 (Advertisement)	12/01/2023	
Vendor Inquiry Period Ends	12/15/2023	4:30 PM
Final Department Responses to Inquiries	12/20/2023	4:30 PM
Proposals Due	01/05/2023	12:00 PM
Estimated Notification of Selection	01/12/2024	4:00 PM

### 1.3 Description of Department or Program Issuing the Request for Proposals

The New Hampshire Insurance Department (Department) was established in 1851 as the first insurance regulator in the nation. The laws that govern the responsibilities of the Department are set forth in Title XXXVII, codified at RSA 400 through RSA 420-Q. The Insurance

Commissioner is charged under Title XXXVII with the enforcement and execution of the insurance laws of New Hampshire, with the collection of premium taxes and fees, and the regulation of the insurance marketplace to ensure fair treatment of policyholders and claimants. The Department also is charged with promoting competitive and safe insurance markets.

The Life and Health Division of the Insurance Department includes several units that exist to ensure compliance with life and health insurance laws and regulations in the state. The Division's Market Regulation Unit, which among other duties, is responsible for market conduct examinations conducted in accordance RSA 400-A:37 and will manage the contract established through this RFP.

The Department is requesting proposals for a Vendor to conduct a targeted market conduct examination in accordance with RSA 400-A:37, and the National Association of Insurance Commissioners' (NAIC) Market Regulation Handbook, to assess compliance with federal and state law.

#### **1.4 Vendor Instructions**

Interested Vendors must read the entire RFP and submit the required documents in the manner specified in the RFP. Vendors are responsible for reviewing the most updated information related to this RFP before submitting proposals.

## **Section 2 Requirements and Scope of Work**

### **2.1 Minimum Vendor Qualifications**

The Vendor must make available for this project a team of professionals with the applicable experience necessary to complete the analysis outlined in Section 2.2. The Vendor must have knowledge and experience in all aspects of market conduct examinations, including knowledge of NAIC Market Conduct Handbook, as well as general knowledge of prior authorization practices, and claim handling and grievance and appeal handling practices, and related New Hampshire insurance regulatory requirements to contribute to the successful completion of this project.

### **2.2 Scope of Work**

The Department seeks a Vendor to perform two targeted market conduct examinations of identified entities in accordance with federal and state law, and the NAIC Market Regulation Handbook. The examinations will include review of

claims, grievances, and external review examination standards. The examination period is 18 months. The examinations are to be run concurrently. The Department anticipates commencing the examination by January 22, 2024, and all work must be completed no later than June 30, 2025.

The Vendor shall act as the examiner-in-charge (EIC) and be responsible for the execution of complete and thorough examinations in accordance with applicable regulations and standards under the direction of the Department. The Department will provide 2-3 examiners to work closely with the EIC. Any other necessary staff must be supplied by the Vendor.

The Vendor shall be expected to be onsite at the Department for several days for project kick-off. The majority of the exam work is expected to be conducted remotely. The Vendor may be required to attend and testify at meetings, including administrative, or judicial, as requested.

## **Section 3      Contract Terms and Conditions**

### **3.1    Non-Exclusive Contract**

Any resulting Contract from this RFP will be a non-exclusive Contract. The Department reserves the right, at its discretion, to retain other Vendors to provide any of the services or deliverables identified in this RFP or make an award by item, part or portion of an item, group of items, or total Proposal.

### **3.2    Standard Contract Terms**

The Department will require the selected vendor to execute a contract using the Professional Services Agreement which is attached as Appendix A. In no event is a vendor to submit its own standard contract terms and conditions as a replacement for the State's terms in response to this solicitation.

The terms of this RFP and the selected vendor's Proposal will be used to form the terms of any resulting contract. The resulting contract may incorporate some or all of the selected Vendor's Proposal.

To the extent that a vendor believes that exceptions to the contract terms in Appendix A will be necessary for the vendor to enter into the contract, the vendor must note those issues in its Proposal.

