

Department of Education

A Network for Support

RFP 2018-062

RFP ISSUED.....	July 11, 2017
VENDOR CONFERENCE.....	August 2, 2017, 9:00 AM ET
AT: The New Hampshire Department of Education	
STATE POINT of CONTACT.....	Jane Waterhouse Jane.waterhouse@doe.nh.gov 603-271-7382
CONTRACT TYPE.....	Not to Exceed
PROPOSALS DUE.....	August 25, 2017 4:00 PM

STATE OF NEW HAMPSHIRE
Department of Education
A Network for Support
DOE - RFP 2018-062

1. INTRODUCTION

The State of New Hampshire, acting through the Department of Education, is releasing this Request for Proposal (RFP) to procure a software system and associated services for the Department of Education to support the Title I Tri-Annual Review process and provide a collaborative learning platform for New Hampshire teachers and educational leaders.

1.1 Project Overview

The purpose of this RFP is to incorporate a system of support for Title I teachers and other educators around the State of New Hampshire who support struggling learners. The system is intended to support the Title I Tri-Annual Review process, which is a component of school improvement and innovation efforts. This process requires a secure space for schools to submit their innovation plans and to receive the most up to date research base that supports the New Hampshire Problems of Practice model of school improvement. This research base must include the Department of Education's Keys to Innovation: Improved Educator Effectiveness, Expanded Learning Time, Effective and Evidence Based Instructional Strategies, Leadership Teams Meet and Use Data to Inform Decision Making, Integrating Student Culture, Family and Community Engagement, and Principal Leadership. Each Key to Innovation must include multiple, specific practices tied to evidence and research, and each practice must include evaluative criteria by which schools can self-assess their progress, and assess the progress of their peers.

The system must also provide a collaborative space for New Hampshire educators and leaders to learn, share ideas, and refine practices through courses and professional development opportunities uploaded by external service providers, local educators, and internal Department of Education Staff.

1.2 Contract Award

The State plans to execute a Not to Exceed (NTE) Contract as a result of this RFP. If an award is made, it shall be made based upon evaluation of the submitted proposals in accordance with the review process outlined in Section 5 below. The award will be based upon criteria, standards, and weighting identified in this RFP.

1.1.1 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 Vendors 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.

If a Contract is awarded, the Vendor must obtain written consent from the State before any public announcement or news release is issued pertaining to any Contract award. Such permission, at a minimum, will be dependent upon

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approval of the Contract by Governor and Executive Council of the State of New Hampshire. A Contract award is contingent on approval by the Governor and Executive Council.

1.3 Contract Term

Time is of the essence in the performance of a Vendor's obligations under the Contract.

The Vendor shall be fully prepared to commence work by November 1, 2017 after full execution of the Contract by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council of the State of New Hampshire approval.

The Vendor's initial term will begin on the Effective Date and extend through October 31, 2020. The term may be extended up to 3 years ("Extended Term") at the sole option of the State, subject to the parties' prior written agreement on applicable fees for each extended term, up to but not beyond October 31, 2023.

The Vendor shall commence work upon issuance of a Notice to Proceed by the State.

The State does not require the Vendor to commence work prior to the Effective Date; however, if the Vendor commences work prior to the Effective Date and a Notice to Proceed, such work shall be performed at the sole risk of the Vendor. In the event that the Contract does not become effective, the State shall be under no obligation to pay the Vendor for any costs incurred or Services performed; however, if the Contract becomes effective, all costs incurred prior to the Effective Date shall be paid under the terms of the Contract.

1.3.1 Contract Negotiations and Unsuccessful Bidder Notice

If a Vendor is selected, the State will notify the selected Vendor in writing of their selection and the State's desire to enter into contract discussions. Until the State successfully completes discussions with the selected Vendor, all submitted Proposals remain eligible for selection by the State. In the event contract discussions are unsuccessful with the selected Vendor, the evaluation team may recommend another Vendor.

In accordance with New Hampshire Statutes Chapter 21-I:13-a, no information shall be available to the public, the members of the general court or its staff, notwithstanding the provisions of RSA 91-A:4, concerning specific responses to this RFP, from the time the RFP is made public until the contract is actually awarded, in order to protect the integrity of the public procurement process. This means unsuccessful Vendors shall not be notified until after the Governor and Executive Council have approved the resulting Contract. No information can be provided to non-selected Vendor until after contracts are awarded, at which time non-selected applicants may submit a written request for more information about the reasons for not being selected and recommendations that may make future applications more

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effective. Such requests are not considered appeals. Once an applicant has submitted a letter, the State will attempt to accommodate such requests within a reasonable time.

1.4 Subcontractors

The Vendor shall identify all Subcontractors to be provided to deliver required Services subject to the terms and conditions of this RFP, including but not limited to, in Appendix H Section H-25: *General Contract Requirements* herein and Appendix H: *State of New Hampshire Terms and Conditions* of this RFP.

The Vendor shall remain wholly responsible for performance of the entire Contract regardless of whether a Subcontractor is used. The State will consider the Vendor to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from any Contract.

2. SCHEDULE OF EVENTS

The following table provides the Schedule of Events for this RFP through Governor and Council approval and Notice to Proceed.

Event	Date	Time
RFP released to Vendors (on or about)	July 10, 2017	9:00 AM
Vendor inquiry period begins (on or about)	July 14, 2017	9:00 AM
Letter of Intent to Apply Due Notification to the State of the number of representatives attending the Optional Vendor Conference	July 24, 2017	4:00 PM
Optional Vendor Conference; location identified in <i>General Instructions</i> , Section 4.3	August 2, 2017	9:00 AM
Vendor Inquiry Period ends (final inquiries due)	August 8, 2017	4:00 PM
Final State responses to Vendor inquiries	August 11, 2017	4:00 PM
Final Date for Proposal submission	August 25 , 2017	4:00pm
Invitations for oral presentations, if necessary	August 28, 2017	4:00 PM
Vendor presentations/discussion sessions/interviews, if necessary	Sept. 5, 2017	9:00 AM
Anticipated Governor and Council approval	Nov. 8, 2017	4:00 AM
Anticipated Notice to Proceed	Nov. 9, 2017	4:00 PM

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3. SOFTWARE, REQUIREMENTS AND DELIVERABLES

3.1 Software

Each Proposal must present Software that can fully support the required functionality listed in Appendix C: *System Requirements and Deliverables*.

