

STATE OF NEW HAMPSHIRE

REQUEST FOR PROPOSALS

2021–SFG 103 – Legal and Policy Analysis of Formulary Review

INTRODUCTION

The New Hampshire Insurance Department (NHID) is requesting proposals for a contractor to provide recommendations for formulary review best practices and provide legal and policy analysis of state and federal laws around discriminatory formulary practices and potentially produce an assistive tool that does not require the use of Macros and produces a simple assessment report. This contract will expire August 18, 2021.

GENERAL INFORMATION/INSTRUCTIONS.

The Contractor will provide recommendations to the NHID for best practices for the review of formularies submitted to the Department to ensure compliance with EHB benchmarks and identify discriminatory practices. The Contractor will also provide the Department with an analysis of the state and federal laws around discriminatory formulary practices. [RSA 420-J:7-b](#), [RSA 415](#), and [RSA 417:4](#) are statutes that cover formulary regulation in New Hampshire. The federal regulations pertaining to prohibition on discrimination and compliance with essential health benefits (EHBs) are found in [45 CFR § 156.125](#), and new issuers must comply with requirements of [45 CFR § 156.200](#) and [45 CFR § 156.225](#).

The Centers for Medicare and Medicaid Services (CMS) have developed review tools that are publicly available for use by insurance companies and states to review filings that involve the use of Excel Macros. The review tools may be found here: <https://www.qhpcertification.cms.gov/s/Review%20Tools>

These review tools can serve as a guide for the possible creation of a tool developed in SAS, Tableau or other program as agreed to by NHID if time permits and skills are conducive to producing a tool.

The health insurance carriers submit their formularies on a standardized template developed by CMS that is publicly available. The template may be found here: <https://www.qhpcertification.cms.gov/s/Prescription%20Drugs>.

Testing the submissions of formularies typically involves:

- Data integrity;
 - Unique drug counts;
 - Non-discrimination cost-sharing;
 - Non-discrimination category and classification of drugs;
 - Identification of outliers from EHB benchmark plan;
 - Identification of large numbers of drugs requiring step therapy and prior authorization;
- and

- Availability of covered drugs associated with ten conditions as recommended in clinical guidelines, to ensure that issuers are offering a sufficient type and number of drugs.

Contractor is not expected to evaluate carrier (or pharmacy benefit manager) compliance with state or federal laws but rather provide recommendations and analysis of laws and policy.

Deliverables include:

- Written recommendations for best practices for formulary review to determine compliance with state and federal law; and
- Written analysis of formulary laws, regulations, and policy guidance or FAQs.

Optional deliverables include:

- Efficient tool(s) that read in plan formulary(s) and produce summary findings;
- User manual to maintain and update tool(s);
- Operating procedures for using tool(s) and explanation of output produced from tool(s); and
- Training for NHID staff on use of tool and process for review.

All of the tasks specified above should be included in any proposal submitted to the NHID.

The proposal's total cost may not exceed \$153,599. The not-to-exceed limit should serve as a limit for overall NHID financial exposure and also as a limit on Contractor resources dedicated to this project.

This arrangement is funded by federal grant funds and will continue through August 18, 2021, subject to legislative approval of the next biennial budget and continued access to grant funds.

Electronic proposals will be received until 4 p.m. local time on March 15, 2021, at the New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord, New Hampshire, 03301. Emails should be sent to maureen.a.mustard@ins.nh.gov and include in the subject line: "RFP - Legal and Policy Analysis of Formulary Review."

Proposals should be prepared simply and economically, providing a straightforward, concise description of bidder capabilities and planned approach to the work. Emphasis should be on completeness and clarity of content.

EVALUATION OF PROPOSALS

Evaluation of the submitted proposals will be accomplished as follows:

- (A.) General. An evaluation team will judge the potential contractor and appropriateness for the services to the NHID.

Officials responsible for the selection of a contractor shall ensure that the selection process accords equal opportunity and appropriate consideration to all who can meet the specifications.

Failure of the applicant to provide in its proposal all information requested in this request

for proposal may result in disqualification of the proposal.

(B.) Specific. A comparative scoring process will measure the degree to which each proposal meets the following criteria:

(1) Specific skills needed:

- a) Expertise with health insurance formularies or similar NDC level data;
- b) A functional understanding of pharmacy benefits management and health insurance;
- c) Expertise with public policy; and
- d) Expertise in regulatory insurance law.

Optional: Expertise with SAS, Tableau, and the ability to develop a tool to assess compliance of formularies submitted.

The proposal must include references for recent engagements that demonstrate the Contractor's ability to complete this project, including contact information and specific persons to contact.

(30 percent)

(2) General qualifications and related experience of the contractor. Knowledge of health insurance formularies, simple data storage systems, and health insurance law. The proposal must include a summary of experience of key personnel, including current resumes for all personnel that will be assigned to this project.

(20 percent)

(3) Derivation of cost for the Contractor time. The proposal should include the hourly or daily rate for the Contractor, and the timeline for the work. The proposal must include a not-to-exceed limit through contract termination, but the proposal will be evaluated with particular scrutiny of the hourly rates and how efficient the Contractor is likely to be, based on the Contractor's skills and experience. The not-to-exceed limit should serve as a limit for overall NHID financial exposure, and also as a limit on Contractor resources dedicated to this project.

The proposal must include amounts for any material expenses related to performing the work (e.g. specialized computer hardware or software) and any expected out-of-pocket or travel expenses. No benefits in addition to payment for services other than those specifically identified above or included in the proposal shall be provided by the NHID under the contract.

(30 percent)

(4) Plan of Work. Include a description of the deliverables, timeline, and process for working with the NHID. The plan of work should include milestones and interim deliverables.

(20 percent)

- (C.) Conflict of Interest. The applicant shall disclose any actual or potential conflicts of interest.
- (D.) Other Information. The proposal must include a listing of references of recent engagements of the Contractor that reflect the skills appropriate for work on this project, including telephone numbers and specific persons to contact.

Potential contractors may be interviewed by staff of the NHID.

The New Hampshire Insurance Department will accept written questions related to this RFP from prospective bidders, with a deadline of March 1, 2021. Questions should be directed to Maureen Mustard via email at Maureen.a.mustard@ins.nh.gov. Please include "RFP – Formulary Legal and Policy Analysis."

A consolidated written response to all questions will be posted on the New Hampshire Insurance Department's website (www.nh.gov/insurance) by March 3, 2021.

The successful bidder or bidders will be required to execute a State of New Hampshire Contract. A form P-37 contains the general conditions as required by state of New Hampshire purchasing policies and the Department of Administrative Services. Although this standard contract can be modified slightly by mutual agreement between the successful bidder and the New Hampshire Insurance Department, all bidders are expected to accept the terms as presented in this RFP. If the bidder requires any changes to the P-37, those changes need to be identified in the proposal.

The selection of the winning proposal is anticipated by March 17, 2021, and the NHID will seek to obtain all state approvals as quickly as possible upon receipt of all required paperwork from contractor and the timing of the Governor's and Executive Counsel's meeting schedules.

Proposals received after the above date and time will not be considered. The State reserves the right to reject any or all proposals.

Bidders should be aware that New Hampshire's transparency law, RSA 9-F, requires that state contracts entered into as a result of requests for proposal such as this be accessible to the public online. Caution should be used when submitting a response so as not to include trade secrets, social security numbers, home addresses and other personal information.