



**REQUEST FOR PROPOSALS
No. 2021-04-WINDOW TINTING**

April 2, 2021

Issued by:



**New Hampshire
Liquor Commission
50 Storrs Street
Concord, NH 03301**

TABLE OF CONTENTS

TABLE 2: SCHEDULE.....	3
PART 1 – GENERAL INFORMATION FOR PROPOSERS	4
1. PURPOSE.....	4
2. ISSUING OFFICER	4
3. SCOPE.....	4
4. PROJECT DELIVERABLES.....	4
PART II – RFP TERMS AND INSTRUCTIONS.....	6
1. TYPE OF CONTRACT.....	6
2. RFP INQUIRIES AND RESPONSES	6
3. AMENDMENT TO THE RFP	6
4. PROPOSAL FORMAT	6
5. PROPOSALS AND AWARDS.....	6
6. PROPOSAL SUBMISSION.....	7
7. PLANNED EVALUATIONS.....	8
8. INITIAL SCREENING	8
9. TECHNICAL SCORING OF PROPOSALS	8
10. COST PROPOSAL REVIEW	8
11. BEST AND FINAL OFFER.....	8
12. FINAL SELECTION.....	9
13. RIGHTS OF NHLC IN ACCEPTING AND EVALUATING PROPOSALS	9
14. NON-COLLUSION.....	10
15. PROPERTY OF THE NHLC	10
16. CONFIDENTIALITY OF A PROPOSAL	10
17. PUBLIC DISCLOSURE.....	10
18. NON-COMMITMENT.....	11
19. PROPOSAL PREPARATION COST	11
20. ETHICAL REQUIREMENTS	11
21. CHALLENGES ON FORM OR PROCESS OF THE RFP	11
22. RESTRICTION OF CONTACT WITH NHLC EMPLOYEES.....	12
23. OBJECTIONS AND ADDITIONS TO STANDARD CONTRACT TERMS AND CONDITIONS AND/OR AGREEMENT STANDARDS	12
PART III – INFORMATION REQUIRED FROM PROPOSERS.....	13
1. TECHNICAL PROPOSAL	13
2. COST PROPOSAL (RATES)	13
PART IV – CRITERIA FOR SELECTION.....	15
1. MANDATORY RESPONSIVENESS REQUIREMENTS.....	15
2. REVIEW AND EVALUATION	15
3. CRITERIA FOR SELECTION	15
PART V – CONTRACT AWARD	16
1. AWARD	16
2. NON-EXCLUSIVE CONTRACT.....	16
APPENDICES	
APPENDIX A – GENERAL PROVISIONS – FORM P-37.....	17

TABLE 1: SCHEDULE

The following table sets forth the schedule for this Request for Proposal (“RFP”). The schedule is subject to change at the sole discretion of the New Hampshire Liquor Commission (“NHLC”). Any changes will be posted on the NHLC official website, https://www.nh.gov/liquor/public_notices.shtml Proposers are responsible for checking the website for any schedule changes.

<u>Events</u>	<u>Responsibility</u>	<u>Date</u>
Request for Proposals Issued	NHLC	April 2, 2021
Deadline to Submit Inquiries by electronic mail to NHLC Issuing Officer	Potential Respondents	April 9, 2021, 2:00 P.M.
Response Date to Inquiries	NHLC	April 14, 2021
Deadline for Submission of Sealed Proposals: NH Liquor Commission ATTN: Janet Donnelly, RFP 2021-04-WINDOW TINTING 50 Storrs Street Concord, NH 03301	Proposers	April 23, 2021 by 2:00 P.M.

PART I - GENERAL INFORMATION FOR PROPOSERS

1. PURPOSE

The NHLC seeks a contractor to provide complete window glass tinting services at its various locations throughout New Hampshire.

2. ISSUING OFFICER

The Issuing Officer responsible for managing this RFP and the sole point of contact is:

Ms. Janet Donnelly, Paralegal
(email: janet.donnelly@liquor.nh.gov)

All Inquiries regarding this RFP must be submitted **electronically** to the Issuing Officer.

3. SCOPE

This RFP contains: instructions governing the required content of proposals; terms governing this procurement process; a description of the services sought by the NHLC; requirements that a proposer must satisfy to be eligible for consideration; evaluation criteria; standard contract terms and conditions; and other information.