3.2 Requirements

3.2.1 Appendix B: *Minimum standards for Proposal Consideration*, compliance with System requirements, use of proposed COTS Software, Vendor Implementation experience, and proposed Project Team.

3.2.2 Appendix C: *System Requirements and Deliverables*

3.2.3 Appendix D: *Topics for Mandatory Narrative Responses* for Software, technical, Services and Project Management topics.

3.2.4 Appendix E: *Standards for Describing Vendor Qualifications* including Vendor corporate qualifications, team organization and key staff, Project Manager, and other key staff candidates' qualifications.

3.3 Deliverables

The State classifies Deliverables into three (3) categories: Written Deliverables, Software Deliverables, and Non-Software Deliverables. Pricing and scheduling information requirements for these deliverables are provided in Appendix F: *Pricing Worksheets*. A set of required Deliverables as well as a list of Requirements for these Deliverables is detailed in Appendix C: *System Requirements and Deliverables*. Appendix D: *Topics for Mandatory Narrative Responses* solicits responses, which will expound on the Vendors' understanding of the Implementation process, the manner of Service delivery and experience with similar projects related to the Software, technical Services, and Project Management topics.

4. INSTRUCTIONS

4.1 Proposal Submission, Deadline, and Location Instructions

Proposals submitted in response to this RFP must be received by the Department of Education no later than the time and date specified in Section 2: *Schedule of Events*. Proposals must be addressed to:

**State of New Hampshire
Department of Education
c/o Jane Waterhouse
101 Pleasant Street
Concord, New Hampshire 03301**

**STATE OF NEW HAMPSHIRE
Department of Education
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Cartons containing Proposals must be clearly marked as follows:

**STATE OF NEW HAMPSHIRE
Department of Education

RESPONSE TO DOE RFP 2018-062
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Late submissions will not be accepted and will remain unopened. Delivery of the Proposals shall be at the Vendors' expense. The time of receipt shall be considered when a Proposal has been officially documented by the Department of Education in accordance with its established policies, as having been received at the location designated above. The State accepts no responsibility for mislabeled mail. Any damage that may occur due to shipping shall be the Vendor's responsibility.

Vendors are permitted to submit **only one (1)** Proposal in response to this RFP.

The State reserves the right to reject any and all proposals and to waive informalities and minor irregularities in proposals received and to accept any portion of a proposal or all items bid if deemed in the best interest of the Secretary to do so.

All Proposals submitted in response to this RFP must consist of:

- a. One (1) original and four (4) clearly identified copies of the Proposal, including all required attachments,
- b. One (1) copy of the *Proposal Transmittal Form Letter* (described in Section 4.18.2: *Transmittal Form Letter*, herein) shall be signed by an official authorized to legally bind the Vendor and shall be marked "ORIGINAL."
- c. One (1) electronic copy on CD ROM or an electronic external storage device in MS WORD format.

The original and all copies shall be bound separately, delivered in sealed containers, and permanently marked as indicated above. A Vendor's disclosure or distribution of its Proposal other than to the State will be grounds for disqualification.

4.2 Proposal Inquiries

All inquiries concerning this RFP, including but not limited to, requests for clarifications, questions, and any changes to the RFP, shall be emailed, citing the RFP title, RFP number, page, section, and paragraph and submitted to the following RFP State Point of Contact:

STATE OF NEW HAMPSHIRE
Department of Education
A Network for Support
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Kristine Braman, Program Assistant
Department of Education
101 Pleasant Street
Concord, New Hampshire, 03301
Telephone: (603) 271-6055
Email: Kristine.Braman@doe.nh.gov

Vendors are encouraged to submit questions via email; however, the State assumes no liability for assuring accurate/complete email transmission/receipt and is not responsible to acknowledge receipt. Questions submitted via email are encouraged to utilize the Title of the RFP in the "subject line" of the email.

Inquiries must be received by the RFP State Point of Contact (see above) no later than the conclusion of the Vendor Inquiry Period (see Section 2: *Schedule of Events*). Inquiries received later than the conclusion of the Vendor Inquiry Period shall not be considered properly submitted and may not be considered.

The State intends to issue official responses to properly submitted inquiries on or before the date specified in Section 2: *Schedule of Events*; however, this date may be subject to change at the State's discretion. The State may consolidate and/or paraphrase questions for sufficiency and clarity. The State 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 State. Official responses will be made in writing.

4.2.1 Restriction of Contact With State Employees

From the date of release of this RFP until an award is made and announced regarding the selection of a Vendor, all communication with personnel employed by or under contract with the State regarding this RFP is forbidden unless first approved by the RFP State Point of Contact listed in Section 4.2: *Proposal Inquiries*. State employees have been directed not to hold conferences and/or discussions concerning this RFP with any Vendor during the selection process, unless otherwise authorized by the RFP State Point of Contact.

4.3 Vendor Conference

A **non-mandatory** Vendor Conference will be held at the following location on the date and at the time identified in Section 2: *Schedule of Events*:

New Hampshire Department of Education
Londergan Building
101 Pleasant Street
Room 15
Concord, New Hampshire 03301

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All Vendors who intend to submit Proposals are encouraged to attend the Vendor Conference. Attendance by teleconference is permitted. Phone numbers will be emailed to registrants upon request. Vendors are requested to RSVP via email by the date identified in Section 2: *Schedule of Events*, indicating the number of individuals who will attend the Vendor Conference.

Vendors are allowed to send a maximum number of three (3) representatives.

Vendors will have an opportunity to ask questions about the RFP and the State will make a reasonable attempt to answer questions it deems appropriate. Questions may include, without limitation, a request for clarification of the RFP; a request for changes to the RFP; suggestions or changes to the RFP that could improve the RFP competition or lower the offered price; and to review any applicable Documentation.