## **Section 4      Request for Proposal Process**

### **4.1    Department Point of Contact/Restriction of Contact with Department Employees**

The **sole point of contact** for this RFP, from the RFP issue date until the approval of the resulting contract by the Department is:

Maureen Belanger

Maureen.V.Belanger@ins.nh.gov

From the date of release of this RFP 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 RFP is prohibited unless first approved by the RFP Sole Point of Contact. Department employees have been directed not to hold conferences and/or discussions concerning this RFP with any potential Vendor during the selection process unless otherwise authorized by the RFP Sole Point of Contact. Vendors may be disqualified for violating this restriction on communications.

## **4.2 Vendor Inquiries**

All inquiries concerning this RFP, including but not limited to, requests for clarifications, questions, any changes to the RFP, and shall be submitted via email to the Department Point of Contact specified above. Inquiries must be received by the end of the vendor inquiry period (see Schedule of Events herein).

The vendor must identify the RFP name and the number and include the vendor's name, telephone number, and e-mail address.

The Department will issue responses to properly submitted inquiries on or before the date specified in the Schedule of Events; however, this date is subject to change at the Department's discretion.

The Department may consolidate and/or paraphrase questions for sufficiency and clarity. The Department may, at its discretion, amend this RFP on its own initiative or in response to issues raised by inquiries, as it deems appropriate. Questions about or requested exceptions to the RFP, Professional Services Agreement, and/or any relevant attachments not raised during the inquiry period are waived. Oral statements, representations, clarifications, or modifications concerning the RFP shall not be binding upon the Department. Official responses by the Department will be made only in writing by the process described above. Vendors shall be responsible for reviewing the most updated information related to this RFP before submitting a proposal.

## **Section 5 RFP Terms and Conditions**

### **5.1 Debarment**

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

## **5.2 Proposal Preparation Cost**

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

## **5.3 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.

## **5.4 RFP Addendum**

The Department 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 Department, at its sole discretion, may extend the Proposal submission deadline, as it deems appropriate.

## **5.5 Non-Collusion**

The vendor'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 Vendors and without effort to preclude the Department from obtaining the best possible competitive Proposal.

## **5.6 Property of the Department**

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

## **5.7 Proposal Confidentiality**

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 vendor's disclosure or distribution of Proposals other than to the Department may be grounds for disqualification.

## **5.8 Public Disclosure**

The information submitted in response to this RFP (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 law, including 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/>).



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 RFP 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 RFP, identifying the specific page number and section of the information they consider to be confidential, commercial, or financial and providing their rationale for each designation. Marking or designating an entire proposal, attachment, or section as confidential shall neither be accepted nor honored by the State. Vendors must also provide a separate copy of the full and complete document, fully redacting those portions and shall note on the applicable page or pages that the redacted portion or portions are "confidential."

Submissions that 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 State as not conforming to the requirements of the proposal.

Pricing, which includes but is not limited to, the administrative costs and other performance guarantees in Proposals or any subsequently awarded contract shall be subject to public disclosure regardless of whether it is marked as confidential.

Notwithstanding a vendor's designations, the State is obligated under the Right-to-Know law to conduct an independent analysis of the confidentiality of the information submitted in a proposal. If a request is made to the State to view or receive copies of any portion of the proposal, the State shall first assess what information it is obligated to release. The State will then notify the Vendor that a request has been made, indicate what, if any, information the State has assessed is confidential and will not be released, and specify the planned release date of the remaining portions of the proposal. To halt the release of information by the State, a vendor must initiate and provide to the State, 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.

By submitting a proposal, vendors acknowledge and agree that:

- The State may disclose any and all portions of the proposal or related

materials that 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 RFP.

- The State 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 in your proposal; and
- The State 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.

## **5.9 Electronic Posting of RFP Results and Resulting Contract**

At the time of receipt of proposals, the Department will post the number of responses received with no further information. The Department will disclose the rank or score at least 5 business days before final approval of the contract.

## **5.10 Non-Commitment**

Notwithstanding any other provision of this RFP, this RFP does not commit the Department to award a contract. The Department 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.

