

STATE OF NEW HAMPSHIRE



NEW HAMPSHIRE LIQUOR COMMISSION

**REQUEST FOR PROPOSAL
For
ADVERTISING SERVICES**

RFP# 2018-01-ADV

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Section 1 – Overview and Schedule

A. Executive Summary

The New Hampshire Liquor Commission (“NHLC”) seeks to procure services from a full-service advertising agency (“Agency” or “Proposer”) for advertising, marketing and public relations. The NHLC intends to enter a five-year contract commencing upon July 1, 2018 or Governor and Executive Council approval, whichever is later, and ending on June 30, 2023, with an option to extend for up to two additional years as mutually agreed and approved by the Governor and Executive Council.

The Agency will be responsible for all facets of advertising, marketing and public relations from strategic development through implementation across a full complement of media outlets. The Agency will be required to present cutting edge, innovative ideas and methods for enriching and growing the NHLC brand. The NHLC expects the Agency to use sound research to support its strategic recommendations and to evaluate campaign effectiveness. In addition to traditional advertising, the NHLC expects the Agency to dynamically employ social media outlets and new emerging platforms.

The Agency will be required to manage the NHLC websites used by both consumers and licensees. The expectation will be that the websites are inviting and user-friendly, with versatile search capabilities and accurate inventory representations across all 80 NHLC Liquor and Wine Outlets.

It is important to note that the NHLC is currently engaged in developing a new website, including a new wholesale and retail point of sale system with associated back office, marketing, distribution, store operations and e-commerce functions. The Agency will be expected to have experience with Microsoft Dynamics365 interface with the new system.

B. Schedule

The following table provides a Schedule of Events for this RFP through contract finalization and approval. The NHLC reserves the right to amend this Schedule at its sole discretion and at any time through a published Addendum. Any such Addendum will be effected by posting on the NHLC official website at https://www.nh.gov/liquor/public_notices.shtml. Proposers are responsible for checking the website.

EVENT	DATE	LOCAL TIME
RFP Released to Proposers (Advertisement)	Friday, March 2, 2018	
Mandatory Proposer Conference Call	Tuesday, March 6, 2018	11:30 a.m.
Proposer Inquiry Period Ends	Friday, March 9, 2018	3:00 p.m.
NHLC Response to Proposer Inquiries	Wednesday, March 14, 2018	4:00 p.m.
Proposals Due	Monday, March 26, 2018	12:00 p.m.
Oral Presentations and Agency Tour (if applicable)	April 2-4, 2018	TBD
Estimated Notification of Selected Agency and Begin Contract Negotiations	Friday, April 6, 2018	10:00 a.m.

Section 2 - Description of NHLC

The NHLC was established in 1933 following the repeal of prohibition. The NHLC regulates the manufacture, importation, storage, transportation, sale and use of wine, spirits and brewed beverages in New Hampshire.

In addition to regulating the alcoholic beverage business in New Hampshire, the NHLC is also a wholesaler and retailer of wines and spirits. The NHLC operates 80 retail stores throughout New Hampshire through which the NHLC sells wines and spirits to both consumers and NHLC licensees. The NHLC also maintains a bailment warehouse, which provides wines and spirits to NHLC retail stores as well as NHLC licensees. Off-premise licensees, such as grocery or convenience stores, purchase wines from the NHLC to sell at retail. On-premise licensees, such as restaurants, purchase wines and spirits from the NHLC to sell to patrons at their establishments.

In Fiscal Year 2017, the NHLC net sales were \$684.8 million. As a state agency, the NHLC transferred \$153.2 million to the State General Fund and \$3.3 million to the Alcohol Abuse Prevention and Treatment Fund.

Section 3 – Proposed Scope of Work

A. Minimum Qualifications

The successful Agency shall have a comprehensive working knowledge of Microsoft Dynamics 365.

The Agency must maintain an office capable of providing a full range of in-house advertising and marketing services. The local office must be situated such that key Agency personnel can respond in person to NHLC needs as they arise.