Vendors are encouraged to email inquiries at least twenty-four (24) hours prior to the Vendor Conference. No responses will be given prior to the Vendor Conference. Oral answers will not be binding on the State. The State's final response to Vendor inquiries and any requested changes to terms and conditions raised during the Vendor Inquiry Period will be emailed by the date specified as the final State responses to Vendor inquiries as specified in Section 2: *Schedule of Events*. Vendors are responsible for any costs associated with attending the Vendor Conference.

4.4 Alteration of RFP

The original RFP document is on file with the State of New Hampshire, Department of Administrative Services. Vendors are provided an electronic version of the RFP. Any alteration to this RFP or any file associated with this RFP is prohibited. Any such changes may result in a Proposal being rejected.

4.5 RFP Addendum

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

4.6 Non-Collusion

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

4.7 Validity of Proposal

Proposals must be valid for one hundred and eighty (180) days following the deadline for submission of Proposals in Section 2: *Schedule of Events*, or until the Effective Date of any resulting Contract.

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4.8 Property of the State

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

4.9 Confidentiality of a Proposal

A Proposal must remain confidential until the Effective Date of any resulting Contract as a result of this RFP. A Vendor's disclosure or distribution of Proposals other than to the State will be grounds for disqualification.

4.10 Public Disclosure

Subject to applicable law or regulations, the content of each Vendor's Proposal shall become public information upon the Effective Date of any resulting Contract. Any information submitted as part of a response to this request for proposal (RFP) may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP will be made accessible to the public online via the website Transparent NH (<http://www.nh.gov/transparentnh/>). Accordingly, business financial information and proprietary information such as trade secrets, business and financials models and forecasts, and proprietary formulas may be exempt from public disclosure under RSA 91-A:5, IV. If you believe any information being submitted in response to a 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 should mark/stamp the materials as such. 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, Vendor pricing will be subject to disclosure upon approval of the contract by Governor and Council.

Generally, each Proposal shall become public information upon the approval of Governor and Council of the resulting contract, as determined by the State, including but not limited to, RSA Chapter 91-A (Right to Know Law). The State 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 State to view portions of a Proposal that the Vendor has properly and clearly marked confidential, the State will notify the Vendor of the request and of the date and the State plans to release the records. A designation by the Vendor of information it believes exempt does not have the effect of making such information exempt. The State will determine the information it believes is properly exempted from disclosure. By submitting a Proposal, Vendors agree that unless the Vendor obtains a court order, at its sole expense, enjoining the release of the requested information, the State may release the requested information on the date specified in the State's notice without any liability to the Vendors.

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4.11 Security

The State must ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of its information technology resources, information, and services. State resources, information, and services must be available on an ongoing basis, with the appropriate infrastructure and security controls to ensure business continuity and safeguard State networks, Systems and data.

The State will evaluate the degree to which the proposed System is designed and architected to ensure the confidentiality and integrity of its valued asset, Data.

4.12 Non-Commitment

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

4.13 Proposal Preparation Cost

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

4.14 Oral Presentations/Interviews and Discussion

The State reserves the right to require Vendors to make oral presentations of their Proposals and/or to make available for oral presentations/interviews the IT consultants proposed to implement the COTS application. All costs associated with oral presentations/interviews shall be borne entirely by the Vendor. Vendors may be requested to provide demonstrations of their proposed Systems as part of their presentations.

4.15 Required Contract Terms and Conditions

By submitting a Proposal, the Vendor agrees that the State of New Hampshire terms and conditions, contained in Appendix H: *State of New Hampshire Terms and Conditions* herein, shall form the basis of any Contract resulting from this RFP. In the event of any conflict between the State's terms and conditions and any portion of the Vendor's Proposal, the State's terms and conditions shall take precedence and supersede any and all such conflicting terms and conditions contained in the Vendor's Proposal.

4.16 Proposal Format

Proposals should follow the following format:

- The Proposal should be provided in a three-ring binder.
- The Proposal should be printed on white paper with dimensions of 8.5 by 11 inches with right and left margins of one (1) inch.

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- The Proposal should use Times New Roman font with a size no smaller than eleven (11).
- Each page of the Proposal should include a page number and the number of total pages and identification of the Vendor in the page footer.
- Tabs should separate each section of the Proposal.

Exceptions for paper and font sizes are permissible for: graphical exhibits, which may be printed on white paper with dimensions of 11 by 17 inches; and material in appendices.

4.17 Proposal Organization

Proposals should adhere to the following outline and should not include items not identified in the outline.

- **Cover Page**
- **Transmittal Form Letter**
- **Table of Contents**
- **Section I:** Executive Summary
- **Section II:** Glossary of Terms and Abbreviations
- **Section III:** Responses to Requirements and Deliverables
- **Section IV:** Narrative Responses
- **Section V:** Corporate Qualifications
- **Section VI:** Qualifications of key Vendor staff
- **Section VII:** Cost Proposal
- **Section VIII:** Copy of the RFP and any signed Addendum (a) - ***required in original Proposal only***
- **Section IX:** Appendix

4.18 Proposal Content

4.18.1 Cover Page

The first page of the Vendor's Proposal should be a cover page containing the following text:

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION**

**RESPONSE TO DOE RFP 2018-062
A NETWORK FOR SUPPORT**

The cover page should also include the Vendor's name, contact person, contact telephone number, address, city, state, zip code, fax number, and email address.

4.18.2 Transmittal Form Letter

The Vendor must submit signed Transmittal Form Letter with their response using the Transmittal Form Letter Template provided herewith. Any

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electronic alteration to this Transmittal Form Letter is prohibited. Any such changes may result in a Proposal being rejected.

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State of New Hampshire Proposal Transmittal Form Letter

Company Name _____

Address _____

To: NH Department of Education State Point of Contact: Jane Waterhouse
Telephone (603) 271-7382
Email: jane.waterhouse@doe.nh.gov

RE: Proposal Invitation Name: A NETWORK FOR SUPPORT
Proposal Number: DOE 2018-062
Proposal Due Date and Time: July 07, 2017 at 2:30 PM

Dear Sir:

Company Name: _____ hereby offers to sell to the State of New Hampshire the Services indicated in RFP NH Department of Education 2018-062 A Network for Support at the price(s) quoted in Vendor Response Section VII: *Cost Proposal*, and Appendix F: *Pricing Worksheets*, in complete accordance with all conditions of this RFP and all Specifications set forth in the RFP and in the State of New Hampshire Terms and Conditions outlined in RFP Appendix H: *State of New Hampshire Terms and Conditions*.