## **5.11 Ethical Requirements**

From the time this RFP is published until a contract is awarded, no vendor shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who will or has selected, evaluated, or awarded an RFP, or similar submission. Any vendor that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any vendor who has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or who is subject to a pending criminal charge for such an offense, shall be disqualified from bidding on the RFP, or similar request for submission and every such vendor shall be disqualified from bidding on any RFP or similar request for submission issued by any state Department. A vendor that was disqualified under this section because of a pending criminal charge that 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.

## **5.12 Challenges to Identification of Selected Vendor**

Within 5 business days of the Department's posting of the rank or score on its website, vendors may, in accordance with RSA 21-G:37, request that the

Department review its selection process. The request must be in writing and must specify all points on which the vendor believes the Department erred in its process and shall contain such argument in support of its position as the vendor seeks to present. In its request for review, a vendor shall not submit, and the Department will not accept nor consider, any substantive information that was not included in the original proposal. The Department will respond to the request within 5 business days of its receipt.

## Section 6 Evaluation of Proposals

### 6.1 Criteria for Evaluation and Scoring

The Department will evaluate each responsive Proposal using a scoring scale of 100 points, 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:	
PROPOSED APPROACH TO THE PROJECT	30
GENERAL EXPERIENCE	25
SPECIFIC EXPERTISE	35
PRICE PROPOSAL, with the following potential maximum score:	10
TOTAL MAXIMUM POINTS	100

- Proposed Approach to the Project: The proposal must include a detailed Work Plan to adequately address both examinations. The Work Plan should include a schedule of tasks, deliverables, major milestones, task dependencies, and projected time allotments for each examination. The work plan should follow the examination process outlined in the NAIC Market Conduct Handbook and RSA 400-A:37.
- General Experience: The proposal should detail the general qualifications and related experience of the Vendor as an organization. The Vendor must be familiar with the legal, and regulatory landscape relating to health insurance. In particular, the Vendor must have experience relative to the development, implementation, and execution of the market conduct examination process, including the creation of audit and work plans, coordinator's handbooks, interrogatories and requests for information, criticisms, data calls, testing protocols, and the use of statistically significant sampling techniques. Knowledge and experience regarding prior authorization processes, claims handling,

and grievance and appeal handling, and external review are preferred.

The proposal should include a list of prior examination work and provide 2 references from former engagements by the Vendor that reflect the skills appropriate for this project, including telephone numbers and specific persons to contact.

- Specific Expertise: The proposal should include a summary of experience each individual will be bringing to the project, including a current resume for each individual expected to perform work under the proposal. Each individual should have experience conducting market conduct examinations. Each individual should have knowledge and familiarity with state and federal laws and regulations, the NAIC Market Regulation Handbook, health insurance products, health insurance claims administration, and grievance and external review processes.
- Price Proposal: The proposal should include the hourly rate for each individual working on the project, and an estimate of the amount of time each person is expected to expend on the project in accordance with the proposed work plan for each examination. Proposals will be evaluated with emphasis on the hourly rate, project timeline estimates, and the hours associated with staff possessing crucial expertise.

The Department will select a vendor based on the criteria and standards contained in this RFP and by applying the weighting in this section. Oral interviews and reference checks, to the extent they are utilized by the Department, may be used to refine and finalize scores.

If the Department decides to make an award based on these evaluations, the Department will notify the selected vendor(s). Should the Department be unable to reach agreement with the selected vendor(s) during Contract discussions, the Department may then undertake Contract discussions with the next preferred vendor and so on, or the Department may reject all proposals, cancel this RFP, or solicit new Proposals under a new acquisition process.

## **6.2 Planned Evaluations Steps**

The Department plans to use the following process:

- Step 1. Initial screening to ensure that the Proposals are in compliance with submission requirements;
- Step 2. Preliminary evaluation of the Technical Proposals;
- Step 3. Oral interviews (only if deemed necessary);

- Step 4. Final Scoring of Technical Proposals;
- Step 5. Price Proposals review; and
- Final Selection: Select the highest-scoring vendor(s) and begin contract execution.

### **6.3 Step 1: Initial Screening**

The Department will conduct an initial screening to verify vendor compliance with the proposal submission requirements set forth in Sections 4 and 7. The Department may waive or offer a limited opportunity to cure immaterial deviations from the RFP requirements if it is determined to be in the best interest of the State.