The successful Agency will demonstrate expertise in consumer marketing in both traditional forums and emerging technologies.

The successful Agency will demonstrate expertise in direct-to-consumer marketing to increase the customer base and build customer loyalty of the NH Liquor and Wine Outlet brand.

The Agency shall not be under contract to an alcohol beverage control state.

The successful Agency shall sign an agreement to maintain the confidentiality of all information, including creative, obtained as a result of the work done on behalf of the NHLC.

B. Deliverables

The successful Agency will be required to perform all facets of advertising, marketing and public relations from strategic development through implementation across a full complement of media outlets. The Agency will be expected to manage and be on the forefront of shifting innovations in marketing technologies that can be utilized to increase sales. In addition to traditional advertising, the NHLC expects the Agency to dynamically employ social media outlets and new emerging platforms.

The Agency will be required to present cutting edge, innovative ideas and methods for enriching the NHLC brand and growing sales. The NHLC expects the Agency to use sound research to support its strategic recommendations and to evaluate campaign effectiveness.

The Agency shall develop and demonstrate expertise in the unique nature of the NHLC's business as well as in the NHLC's associated responsibilities as an industry regulator. The Agency shall provide all administrative and support services standardly available from a full-service advertising agency, including but not limited to creative briefs, media calendars, job estimates, monthly budget and reconciliation updates, detailed monthly billings, and thorough analysis of promotion effectiveness upon completion.

The Agency shall, at a minimum, provide the following services:

- Develop and implement sound marketing strategies to increase customer traffic and sales
- Develop dynamic and innovative creative
- Develop advertising campaigns in print, broadcast and web-based media
- Design, copywriting and proofreading

Develop and manage in-store audio, video and signage
Manage public relations
Manage *Celebrate NH* magazine
Manage in-store advertising opportunities
Develop in-store items, including themed point-of-sale materials, gift cards, reusable bottle bags, employee attire, aprons and name tags
Assist with development of new marketing and sales systems
Develop, advertise and support special events such as Wine Week, Distiller's Showcase, Tequila Week and Tasting Series
Develop, advertise and support themed summer, fall and winter events
Printing services
Research-based media planning and placement
Develop and maintain NHLC retail and wholesale websites, including bottle shot uploads and front-page rotating images
Develop and maintain website for Enforcement Divisions
Exact-target monthly direct-to-consumer email deployments with coupons
Exact-target monthly direct-to-consumer email deployments with "Insider Picks"
Exact-target monthly email deployments to on-premise and off-premise licensees with "Mixology Minute" and grocery "Price Busters"
Build and maintain an ongoing and robust social media presence
Recommend pricing and discounting strategies for loyalty programs
Coordinate and promote new store grand openings

Note that the above is not an exhaustive list.

The Agency will plan and develop videos, slide presentations, PowerPoint presentations, etc. and, in the case of new technologies, Agency will explore technical details and present NHLC staff with viable options for marketing activities to increase sales.

The Agency shall attend weekly meetings with NHLC staff to plan, coordinate and review advertising strategies. The Agency will recommend marketing and creative concepts for approval. The Agency will also recommend media plans for newspapers, magazines, television, radio, outdoor, electronic and other media within a total annual budget of approximately \$2.8 million per fiscal year and in accordance with RSA 175:4.

The Agency will regularly review the effectiveness of advertising campaigns with the NHLC. At least monthly, the Agency shall present performance outcomes of advertising strategies. The Agency principle overseeing the NHLC account will be expected to attend these meetings in person.

The Agency will be responsible for negotiating media buys. Cost of ad placement will be net to NHLC and it is expected that the Agency will negotiate added value.

The Agency will manage and provide support to other NHLC contractors to ensure maximum synergy and results across all media. This includes, but is not limited to, managing contracts for public relations specialists, *Celebrate NH* magazine, in-store advertising and in-store audio and video.

The Agency must develop a strategy to differentiate the New Hampshire Liquor and Wine Outlets from other competing states and retailers to protect and increase market share. The Agency will also be required to develop and execute public service campaigns that promote responsible consumption.