Company Signor: _____ is authorized to legally obligate
Company Name: _____.

We attest to the fact that:

The company has reviewed and agreed to be bound by all RFP terms and conditions including but not limited to the *State of New Hampshire Terms and Conditions* in Appendix H, which shall form the basis of any Contract resulting from this RFP; No new terms and conditions have been added and no existing terms and conditions have been deleted in this RFP Proposal.

The Proposal is effective for a period of 180 days or until the Effective Date of any resulting Contract.

The prices quoted in the Proposal were established without collusion with other eligible Vendors and without effort to preclude the State of New Hampshire from obtaining the best possible competitive price; and

The Vendor has read and included a copy of RFP 2018-062 and any subsequent signed Addendum (a).

Our official point of contact is _____

Title _____

Telephone _____ Email _____

Authorized Signature Printed _____

Authorized Signature _____

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4.18.3 Table of Contents

The Vendor must provide a table of contents with corresponding page numbers relating to its Proposal. The table of contents must conform to the outline provided in Section 4.17: *Proposal Organization*, but should provide detail, e.g., numbering, level of detail.

4.18.4 Section I: Executive Summary

The executive summary, which must not exceed five (5) pages, must identify how the Vendor satisfies the minimum standards for consideration, which are described in Appendix B: *Minimum Standards for Proposal Consideration*, to this Request for Proposals. The executive summary will also provide an overview of the Vendor's proposed Solution and Services. Vendors are encouraged to highlight those factors that they believe distinguish their Proposal.

4.18.5 Section II: Glossary of Terms and Abbreviations

The Vendor must provide a glossary of all terms, acronyms, and abbreviations used in its Proposal.

4.18.6 Section III: Responses to System Requirements and Deliverables

System requirements are provided in Appendix C: *System Requirements and Deliverables*.

Using the response tables in Appendix C, the Vendor must document the ability to meet the Requirements and Deliverables of this RFP.

4.18.7 Section IV: Narrative Responses

Section IV solicits narrative responses describing the Software, Technical, Services and Project Management topics defined for this RFP Project. Appendix D: *Topics for Mandatory Narrative Responses* is organized into sections, which correspond to the different deliverables or aspects of the scoring process of the Proposal. Discussion of each topic must begin on a new page.

4.18.8 Section V: Corporate Qualifications

Section V should provide corporate qualifications of all firms proposed to participate in the Project. Specific information to be provided is described in Section E-1: *Required Information on Corporate Qualifications* of Appendix E: *Standards for Describing Vendor Qualifications*.

4.18.9 Section VI: Qualifications of key Vendor staff

This Proposal section must be used to provide required information on key Vendor staff. Specific information to be provided is described in Sections: E-2: *Team Organization and Designation of key Vendor staff*; E-3: *Candidates for Project Manager*; and E-4: *Candidates for key Vendor staff Roles*, of Appendix E: *Standards for Describing Vendor Qualifications*.

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4.18.10 Section VII: Cost Proposal

The Cost Proposal must describe the proposed cost of the Vendor proposal based on and reflected by the inclusion of the completed tables listed in Appendix F: Pricing Worksheets.;

NOTE: SECTION VII COST PROPOSAL, MUST BECOME PUBLIC INFORMATION AND AS SUCH SHALL NOT BE MADE CONFIDENTIAL OR PROPRIETARY. PROPOSALS SUBMITTED WITH ALL OR PART OF SECTION VII LABELED CONFIDENTIAL OR PROPRIETARY SHALL NOT BE CONSIDERED RESPONSIVE AND SHALL NOT BE ACCEPTED.

4.18.11 Section VIII: Copy of the RFP and any signed Addendum(a) - required in original Proposal only

4.18.12 Section IX: Appendix- This section provided for extra materials as referenced in Appendix D such as Product Literature, Ad Hoc/Federal Reporting, Interface Standards, Testing (For UAT Plan) and Status Meetings and Reports.

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5. PROPOSAL EVALUATION PROCESS

5.1 Scoring Proposals

Each Proposal will be evaluated and considered with regard to the Solution and Services proposed, qualifications of the Vendor and any Subcontractors, experience and qualifications of proposed candidates, and cost.

If the State, determines to make an award, the State will issue an Intent to Award Notice to a Vendor based on these evaluations. 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.

The State will use a scoring scale of **100** points, which shall be applied to the Solution as a whole. Points will be distributed among the following factors:

- 30 points - **Proposed Software Solution;**
- 20 points – **Vendor's Technical, Service and Project Management Experience;**
- 15 points – **Project Execution and Ongoing Operations**
- 25 points – **Scoring the Pricing Model**
- 10 points – **Scoring the Overall Quality of the Proposal**
- 100 points - **Total Possible Score.**

5.2 Rights of the State in Evaluating Proposals

The State reserves the right to:

- a. Consider any source of information including but not limited to: State employees, Internet research and rating agencies, in evaluating Proposals;
- b. Omit any planned evaluation step if, in the State's view, the step is not needed;
- c. At its sole discretion, reject any and all Proposals at any time; and
- d. Open Contract discussions with the second highest scoring Vendor, if the State is unable to reach an agreement on Contract terms with the highest scoring Vendor.

5.3 Planned Evaluations

The State plans to use the following process:

- Initial screening;
- Preliminary scoring of the Proposals;
- Oral interviews and product demonstrations, if necessary;
- Final evaluation of Proposals.

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5.3.1 Initial Screening

The State will conduct an initial screening step to verify Vendor compliance with submission requirements and to confirm that the Proposal satisfies the conditions defined in Appendix B: *Minimum Standards for Proposal Consideration*. A Proposal that fails to satisfy either submission requirements or minimum standards may be rejected without further consideration.

5.3.2 Preliminary Scoring of Proposals

The State will establish an evaluation team to initially score Proposals.