4. PROJECT DELIVERABLES

The NHLC seeks a qualified contractor to provide complete window glass tinting at its various retail locations throughout New Hampshire.

The selected contractor shall furnish all materials, equipment, labor, and transportation necessary to provide the services described herein.

The scope of services shall include, but shall not be limited to:

- Providing all window tinting materials, including: energy and solar control films, safety and security films, as well as decorative and specialty films;
- Removal of old window tinting; and
- Installation of window tinting material.

4.1 Contractor shall ensure that all work is performed by skilled professionals and executed in a workmanlike manner in accordance with the best standards and practices of the trade.

4.2 Contractor shall complete all work and provide all materials, tools, equipment, and safety devices necessary to perform work in the proper manner and within the time specified.

4.3 Contractor shall complete the entire work to the satisfaction of the NHLC. Contractor shall ensure that all work, labor, and equipment provided under this contract, is completed and provided strictly pursuant to, and in conformity with the specifications described herein and any direction provided by NHLC representatives prior to and during the progress of the work completed under this contract.

- 4.4** Contractor shall secure and pay for all permits, inspections and licenses necessary for the execution of their work.
- 4.5** Contractor shall perform all work in such a manner as to minimize inconvenience to the building occupants. Contractor shall determine the NHLC's normal working conditions and activities in progress and shall conduct the work in the least disruptive manner.
- 4.6** Contractor shall at its own expense, wherever necessary or required, provide safety devices and take such other precautions as may be necessary to protect life and property.
- 4.7** Contractor shall bear all losses resulting to it or to the NHLC due to any inadequacy in the quality of the work performed, or due to any error on the part of the Contractor in its estimation or expectation of project requirements or due to the weather, elements, or other causes.
- 4.8** The NHLC shall require the Contractor to correct any defective work or damage caused to any part of the building or its appurtenances caused by Contractor, its employees, approved subcontractors, or by Contractor's equipment or supplies. Contractor shall correct all defective work and repair damages incurred to the satisfaction of the NHLC. Upon failure of the Contractor to proceed promptly with the necessary corrections, the NHLC may withhold any monetary amount necessary to correct all defective work or damages from payments to the Contractor.
- 4.9** Contractor's work staff shall consist of only qualified persons completely familiar with the products, equipment, and materials used. The Contracting Officer may require the Contractor to dismiss from the work such employees as they deem incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed to be contrary to the public interest or inconsistent with the best interest of building security.
- 4.10** Neither Contractor nor their personnel shall represent themselves as employees or agents of the State. While on state property, employees shall be subject to control of the State, but under no circumstances shall such persons be deemed to be employees or agents of the State. All personnel shall observe all regulations or special restrictions in effect at the NHLC. Contractor's personnel shall be allowed only in areas where work is being performed.

PART II - RFP TERMS AND INSTRUCTIONS

1. TYPE OF CONTRACT

Any contract resulting from this RFP shall be structured as a not-to-exceed contract.

2. RFP INQUIRIES AND RESPONSES

All inquiries concerning this RFP, including requests for clarifications, requests for changes to the RFP, questions, and requests to modify New Hampshire Form P-37, which is attached to this RFP as Appendix A, shall be submitted via email to Janet.Donnely@liquor.nh.gov, who shall be the Issuing Officer and single point of contact for this RFP. Proposers shall not contact the Issuing Officer by phone with any inquiries. Proposers shall not contact the issuing officer after the close of the proposal inquiry period. **All inquiries must be received by the RFP Issuing Officer by email no later than 2:00 p.m. on Friday, April 9, 2021.** The NHLC may decline to answer inquiries received after the Proposer Inquiry Period ends.

The NHLC intends to issue responses to properly-submitted inquiries on or before the date specified in the schedule; however, this date is subject to change at the NHLC's discretion. The NHLC may consolidate or paraphrase questions for efficiency and clarity. The NHLC may amend this RFP on its own initiative or in response to issues raised by inquiries. Oral statements, representations, clarifications, or modifications shall not be binding upon the NHLC. The NHLC will post responses at: https://www.nh.gov/liquor/public_notices.shtml. Proposers are responsible for viewing the most updated information before submitting a proposal.