The Agency shall provide printing services either directly or via sub-contract based on specifications and proofs approved by the NHLC. Some printing needs may be met through the New Hampshire Bureau of Graphic Services. The Agency shall provide printing services for project needs that cannot be met through the Bureau of Graphic Services.

The Agency shall coordinate, participate in and support the NHLC in NHLC-sponsored events, conferences and meetings.

The Agency shall provide ongoing creative and technical support as the NHLC develops and implements an on-line consumer retail ordering system with in-store pick-up and direct-to-consumer shipping.

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 the NHLC no later than the time and date specified in the Schedule section, herein. Proposals must be addressed to:

New Hampshire Liquor Commission

c/o

Katherine de Oliveira

50 Storrs St

P.O. Box 503

Concord NH 03302

Proposals must be clearly marked as follows:

NEW HAMPSHIRE LIQUOR COMMISSION

RESPONSE TO RFP 2018-01-ADV

Request for Proposals for Advertising Services

All sections of the RFP must be completed and delivered to the NHLC by the submission deadline. Do not alter any parts of this RFP. Late submissions will not be accepted and will be returned to the Proposer unopened. Preparation and delivery of the Proposals shall be at the Proposer's expense.

A Proposal shall be deemed received on the date and at the time officially documented by the NHLC as having been received at the location designated above. The NHLC 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. Proposals transmitted by facsimile or email will not be accepted.

All Proposals 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 Price Proposal in a separate and sealed envelope labeled "PRICE PROPOSAL"; and
- 3) One (1) USB Flash drive containing:
 - a) One (1) clearly identified complete electronic copy of the Technical Proposal, including all required attachments; and
 - b) One (1) clearly identified Price Proposal saved as a separate file and named "PRICE PROPOSAL"; and
 - c) If necessary, one (1) clearly identified electronic copy of a Technical Proposal with all Confidential Information fully redacted, as provided for in Section 7E of this RFP.

* In the event of a discrepancy between a proposal received in paper and an electronic copy, the paper copy identified as the original shall prevail.

Proposers 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 proposal.

Failure to answer all sections or to follow instructions may be grounds for rejection of a proposal.

B. Mandatory Conference Call

All Agencies interested in submitting a proposal in response to this RFP shall attend a **mandatory conference call on Tuesday, March 6, 2018 at 11:30 a.m. (Call-in number: 888-675-6779, access code 1084855)**. The purpose of the call will be to describe the RFP process and answer procedural questions related to submitting a proposal.

C. Proposal Inquiries

All inquiries concerning this RFP, including requests for clarifications, requests for changes to the RFP, and questions regarding the state form contract P-37 shall be submitted via email to Katherine de Oliveira at Katherine.deoliveira@liquor.nh.gov, who shall be the single point of contact for this RFP.

All inquiries must be received by the RFP Point of Contact no later than 3:00 p.m. on March 9, 2018. Inquiries received later than the conclusion of the Proposer Inquiry Period shall not be considered properly submitted and may not be considered.

The NHLC intends to issue official responses to properly submitted inquiries on or before the date specified in the Schedule section, herein; 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, 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 NHLC. Official responses by the NHLC will be made only in writing by posting on the NHLC website at https://www.nh.gov/liquor/public_notices.shtml. Proposers shall be responsible for reviewing the most updated information related to this RFP before submitting a proposal.

D. 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 with personnel employed by or under contract with the NHLC regarding this RFP is forbidden* unless first approved by the RFP Point of Contact listed in the Proposal Inquiries section, herein. NHLC employees have been directed not to hold conferences or engage in discussions concerning this RFP with any potential contractor during the selection process, unless otherwise authorized by the RFP Point of Contact. Proposers may be disqualified for violating this restriction on communications.

E. 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 shall follow the following format and provide the required information set forth below:

A. Technical Proposal (60 points)

Experience

Describe the Agency's history and experience. Highlight specific experience with retail clients of a size and scope similar to that of the NHL. Include specific experience with on-line retail sales and in-store product pick up. Describe experience with advertising, marketing and public relations projects for regulatory or governmental clients. Include particular experience with managing public relations and industry publications.