5.3.3 Oral Interviews and Product Demonstrations

Preliminary scores from the initial evaluation of the Proposals will be used to select Vendors to invite to oral interviews and product demonstrations.

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

For each invited Vendor, the oral interview and product demonstrations will be **one (1) hour** in length. A highly structured agenda will be used for oral interviews and product demonstrations to ensure standard coverage of each invited Vendor. Information gained from oral interviews and product demonstrations will be used to refine scores assigned from the initial review of the Proposals.

5.3.4 Best and Final Offer

The State **will not** be requesting a Best and Final Offer. The State plans to negotiate pricing with the highest scoring Vendor. If an agreement is not reached, the State reserves the right to move on to negotiations with the second-highest scoring Vendor.

5.3.5 Final Evaluation

The State will conduct final evaluations as a culmination of the entire process of reviewing Vendor Proposals and information gathering. Reference and background checks will be made for finalist or finalists as appropriate. After making a preliminary determination of award, the State reserves the right to conduct site visits to a Vendor location and/or government site(s) that utilizes the Vendor Software.

5.4 Scoring Detail

The State will select a Vendor based upon the criteria and standards contained in this RFP.

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5.4.1 Scoring of the Proposed Software Solution

The Vendor's Proposed Software Solution will be allocated a maximum score of (30) points. The main purpose of this section is to measure how well the solution meets the business needs of the Agency. The contribution of scoring team members representing all stakeholders will be critical in this section.

Factors include but are not limited to :

Proposal

- Responds clearly, concisely and completely to all RFP priorities and requirements.
- Demonstrates understanding of the states' needs and the challenges that need to be met in order to achieve it.
- Proposes methods, procedures and strategies that are sound, innovative, and represent current research and best practice in assessment design and delivery.

Software

- Adapts to the NH DOE and school district systems.
- Supports the Bureau of Integrated Programs' priorities.
- Scalable for potential growth and or changing needs.
- User friendly.
- Is compliant with ADA web development requirements.

Protection of Data

- Project activities adhere to the highest standards of integrity particularly as they related to student information.

System Compatibility

- Employs technologies similar to other state systems.
- Ease of system modification, integration and data storage.

Criteria for these scores will be found in but are not limited to:

Proposal Section III: Responses to Requirements and Deliverables
Attachment C-2: Requirements, particularly business requirements

Proposal Section IV: Narrative Responses

Vendor Presentation and Demonstration

5.4.2 Scoring of Vendor Technical, Service, and Project Management Proposal

Vendor proposed Services will be allocated a maximum score of twenty (20) points.

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In this section the State will score the technical merits of how the Vendor proposes to carry out the implementation and maintain the solution. The Implementation of the Solution will require the Vendor to customize or configure the application to meet the requirements of the State, monitor and ensure its operation throughout the warranty period and, if maintenance is to be provided, to be a partner in the Solution's operation throughout its useful life. Technical details of the System, administrative procedures, how the Vendor manages its team, the project and the technical environment will be critical.

Factors include but are not limited to:

Corporate Qualifications

- Longevity and financial stability of business and key business partners, if part of this proposal.
- Standing in and evaluation of market position of proposed assessment solution(s).
- Demonstrated competence in working with the proposed product or technology, including examples of product updates (e.g., updates for standard changes) and technology over time as market needs have evolved.
- Depth of required technical skill within the company.
- Successful completion of previous similar projects.

Project Management Competence

- Expertise and experience in priority areas.
- Staff qualification and experience.
- Size and composition of the vendor team and the ability to manage quality control and oversight.

Criteria for these scores will be found in but are not limited to:

**Proposal Section III: Responses to Requirements and Deliverables
Attachment C-2: Requirements, particularly business requirements
Proposal Section IV: Narrative Responses**

Proposed Work Plan

Vendor Presentations and Demonstration

Vendor References

5.4.3 Scoring of Project Execution and Ongoing Operations

Vendor proposed plan for project executive and ongoing operations will be allocated a maximum score of fifteen (15) points. It must be established that the vendor company is capable of carrying out the project through

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implementation, the warranty period and the maintenance period and any contract extensions. This project has a tight implementation schedule and vendors should specifically address risks and remediation strategies to address the compressed time schedule. Factors include but are not limited to:

Project Execution

- Implementation approach
- Communication strategies
- Discovery and resolution of problems
- System support structure

Ongoing Operations

- Post warranty operation and support
- Customer solutions and support center proposal
- Technical reporting and advisory

Criteria for these scores will be found in but are not limited to:

Proposal Section III: Responses to Requirements and Deliverables
Attachment C-2: Requirements, particularly business requirements
Proposal Section IV: Narrative Responses

Proposal Section V: Corporate Qualifications

Vendor Presentations and Demonstration

Proposed Work Plan

5.4.4 Scoring of Pricing Model

Vendor proposed software solution cost will be allocated a maximum score of twenty five (25) points. The State will consider both implementation costs and subsequent year license and maintenance costs, provided in Tables F-1: *Activities/Deliverables/Milestones Pricing Worksheet*, F-5: *Software Licensing, Maintenance, and Support Pricing Worksheet* and, if appropriate, F-6: *Web Site Hosting, Maintenance, and Support Pricing Worksheet*. The cost information required in a proposal is intended to provide a sound basis for comparing costs. Factors include but are not limited to:

Price Proposal

- Cost effective budget.
- Sound fiscal management practices that meet or exceed industry standards.

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THE FOLLOWING FORMULA WILL BE USED TO ASSIGN POINTS FOR COSTS:

**Vendor's Cost Score= (Lowest Proposed Cost / Vendor's Proposed Cost) times
NUMBER OF maximum points for Solution costs defined in Section 5.1: Scoring
Proposals.**

**For the purpose of this formula, the lowest proposed cost is defined as the
lowest cost proposed by a Vendor who fulfills the minimum qualifications.**

5.4.5 Scoring the Overall Quality of the Proposal

The vendor proposed solution provides a comprehensive, coherent and integrative response to the *Scope of Work* and other project priorities that demonstrates the capacity to implement the project on time, within budget and at a high level of quality. A maximum score of ten (10) points will be allotted to the overall quality of the proposal.