3. AMENDMENT TO THE RFP

The NHLC may amend this RFP at any time at its sole discretion. The NHLC will post any amendments on its website located at https://www.nh.gov/liquor/public_notices.shtml. The NHLC may extend deadlines and/or invite submission of additional information from proposers. Proposers are responsible for checking the website periodically for any new information or amendments to the RFP. The NHLC shall not be bound by any verbal information or any written information that is not contained within the RFP or formally issued as an amendment by the Issuing Officer.

4. PROPOSAL FORMAT

Proposers must submit a complete response to this RFP using the format specified in Part III. An official authorized to bind the proposer to its proposal must sign the proposal. Proof of signatory authorization must be included with the proposal submission.

5. PROPOSALS AND AWARDS

The NHLC intends to award a contract to one proposer as a result of this RFP. Notwithstanding the foregoing or any provision of this RFP to the contrary, the NHLC reserves the right, at any time and in its sole discretion, to reject any or all proposals, wholly or in part, and/or to award multiple contracts to one or more proposers, wholly or in part. A contractor will not retain any exclusive rights to provide the services described in this RFP process during the term of a contract or any

extension thereto. The NHLC may, at its sole discretion, obtain services and related materials from other contractors.

6. **PROPOSAL SUBMISSION**

1. **Proposal Submission Deadline:** Proposals must be submitted in hard copy and clearly marked “New Hampshire Liquor Commission, Response to RFP 2021-04-WINDOW TINTING.” Proposals must be received no later than the deadline in Table 1: *Schedule*. Any proposer that elects to mail its proposal must allow sufficient mail delivery time. The NHLC accepts no responsibility for mislabeled, damaged, or delayed mail. Proposals will not be accepted via electronic mail or facsimile transmission. The receipt of a proposal by the State’s mail system does not qualify as receipt by the Issuing Office.
 - i. If due to inclement weather, natural disaster, or any other cause, the Issuing Office is closed on the submission deadline in Table 1: *Schedule*, the deadline for submission shall be automatically extended until the next NHLC business day on which the Issuing Office is open, unless the proposers are otherwise notified by the Issuing Officer. The time for submission of proposals shall remain the same. The NHLC will reject proposals not submitted by the deadline in Table 1: *Schedule* or as otherwise extended pursuant to this RFP.
2. **Proposal Receipt:** A proposal is considered received on the date and time of the NHLC’s receipt as officially documented by the NHLC.

Proposal Information:

- i. The NHLC will accept proposals until the deadline date in Table 1: *Schedule*. Proposal packages must be delivered to the address below and identified on the outside of the envelope as:

Proposals: New Hampshire Liquor Commission
 ATTN: “Janet Donnelly, RFP 2021-04-WINDOW TINTING”
 50 Storrs Street
 Concord, NH 03301

From: Company/Proposer Name
 Address of Proposer
 Phone No. Of Proposer
 Fax No. of Proposer
 Email Address of Proposer

All Proposal packets submitted in response to this RFP must consist of:

1. One (1) original (clearly identified as such) and three (3) clearly identified copies of the “Technical Proposal,” including all required attachments; and
 2. One (1) original Cost Proposal in a separate and sealed envelope labeled **“COST PROPOSAL.”**
- ii. Proposers are advised to carefully read and complete all information requested in this RFP. If the Proposer’s response does not comply with the conditions for submittal to this RFP, **it may**

be considered unacceptable by the NHLC and may be rejected without further consideration.

- iii. The contents of the successful proposal will become contractual obligations, except to the extent the contents are changed through best and final offers or contract negotiations. The finalized and approved contract language shall prevail over the proposal in the event of any inconsistency or ambiguity.
- iv. In submitting the proposal, the Proposer agrees that the proposal will remain valid for one hundred eighty (180) calendar days after the deadline for the submission of proposals and may be extended beyond that by mutual agreement.

7. PLANNED EVALUATIONS

The NHLC will use the following process:

- Initial screening to ensure that the Proposals are in compliance with submission requirements;
- Evaluation of Technical Proposals and scoring;
- Review of Cost Proposals and final scoring;
- Best and Final Offer (BAFO), if deemed beneficial; and
- Select the highest-scoring Proposer and begin contract negotiation.