Identify the team that will work on the NHL account and provide CVs for each person.

Provide examples of work done by the Agency and by individuals who would be assigned to the NHL contract. Include examples of traditional and digital marketing, including direct-to-consumer promotions.

Describe, in detail, the Agency's experience using Microsoft Dynamics 365.

Provide client references, including name, current address and telephone number for the responsible client official, which the NHL may contact. The NHL reserves the right to contact any and all persons listed by the Agency concerning past work experience.

Creative

Demonstrate the Agency's experience and ability to produce effective and innovative marketing and promotional materials, including:

- Point-of-sale posters and brochures
- Web-based marketing
- Television and radio commercials
- Print advertisements
- Event marketing, such as grand openings and celebrity appearances.

Methodology

Describe the Agency's philosophy and approach to developing a marketing strategy. Describe the Agency's process for developing, pitching and executing creative concepts. Describe the Agency's methodology for building and leveraging a brand identity. Explain the Agency's process for ensuring that its advertising product is aligned with the client's goals.

Significant Digital Media Campaign

Describe and provide examples of a significant digital media campaign that the Agency developed and implemented. Include a marketing analysis justifying the campaign, including other ideas that were considered, and explain why the particular campaign was chosen. Describe, including supporting data, the method chosen for implementing the campaign. Provide

an analysis of the campaign's success or failure, based on accepted statistical and marketing data analytics.

B. Oral Presentation and Agency Tour (25 points)

Each Agency that scores 40 points or more on the Technical Proposal, as described in Section 6A, may be invited to provide a tour of the agency and make an oral presentation, as more specifically described below. The NHLC retains sole discretion to determine whether an Agency will be invited to provide a tour and make a presentation; achieving a score of 40 points or more on the Technical Proposal does not guarantee that the Agency will be invited to provide a tour and presentation. Any Agency not scoring at least 40 points on the Technical Proposal will not receive further consideration.

Agency Tour

The tour should focus on demonstrating the Agency's capacity to meet the diverse needs of the NHLC. The NHLC will expect to meet the team that will be in charge of the NHLC account.

Oral Presentation

As part of the Agency tour, the Agency shall be expected to make an oral presentation, which shall include a review of a particularly successful campaign. The NHLC will expect the presentation to describe the results of the campaign and explain how success was measured. The NHLC will also expect to see examples of design work. The NHLC will be particularly interested in seeing examples of successful digital and social media campaigns.

During the Oral Presentation, the Agency should also present an idea for a hypothetical two-month winter promotion campaign with a budget of \$40,000. The campaign should be designed to attract new customers into our stores, add to our current customer email list and encourage current customers to stock up. The NHLC will be looking for a campaign overview, samples of design elements and an outline budget, including materials and costs.

C. Price Proposal (30 points)

Each Agency shall submit a completed Price Proposal on the form provided in Appendix B. The Price Proposal shall be sealed in an 8 ½ x 11 inch envelope clearly labeled with the Agency name and clearly identified as "Price Proposal." Failure to comply with this requirement shall be grounds for disqualification.

SECTION 6 – Evaluation of Proposals

A. Criteria for Evaluation and Scoring

The NHLC will score Proposals based on a total of 115 possible points. A maximum of 60 points is available for Technical Proposal component of the proposal, a maximum of 25 points is available for the Agency Tour and Oral Presentation component, and a maximum of 30 points is available for the Price Proposal. Each timely and responsive Proposal will be evaluated and considered according to the following criteria:

Technical (60 points)

- Experience and Qualifications (25 points) – includes knowledge and experience of agency staff, tenure of agency, client list, financial condition, experience with Microsoft Dynamics365, and experience with web-based and direct-to-consumer marketing
- Marketing Strategy, Creativity, and Methodology (35 points) – strength of agency creative design, strength of analysis, expertise with media planning and placement, competency with digital and emerging technologies