Criteria for these scores will be found in but are not limited to:

Section I: Executive Summary

Section III: Responses to Requirements and Deliverables

Section IV: Narrative Responses

Section V: Corporate Qualifications

Section VI: Qualifications of Key Vendor Staff

Section VII: Pricing Model

Vendor Presentation and Demonstration

Proposed Work Plan

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APPENDIX A: BACKGROUND INFORMATION

A-1 Department of Education

The Department of Education is responsible for supporting, monitoring, and evaluating each Local Education Agency in the State of New Hampshire. Responsibilities include ensuring each student has access to highly effective teachers who incorporate best teaching practices in order to raise the level of achievement for all students, regardless of abilities.

The mission of the Department of Education is: To provide educational leadership and services which promote equal educational opportunities and quality practices and programs that enable New Hampshire residents to become fully productive members of society.

Project Overview/Justification

The purpose of this RFP is to incorporate a system of support for Title I teachers and other educators around the State of New Hampshire who support struggling learners. The system is intended to support the Title I Tri-Annual Review process, which is a component of school improvement and innovation efforts. This process requires a secure space for schools to submit their innovation plans and to receive the most up to date research base that supports the New Hampshire Problems of Practice model of school improvement. This research base must include the Department of Education's Keys to Innovation: Improved Educator Effectiveness, Expanded Learning Time, Effective and Evidence Based Instructional Strategies, Leadership Teams Meet and Use Data to Inform Decision Making, Integrating Student Culture, Family and Community Engagement, and Principal Leadership. Each Key to Innovation must include multiple, specific practices tied to evidence and research, and each practice must include evaluative criteria by which schools can self-assess their progress, and assess the progress of their peers.

The system must also provide a collaborative space for New Hampshire educators and leaders to learn, share ideas, and refine practices through courses and professional development opportunities uploaded by external service providers, local educators, and internal Department of Education Staff.

Goals and Objectives for "A Network of Support":

- To create an efficient and effective computer system to support the Tri-Annual Review process.

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- To provide educators and leaders throughout the State with a collaborative space to learn, share best practices, and engage in professional development opportunities.
- Eliminate redundant Systems currently being used.
- Support the State's lowest achieving students and subgroups of students.

A-2 Department of Information Technology and Technology Status

The Project will be conducted in cooperation with the New Hampshire Department of Information Technology (DoIT). DoIT coordinates the statewide Information Technology activities.

A-2.1 Technical Architecture

Components of the State's technical architecture include:

- **State Network Environment:** The State operates multiple wide-area networks using various technologies including frame relay, fiber, dedicated lines, and wireless, Voice over IP (VOIP) and VPN technologies. Networks have varying levels of integration and connectivity to the statewide core for resource sharing and centralized administration by the Department of Information Technology (DoIT). Direct support is provided for twenty-one partner agencies; other State agencies support their own networks, out-source the support, or use the resources of another agency.
- **Internet Access:** All State agencies are connected to the State's intranet which is being redesigned to function as the statewide core network in addition to facilitating access to e-mail, the Internet, and the State's financial applications. Some agencies additionally have their own Internet service providers. PCI Compliance is also an element in this effort.
- The State uses VMWare for Windows server virtualization and virtual hosts are deployed at two separate State campus sites. VMWare provides a highly scalable and high availability environment for the State's many Agencies. If a virtual host fails, VMWare automatically fails over all of the virtual servers on that host to another host. The EMC NetWorker product is used to manage backups for this environment utilizing Data Domain as the disk to disk repository.
- For the State's Oracle enterprise systems, an Oracle/Linux solution (OVM) is used for the virtual environment. Similar to the windows environment, this solution provides a highly scalable and high availability environment and also utilizes the EMC NetWorker and Data Domain backup solution. Data Domain is also employed to meet the backup requirements within OVM

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A-2.2 Future Systems Environment

Future design and development efforts should conform to the emerging environment as defined by current information technology initiatives, the New Hampshire Statewide Strategic Information Technology Plan, and the State's e-Government Architecture Plan.

This environment is end user centric, utilizing the Internet and Web whenever possible, promoting electronic transactions, and centralized common services (security, e-payment, content search), where possible.

Upon completion of the contract, ownership of content loaded into the system will be transferred to the Local Education Agency in an agreed upon format.

A-3 Related Documents Required

Vendors are **NOT** required to submit these certificates with their proposal. Vendors may be required to be a registered company in New Hampshire. The certificates will be requested from the selected Vendor prior to Contract approval.

- a. Certificate of Good Standing/Authority (Appendix G-2-item A) dated after April of the current year and available from the Department of State by calling (603) 271-3244 or (603) 271-3246. Forms are also available on: www.sos.nh.gov/corporate/Forms.html
- b. Certificate of Vote (Appendix G-2-Item B)
- c. Proof of Insurance compliant with Appendix H: *State of New Hampshire Terms and Conditions*.

A-4 State Project Team

State high-level staffing for the Project will include:

- Frank Edelblut - Commissioner
- Heather Gage – Division Director
- Christopher Motika – Bureau Administrator
- Kathryn (Joey) Nichol – Title I Education Consultant
- Kristine Braman – Program Assistant for Integrated Programs
- Teresa Vincent – System Development Specialist

A-4.1 Project Sponsor

The Project Sponsor, **Jane Waterhouse**, will be responsible for securing financing and resources, addressing issues brought to his attention by the State Project Manager, and assisting the State Project Manager in promoting the Project throughout the State. The Project Sponsor or an appropriate designee will be available to resolve issues on a timely basis.

A-4.2 State Project Manager

The State Project Manager will be responsible for:

- Leading the Project;

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- Promoting the Project statewide;
- Developing Project strategy and approach;
- Engaging and managing all Vendors;
- Managing significant issues and risks; and
- Managing stakeholders' concerns.

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APPENDIX B: MINIMUM STANDARDS FOR PROPOSAL CONSIDERATION

A Proposal that fails to satisfy the requirements in this section may be rejected without further consideration.