8. INITIAL SCREENING

The NHLC will conduct an initial screening step to verify Proposer compliance with the submission requirements set forth in this RFP. A Proposal that fails to satisfy either submission requirements or minimum standards may be rejected without further consideration.

9. TECHNICAL SCORING OF PROPOSALS

The NHLC will select an evaluation team to score Technical Proposals (*i.e.* non-cost related criteria).

10. COST PROPOSAL REVIEW

The evaluation team will unseal and review Cost Proposals after scoring Technical Proposals. Each Cost Proposal will be scored independently according to the following formula:

$$\text{Vendor's Cost Proposal Score} = \left(\frac{\text{Lowest Proposed Cost}}{\text{Vendor's Proposed Cost}} \right) \times \text{Total Possible Points}$$

Proposers are advised that this **is not a lowest bid award** and that the score of the Cost Proposal will be combined with the other categories to determine the highest-scoring Proposer.

11. BEST AND FINAL OFFER

Upon completion of the scoring process, the NHLC may, at its sole discretion, invite the highest-scoring Proposers to submit a "Best and Final Offer" (BAFO) for the NHLC's consideration.

The NHLC reserves the right to select the Proposer based solely on the initial proposals and is under no obligation to solicit a BAFO from any Proposers. Proposers are encouraged to provide their most competitive prices in their initial proposals in the event the NHLC does not request a BAFO.

If the NHLC invites a Proposer to submit a BAFO, the NHLC will provide a submission deadline. The NHLC may communicate in writing to any Proposer selected to participate in the BAFO any price or cost targets that the NHLC is seeking for the BAFO. All restrictions on contact with NHLC employees shall remain in effect during the BAFO period.

Each invited Proposer may only make one BAFO. The BAFO may not alter the substance of the Proposer's technical proposal. The BAFO may only amend the Proposer's initial Cost Proposal.

To the extent the NHLC solicits and receives a BAFO pursuant to this section, the NHLC will re-score the BAFO participants' Cost Proposal. The NHLC will not select a Proposer based on the lowest-priced BAFO proposal. A final selection, if any, shall be based on the combined score of the technical proposal and BAFO Cost Proposal. Only those Proposers who were invited to submit a BAFO will be considered for the award.

12. FINAL SELECTION

The NHLC will conduct a final selection based on its evaluation of the initial proposals or, if requested, as a result of the Best and Final Offer, and begin contract negotiations with the selected Proposer.

Following scoring, the NHLC may issue an "intent to negotiate" notice to a Proposer based on its evaluations. Should the NHLC be unable to reach agreement with the selected Proposer during Contract discussions, the NHLC may then undertake Contract discussions with the second preferred Proposer and so on, or the NHLC may reject all proposals, cancel this RFP, or solicit new proposals under a new acquisition process.

13. RIGHTS OF THE NHLC IN ACCEPTING AND EVALUATING PROPOSALS

The NHLC reserves the right to:

- a. Make independent investigations in evaluating Proposals and consider any source of information, including but not limited to State employees, previous customer experiences, internet research, and rating agencies;
- b. Request additional information to clarify elements of a Proposal;
- c. Waive minor or immaterial deviations from the RFP requirements, if determined to be in the best interest of the State;
- d. Omit any planned evaluation step if, in the NHLC's view, the step is not needed;
- e. At its sole discretion, reject any and all Proposals at any time;
- f. Cancel this RFP;
- g. Initiate a new procurement process for the same services; and/or
- h. Open contract discussions with the second highest scoring Proposer and so on, if the NHLC is unable to reach an agreement on Contract terms with the higher scoring Proposer(s).

14. 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 NHLC from obtaining the best possible competitive Proposal.

15. PROPERTY OF THE NHLC

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

16. 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 NHLC will be grounds for disqualification.