Oral Presentation (25 points) – demonstration of Agency and key staff ability and innovation, ability to achieve marketing objectives within budget, methodology for measuring program effectiveness, Agency services available to the NHLC, knowledge of alcohol industry

Price Proposal (30 points) – monthly retainer fee and hourly rates for key services for the term of the contract (see Appendix B for the Price Proposal format)

The NHLC will use a scoring scale 115 points as set forth in the table below:

CATEGORIES	POINTS	
TECHNICAL		60
Experience and Qualifications	25	
Marketing Strategy, Creativity and Methodology	35	
ORAL PRESENTATION		25
PRICE PROPOSAL		30
TOTAL POTENTIAL POINTS		115

The NHLC will select a Proposer based upon the criteria and standards contained in this RFP and from applying the weighting in this section. Reference checks, to the extent they are utilized by the NHLC, will be used to refine and finalize scores.

B. Planned Evaluations

The NHLC plans to use the following process:

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

C. Initial Screening

The NHLC will conduct an initial screening step to verify Proposer compliance with the technical submission requirements set forth in this RFP. The NHLC 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.

D. Technical Scoring of Proposals

The NHLC will establish an evaluation team to score the Technical Proposals. The evaluation team will review and score the technical proposals according to the criteria set forth in Section 6A. Should a Proposer fail to achieve 40 points on the Technical Proposal, the proposal will receive no further consideration from the evaluation team and the Proposer's Price Proposal will be returned unopened.

E. Oral Presentation and Agency Tour

Based on technical scores, an Agency will be required to provide an agency tour and make an oral presentation to the evaluation team. The purpose of the agency tour is to obtain a demonstration and understanding of the resources available and the Agency's capacity to provide a full range of services to the NHLC. The presentation is intended to enable the Agency to demonstrate its experience, expertise and ingenuity.

Proposers are prohibited from altering the basic substance of their proposals during the oral presentation and agency tour.

F. Price Proposal Review

The evaluation team will unseal and review Price Proposals after the Technical Proposals and Oral Presentation/Agency Tours have been scored. The Price Proposal submission form is at Appendix B.

The Price Proposal will be allocated a maximum potential score of 30 points. The Retainer Fee is worth a total of 10 points. The hourly rates for key services are worth a total of 20 points. Each service is assigned a weight, which will be used to factor the hourly rate into points and added for comparison purposes (this weighted hourly rate is the "Agency's Proposed Price").

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

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

For the purpose of evaluating price proposals, the “Lowest Proposed Price” is defined as the lowest price proposed by a Proposer that received a technical scored above the minimum necessary for consideration.

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

G. 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 or accept 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 in the BAFO. All restrictions on contact with NHLC employees outlined in Section 4C shall remain in effect for 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 price proposal.

To the extent the NHLC solicits and receives a BAFO pursuant to this section, the NHLC will re-score the BAFO participants’ price. 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 price proposal. Only those Proposers who were invited to submit a BAFO will be considered for the award.

H. Final Selection

The NHLC will conduct a final selection based on the final 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.

If the NHLC determines to make an award, the NHLC will issue an “intent to negotiate” notice to a Proposer based on these 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.

I. Rights of the NHLC in Accepting and Evaluating Proposals

The NHLC 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 interest of the State;
- Omit any planned evaluation step if, in the NHLC's view, 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 NHLC 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 NHLC 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 NHLC, 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 NHLC from obtaining the best possible competitive Proposal.

C. 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.

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 NHLC 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 NHLC will post the number of responses received with no further information on the NHLC website. No later than five (5) business days prior to submission of a contract to Governor and Executive Council pursuant to this RFP, the NHLC will post the name, rank or score of each Proposer. In the event that the contract does not require Governor and Executive Council approval, the NHLC shall disclose the rank or score of the Proposals at least 5 business days before final approval of the contract. 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/>).

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, 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 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.

F. 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.

G. 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.

H. 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.

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 NHLC 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 NHLC's authority to conduct this procurement and the form and procedures of this RFP.