B-1 Submission requirements

- The Proposal is date and time stamped before the deadline as defined in Section 2: *Schedule of Events*. The Vendor has sent the proper number of copies with the original version of the Proposal marked "ORIGINAL" and the copies marked "COPY" as defined in Section 4.1: *Proposal Submission, Deadline and Location Instructions*
- The original Proposal includes a signed Transmittal Letter accepting all terms and conditions of the RFP without exception
- The proposed escrow agreement shall be submitted with the Vendor's Proposal for review by the State.

B-2 Compliance with System Requirements

System requirements and Deliverables are listed in Appendix C: *System Requirements and Deliverables* in this RFP. The proposed Vendor's Solution must be able to satisfy all mandatory requirements listed.

B-3 Current Use of Vendor Proposed Software – Current Implemented Sites of Vendor proposed software

Components that constitute the Vendor's proposed Software suite must be fully implemented and operational in at least one (1) government entity comparable in size and complexity to the State of New Hampshire.

B-4 Vendor Implementation Service Experience

The vendor must have completed the vendor proposed software implementation for at least one (1) government client comparable in size and complexity to the State within the last three (3) years. The specific vendor proposed software version and functionality must be described. See Appendix D and Appendix E.

B-5 Proposed Project Team

The proposed Project Team must include individuals with substantial experience in developing professional learning opportunities for educators and supporting best teaching and school leadership practices for low achieving students and schools.

For the purpose of evaluating compliance with this requirement, the Vendor team is permitted to include Subcontractors. In addition, one (1) team member may be identified to fulfill the experience requirement in multiple areas.

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APPENDIX C: SYSTEM REQUIREMENTS AND DELIVERABLES

C-1 SCOPE OF WORK

The project solution must create a user-friendly network that can be accessed by all teachers in the State of New Hampshire for the purposes of professional learning and sharing best teaching and leadership practices. The network must also provide a secure platform for schools designated as Title I "Focus" and "Priority" to plan, implement, reflect upon, evaluate, and modify their Title I Innovation Plans. In order to implement this platform, the solution must include access to current evidence based best educational practices around each of the "Keys to Innovation": Improved Educator Effectiveness, Expanded Learning Time, Effective and Evidence Based Instructional Strategies, Leadership Teams Meet and Use Data to Inform Decision Making, Integrating Student Culture, Family and Community Engagement, and Principal Leadership.

Currently two systems support this work, and in order to eliminate redundancy, the solution must include both functions.

The State currently allocates time of two Bureau of Integrated Programs employees who oversee the Triannual Review process, which is based on the work of Focus and Priority schools as they seek continual educational improvement as institutions. Other state personnel resources are allocated in designing and accessing the professional development component currently in place.

The goals and objectives of the project are:

- A. To create an efficient and effective computer system to support the Tri-Annual Review process.
- B. To provide educators and leaders throughout the State with a collaborative space to learn, share best practices, and engage in professional development opportunities.
- C. Eliminate redundant Systems currently being used.
- D. Support the State's lowest achieving students and subgroups of students.

C-2 REQUIREMENTS

Vendors shall complete the requirements checklist (Table C-2 General Requirements Vendor Response Checklist. Table C-2 is included as an attachment to RFP 2018-062.

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C-3 DELIVERABLES

Vendors shall complete the response checklist Table C-3 Deliverables Vendor Response Checklist. The chart below is a sample of deliverables that represent project milestones and are to be developed by the vendor. Items listed below in the sample can be changed to represent the proposed solution. This table must align to completed pricing worksheets (Appendix F) provided by the vendor.

Table C-3 Deliverables Vendor Response Checklist

	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date
PLANNING AND PROJECT MANAGEMENT			
1	Conduct Project Kickoff Meeting	Non-Software	
2	Project Status Reports	Written	
3	Work Plan	Written	
4	Infrastructure Plan, including Desktop and Network Configuration Requirements	Written	
5	Security Plan	Written	
6	Communications and Change Management Plan	Written	
7	Requirements Trace ability Matrix	Written	
8	Software Configuration Plan	Written	
9	Systems Interface Plan and Design/Capability	Written	
10	Testing Plan	Written	
11	Data Conversion Plan and Design	N/A	N/A
12	Deployment Plan	N/A	N/A
13	Comprehensive Training Plan and Curriculum	Written	
14	End User Support Plan	Written	
15	Business Continuity Plan	Written	
16	Documentation of Operational Procedures	Written	
INSTALLATION			
17	Provide Software Licenses if needed	N/A	N/A
18	Provide Fully Tested Data Conversion Software	N/A	N/A

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19	Provide Software Installed, Configured, and Operational to Satisfy State Requirements	N/A	N/A
TESTING			
20	Conduct Integration Testing	Non-Software	
21	Conduct User Acceptance Testing	Non-Software	
22	Perform Production Tests	Non-Software	
23	Test In-Bound and Out-Bound Interfaces	Software	
24	Conduct System Performance (Load/Stress) Testing	Non-Software	
25	Certification of 3 rd Party Pen Testing and Application Vulnerability Scanning.	Non-Software	
SYSTEM DEPLOYMENT			
26	Converted Data Loaded into Production Environment	N/A	N/A
27	Provide Tools for Backup and Recovery of all Applications and Data	N/A	N/A
28	Conduct Training	Non-Software	
29	Cutover to New Software	Non-Software	
30			
31	Provide Documentation	Written	
32	Execute Security Plan	Non-Software	
OPERATIONS			
33	Ongoing Hosting Support	Non-Software	
34	Ongoing Support & Maintenance	Software	
35	Conduct Project Exit Meeting	Non-Software	

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APPENDIX D: TOPICS FOR MANDATORY NARRATIVE RESPONSES

Vendors must limit narrative responses describing the Software, Technical, Services and Project Management topics defined for this Project. The following table identifies specific topics for narratives.