17. PUBLIC DISCLOSURE

In order to protect the integrity of the bidding process, notwithstanding RSA 91-A:4, no information shall be available to the public, or to the members of the general court or its staff concerning specific responses to requests for bids (RFBs), requests for proposals (RFPs), requests for applications (RFAs), or similar requests for submission for the purpose of procuring goods or services or awarding contracts from the time the request is made public until the closing date for responses. On the closing date for responses, the NHLC will post the number of responses received with no further information on the NHLC website. At least 5 business days prior to submitting the proposed contract to the department of administrative services, the NHLC will post the rank or score for each responding vendor on its website. RSA 21-G:37.

The content of each 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.* However, business financial information and proprietary information such as trade secrets, business and financial 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 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 NHLC 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 NHLC 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 NHLC to view portions of a Proposal that the Proposer has properly and clearly marked confidential, the NHLC will notify the Proposer of the request and of the date the NHLC plans to release the records. By submitting a Proposal, Proposers agree that unless the Proposer obtains a court order, at its sole expense, enjoining the release of the requested information,

the NHLC may release the requested information on the date specified in the NHLC's notice without any liability to the Proposers.

18. NON-COMMITMENT

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

19. PROPOSAL PREPARATION COST

By submitting a Proposal, a Proposer agrees that in no event shall the NHLC 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.

20. ETHICAL REQUIREMENTS

From the time this RFP is published until a contract is awarded, no Proposer 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 Proposer that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any Proposer that has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or that 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 Proposer shall be disqualified from bidding on any RFP or similar request for submission issued by any state agency. A Proposer 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 that in the case of annulment, the information shall be deleted from the list.

21. CHALLENGES ON FORM OR PROCESS OF THE RFP

A proposer questioning an agency's identification of the selected vendor may request that the agency review its selection process. Such request shall be made in writing and be received by the agency within 5 business days after the rank or score is posted on the agency website. The request shall specify all points on which the proposer believes the agency erred in its process and shall contain such argument in support of its position as the proposer seeks to present. In response, the issuing agency shall review the process it followed for evaluating responses and, within 5 business days of receiving the request for review, issue a written response either affirming its initial selection of a vendor or canceling the RFP. In its request for review, a proposer shall not submit, and an agency shall not accept nor consider, any substantive information that was not included by the proposer in its original proposal. No hearing shall be held in conjunction with a review. The outcome shall not be subject to appeal.

The Proposer acknowledges that by submitting a proposal, the Proposer has waived any challenges to the NHLC's authority to conduct this procurement and to the form and process of this RFP.

22. **RESTRICTION OF CONTACT WITH NHLC EMPLOYEES**

From the date of release of this RFP until an award is made and announced regarding the selection of a Proposer, *all communication regarding this RFP with NHLC employees or other vendors under contract with the NHLC is forbidden*. NHLC employees have been directed not to hold conferences or engage in discussions concerning this RFP with any potential contractor during the selection process. Proposers may be disqualified for violating this restriction on communications.

23. **OBJECTIONS AND ADDITIONS TO STANDARD CONTRACT TERMS AND CONDITIONS AND/OR AGREEMENT STANDARDS**

The NHLC will require the successful Proposer to execute a Not-to-Exceed Contract using the Standard Terms and Conditions of the State of New Hampshire, which is attached as Appendix A. The use of the phrase “not-to-exceed” in this context means that the Proposer will agree to a not-to-exceed cap on the total value of the Contract, referred to as a “price limitation.” The price limitation is the maximum amount payable to the selected contractor over the life of the contract.

To the extent that a Proposer believes that exceptions to Standard Terms and Conditions (P-37) will be necessary for the Proposer to enter into the Agreement, **the Proposer should submit those exceptions to the NHLC during the Proposer Inquiry Period**. The NHLC 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 NHLC accepts a Proposer’s exception the NHLC will, at the conclusion of the inquiry period, provide notice to all potential Proposers of the exceptions that it has accepted and indicate that the 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.

PART III - INFORMATION REQUIRED FROM PROPOSERS

Proposals must be submitted in the following format, including heading descriptions:

1. TECHNICAL PROPOSAL

A. EXPERIENCE AND CAPABILITY:

Provide a detailed summary of your company and your company's experience with window tinting commercial properties. Include examples of projects completed for retail businesses similar to the NHLC's retail stores, if any. If possible, include the name and current contact information for prior clients referenced in your proposal. The NHLC reserves the right to contact any and all persons listed by the proposer regarding past work experience.