Section 8 – Contract Terms and Award

A. 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.

B. 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 and upon continued appropriation of funding for the contract.

C. Standard Contract Terms

The NHLC will require the successful Proposer to execute a Firm Fixed Price/Not to Exceed Contract using the Standard Terms and Conditions of the State of New Hampshire, which is attached as Appendix A.

The Term of the Contract will be for five (5) years from the date of approval. The contract term may be extended by an additional term of two (2) years at the sole option of the NHLC, subject to the parties' prior written agreement on terms and applicable fees for each extended term. Any such extension shall be contingent upon satisfactory Agency performance, continued funding and Governor and Executive Council approval.

The NHLC 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 should note those issues 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 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.

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

In addition to the insurance requirements provided in Section 14 of the P-37, the successful agency will be required to maintain Multimedia and Professional Liability insurance in amount of not less than \$1,000,000 per loss and \$1,000,000 aggregate.

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: _____	

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

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.

Contractor Initials _____

Date _____

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.

Contractor Initials _____

Date _____

APPENDIX B

PRICE PROPOSAL

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

AGENCY NAME: _____

A. RETAINER FEE and HOURLY RATES

To be considered, please submit a bid for your retainer fee. For purposes of the retainer fee, media is estimated to be approximately 50% of the appropriated budget of approximately \$2.8 million dollars per fiscal year. The retainer fee should be provided as a percentage of annual expenses and is expected to cover the following services:

- Client Services (including weekly and monthly meetings)
- Media Planning, Recommendation and Placement
- Accounting and Administration

Retainer Fee: _____%

Provide hourly rates for the following services:

- Creative Design (.25) Hourly Rate: _____
- Production (see definitions in Section C below) (.25) Hourly Rate: _____
- Strategic Planning (.20) Hourly Rate: _____
- Copywriting and Research (.05) Hourly Rate: _____
- Technical Development (web, apps, etc.) (.10) Hourly Rate: _____
- Web Maintenance (.05) Hourly Rate: _____
- Social Media Management (.10) Hourly Rate: _____

* The weight assigned to each service is the factor by which the hourly rate will be converted, as explained in Section 6F of the RFP.

B. TRAVEL, LODGING AND MEALS

Travel requests for meetings and conferences shall be pre-approved by the NHLC. Travel shall be subject to the same regulations imposed on State Employees. Travel requests, which are not pre-approved, shall not be reimbursed.

Mileage reimbursement will be at the prevailing State mileage rate.

C. PRODUCTION

Production means the physical creation of advertising materials, as follows:

Print Ads: involving layout, type specification, paste up, finished artwork or photography, copywriting, type composition, negatives and proofs.

Point-of-Sale Materials: involving but not limited to layout, type specifications, paste up, finished artwork or photography, type composition, permanent signage, and printing.

Radio: involving script writing and direction, talent and studio costs.

Television and Video Production: involving script writing and direction, storyboards, talent, props, sets or location expenses, studios, photography or videotaping costs, release prints or videotapes.

Web-based Advertising: involving design, layout and copy and detail reports of results.

D. INVOICING

All invoices must include detail of work performed, dates and location of service and prices. Please include one original invoice and one copy. Payment will not be due until thirty (30) days after the invoice has been received at the New Hampshire State Liquor Commission business office.

All invoices must be submitted within 30 days of the fiscal year-end, June 30th of each year, for work completed within the current fiscal year. It is the contractor's further responsibility to ensure that they have been paid within 60 days from the time of submittal. If invoices haven't been submitted within the above-mentioned timeframe, approval will be required from the Liquor Commission prior to any process of payments, which will delay the payment process.

Payment may be withheld if work is not performed as described under Project Deliverables, and the immediate termination of this contract could occur.

A check will be issued through the State Treasurer and forwarded to the Contractor within fourteen (14) days after processing begins at the agency level. Payments will be for only what has been agreed to in the contract. The State of New Hampshire Liquor Commission does not pay late charges or interest.