### **6.4 Step 2: Preliminary Technical Scoring of Proposals**

The Department will establish an evaluation team to review for compliance with the minimum requirements as set forth in Section 2. This evaluation team will then review the technical proposals and give a preliminary score to the technical proposals under the guidelines set forth in Section 6. Price proposals will not be reviewed by the evaluation team during the preliminary technical review.

### **6.5 Step 3: Oral Interviews and Product Demonstrations**

If the Department determines that it is appropriate, vendors may be invited to oral interviews. The Department retains the sole discretion to determine whether to conduct oral interviews, with which vendors, and the number of interviews. Vendors are advised that the Department may decide to conduct interviews with less than all responsive vendors. The purpose of oral interviews and product demonstrations is to clarify and expound upon information provided in the written proposals. Vendors are prohibited from altering the basic substance of their proposals during the oral interviews and product demonstrations. The Department may ask the vendor 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.

### **6.6 Step 4: Final Technical Scoring of Proposals**

Following oral interviews, product demonstrations, reference checks (if appropriate), and/or review of written clarifications of proposals requested by the Department, the evaluation team will determine a final score for each technical proposal.

### **6.7 Step 5: Price Proposal Review**

Price proposals will be reviewed upon completion of the final technical scoring of proposals. The Vendor's price proposal will be allocated a maximum potential score of 25 points. Vendors 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 vendor.

#### **6.8 No Best and Final Offer**

The Proposal should be submitted initially on the most favorable terms that the vendor can offer. There will be no best and final offer procedure.

#### **6.9 Final Selection**

The Department will conduct a final selection based on the final evaluation of the proposals and begin contract discussions with the selected vendor(s).

#### **6.10 Rights of the Department in Accepting and Evaluating Proposals**

The Department reserves the right, at its sole discretion, to:

- Make independent investigations in evaluating proposals;
- Request additional information to clarify elements of a proposal;
- Waive minor or immaterial deviations from the RFP and contract requirements, if determined to be in the best interest of the State;
- Omit any planned evaluation step if, in the Department's view, the step is not needed;
- Reject any and all proposals at any time; and
- Open contract discussions with the second highest scoring vendor and so on, if the Department is unable to reach an agreement on contract terms with the higher scoring vendor(s).

### **Section 7      Process for Submitting a Proposal**

Proposals submitted in response to this RFP must be received no later than the Proposal Due Date specified in the Schedule of Events in this RFP.

The Price proposal must be labeled clearly and submitted separately from the technical proposal.

Unless waived as a non-material deviation in accordance with Section 6, late submissions will not be accepted. Delivery of the Proposals shall be at the vendor's expense. The time of receipt shall be considered when a Proposal has been officially documented by the Department, in accordance with its established policies, as having been received at the email address designated below.

Proposals must include one electronic copy of the Proposal with all Confidential Information fully redacted, as provided for in Section 5H of this RFP and one unredacted copy.

Proposals must be clearly marked as follows:

STATE OF NEW HAMPSHIRE

**RESPONSE TO RFP 2023-7-NHID**

Proposals must be submitted electronically, by email, and must be addressed to:

**TO:** Maureen.V.Belanger@ins.nh.gov

**CC:** Jason.G.Dexter@ins.nh.gov

*Subject line must include:* RESPONSE TO RFP 2023-7-NHID. Submissions must be submitted using the following criteria:

- a. Searchable PDF Format
- b. Files must be less than 10MB in size.

Exception: If files are greater than 10MB in size, the vendor will be required to submit their proposal in parts. It is the vendor's responsibility to ensure a complete proposal is submitted.

## **Section 8      Proposal Content and Requirements**

Proposals should follow the format outlined below and provide the required information set forth below:

- Cover page
- Transmittal letter
- Technical Proposal, including narratives that contain the following elements as described in Section 6 of this RFP and that respond to the Goals and Scope of Work as described in Sections 1 and 2 of this RFP:
  - Proposed Approach to the Project
  - Qualifications and Experience
  - Technical expertise
- Price Proposal, as described in Section 6 and stated separately from the Technical Proposal.