Within your more specific response, please include the following general background information:

- Full legal company name, the year the business started, and location of headquarters
- If applicable, information on any parent or subsidiary relationships;
- Current number of individuals employed in New Hampshire;
- Evidence of financial stability; and
- Relevant licenses or certifications held, if any.

B. QUALITY OF MATERIALS

The NHLC operates approximately 70 retail stores and must periodically maintain, renovate, and otherwise improve in its retail locations. The NHLC also has plans to construct new retail locations in the coming years. As a result, the NHLC requires versatile and high-quality window-tinting materials.

With this in mind, provide a detailed explanation of your company's offerings with regard to materials and describe the quality of products provided, including but not limited to, product longevity, versatility, aesthetics, and functionality. Additionally, provide a detailed explanation of why your product offerings are superior to that of your competitors and most advantageous to the NHLC. Please describe any warranties associated with the materials.

2. COST PROPOSAL (RATES)

The NHLC will use the template below to evaluate vendors' cost proposals.

Please provide your Company's rates as set forth below:

I. Energy and Solar Control Films

A. Material Rates: \$_____ per square foot

B. Labor Rates: \$ _____ per person, per hour

II. Safety and Security Films

A. Material Rates: \$_____ per square foot

B. Labor Rates: \$ _____ per person, per hour

III. Decorative and Specialty Films

A. Material Rates: \$_____ per square foot

B. Labor Rates: \$ _____ per Person, per hour

To generate a point value for rates, the NHLC will apply the formula referenced in Part II, Section 10 above independently with regard to each criteria of the cost template above. Proposers will receive a maximum of 10 points for each of the six criteria above, which will total for their cost score out of 60 possible points.

PART IV - CRITERIA FOR SELECTION

1. MANDATORY RESPONSIVENESS REQUIREMENTS

To be eligible for selection, a proposal must be:

1. Timely received; and
2. Properly signed by the proposer's authorized representative.

The NHLC reserves the right, in its sole discretion, to waive technical or immaterial nonconformities in a proposal.

2. REVIEW AND EVALUATION

The NHLC will utilize a committee of qualified personnel to review, evaluate, and score proposals in accordance with the criteria for selection below.

3. CRITERIA FOR SELECTION

The NHLC will use the following weighted criteria in evaluating each proposal:

Cost—This refers to an evaluation of the rates proposed by the Proposer in response to RFP Part III, Section 2.

Capability and Experience—This refers to the Proposer's organizational capability, including its size, structure, financial stability, overall capacity to handle the NHLC's business needs, and prior experience performing the work listed within, such as serving other clients with needs similar to the NHLC.

Quality of Materials—This refers to the overall durability, finish, quality, life expectancy and warranty for the materials used.

<u>Criteria</u>	<u>Maximum Points</u>
Cost Proposal:	60 points
Capability and Experience:	30 points
Quality of Materials	10 points
TOTAL:	100 points

PART V - CONTRACT AWARD

1. AWARD

If the State decides to award a contract as a result of this RFP process, any award is contingent upon continued appropriation of funding for the contract. The State will issue an Intent to Award Notice to a Vendor based on the result of the evaluation process set forth in this RFP. Should the State be unable to reach agreement with the selected Vendor during Contract discussions, the State may then undertake Contract discussions with the second preferred Vendor and so on. Such discussions may continue at the sole option of the State until an agreement is reached or all Proposals are rejected.

2. NON-EXCLUSIVE CONTRACT

Any resulting Contract from this RFP will be a non-exclusive Contract. The State reserves the right, at its discretion, to retain other Contractors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal.

APPENDIX A

FORM NUMBER P-37 (version 12/11/2019)

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 Date:		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature Date:		1.14 Name and Title of State Agency Signatory	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (<i>if applicable</i>) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (<i>if applicable</i>) By: _____ On: _____			
1.17 Approval by the Governor and Executive Council (<i>if applicable</i>) G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 (“State”), engages contractor identified in block 1.3 (“Contractor”) to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference (“Services”).

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 (“Effective Date”).

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3. The Contractor agrees to permit the State or United States access to any of the Contractor’s books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

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

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

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

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

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

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

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

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

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

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

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner

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

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

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

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

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

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

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

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

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

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