Topic
D-1 Proposed Software Solution
Topic 1 - Description of the software
Topic 2 - Method for protecting individual user and school level data
Topic 3 – Compatibility with current platforms and transfer of existing data
Topic 4 – ADA Compliance
D-2 Technical, Services and Project Management Experience
Topic 5 – Corporate Qualifications
Topic 6 - Backup and Recovery
Topic 7 – Project Management Competence
Topic 8 - Archiving
D-3 Project Execution
Topic 9 - Implementation Approach – graphic workflow
Topic 10 – Implementation Milestones
Topic 11 - Process and Validation
Topic 12 – Resources Employed
Topic 13 – Summary of Deliverables
Topic 14 – Testing
Topic 15 – Communication Strategy
Topic 16 – Support Structure
D-4 Ongoing Operations
Topic 17– Post Warranty Operation and support
Topic 18 – Customer Solutions and Support Center
Topic 19 – Support and Maintenance
D-5 Pricing Model
Topic 20 – Cost Effective Budget
Topic 21 – Sound Fiscal Management Practices That Meet or Exceed Industry Standards

D-1 PROPOSED SOFTWARE SOLUTION

This section provides a series of topics related to the proposed Service Solution described in RFP.

Topic 1 – Proposed Software Solution

Provide a detailed description of specific components of the Solution offered, including the Deliverables and Services the Vendor is proposing to offer the State.

The response must include a description of the following:

- A description of the software and how it will meet the needs of the State;
- The method for protecting individual user and school level data;
- The compatibility with current platforms and the transfer of existing school and user data to the new system;
- The ways in which the software will comply with ADA standards for web development.

Topic 2 – Technical, services and Project Management Experience

Provide a detailed description of the technical aspects of the project and the services for project management the Vendor is proposing to offer the State.

The response must include a description of the following:

- What corporate qualifications does the Vendor have to support all aspects of this project;
- What backup and recovery systems does the Vendor utilize to support this project;
- The system of project management utilized by the Vendor;
- The process for archiving specific work of districts and schools.

Topic 3 – Project Execution

Provide a detailed description of how the Vendor will implement this project and execute all deliverables and services.

The response must include a description of the following:

- A graphic workflow of the implementation process;
- Identify timeframes for performing implementation milestones;

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- The process & validation to be employed for asset research, including response times;
- The resources to be employed, including both State and Vendor by milestone;
- A detailed summary of the specific Deliverables, and proposed method of presenting the Deliverable to the State;
- How the product will be tested
- Methods and frequency of communication with the State team and individual users as necessary;
- A description of the system support structure.

Topic 4 – Ongoing Operations

Provide a detailed description of how the Vendor will provide ongoing operations.

The response must include a description of the following:

- Post warranty operation and support;
- The system for customer support for the State and individual users;
- A specific support and maintenance plan.

Topic 5 – Pricing Model

Provide a detailed description of the pricing model for the proposed system.

The response must include the following:

- A detailed budget of all fees and services;
- A description of the Vendor's sound fiscal management practices that meet or exceed industry standards.

APPENDIX E: STANDARDS FOR DESCRIBING VENDOR QUALIFICATIONS

Vendor qualifications are important factors in selecting **A Network for Support** Software and accompanying Implementation and follow on support Services. To facilitate evaluation of Vendor qualifications, the State seeks information about:

- (1) corporate qualifications of each Vendor proposed to participate in the Project,
- (2) proposed team organization and designation of key staff,
- (3) individual qualifications of candidates for the role of Project Manager, and
- (4) individual qualifications of candidates for other key staff roles.

This appendix identifies specific information that must be submitted.

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E-1 Required Information on Corporate Qualifications

Information is required on all Vendors who will participate in the Project. Vendors submitting a Proposal must identify any Subcontractor(s) to be used.

E-1.1 Vendor and Subcontractors

The Vendor submitting a Proposal to this Project must provide the following information:

E-1.1.1 Corporate Overview

Identify the proposed role of the firm on the Project. Describe the major business areas of the firm. Provide a high-level description of the firm's organization and staff size. Discuss the firm's commitment to the public sector, experience with this type of Project Implementation and experience in New Hampshire.

E-1.1.2 Financial Strength

Provide at least one of the following:

- 1 The current Dunn & Bradstreet report on the firm; or
- 2 The firm's two most recent audited financial statements; and the firm's most recent un-audited, quarterly financial statement; or
- 3 The firm's most recent income tax return

E-1.1.3 Litigation

Identify and describe any claims made by clients during the last ten (10) years. Discuss merits, current status and, if available, outcome of each matter.

E-1.1.4 Prior Project Descriptions (3 limited to 3 pages each)

Provide descriptions of no more than three (3) similar projects completed in the last 3 years. Each project description should include:

1. An overview of the project covering type of client, objective, project scope, role of the firm and outcome;
2. Project measures including proposed cost, actual project cost, proposed project schedule and actual project schedule;
3. Names and contact information (name, title, address and current telephone number) for one or two references from the client; and
4. Names and project roles of individuals on the proposed team for the New Hampshire Project that participated in the project described

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E-1.1.5 Subcontractor Information

Vendors must provide information on any Subcontractors proposed to work on this Project. Required information shall include but not be limited to:

1. Identification of the proposed Subcontractor and a description of the major business areas of the firm and their proposed role on the Project.
2. A high-level description of the Subcontractor's organization and staff size.
3. Discussion of the Subcontractor's experience with this type of Project;
4. Resumes of key personnel proposed to work on the Project; and
5. Two references from companies or organizations where they performed similar services (if requested by the State).

E-2 Team Organization and Designation of key Vendor staff

Provide resumes of key personnel proposed to work on the Project and an organizational chart depicting the Vendor Project Team. This chart should identify key staff required from the Vendor, any Subcontractors, and the State.

Define the responsibilities and length of assignment for each of the roles depicted in the organizational chart. Identify the positions that should be designated key staff. Ensure that designation of key Vendor staff includes subject matter experts in the following areas:

- Best teaching practices and leadership practices in an education setting
- School turnaround and innovation
- Teacher and leader professional development

A single team member may be identified to fulfill the experience requirement in multiple areas.

E-2.1 State Staff Resource Worksheet

Append a completed State Staff Resource Worksheet to indicate resources expected of organization. Expected resources must not exceed those outlined in Section A 4.2. The required format follows.

Table E-2: Proposed State Staff Resource Hours Worksheet

State Role	Initiation	Configuration	Implementation	Close Out	Total
Project Manager					
Position 1					

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Position 2					
Position 3					
Position 4					
Position 5					
State Total					

E-3 Candidates for Project Manager

Although the State recognizes that staff availability is somewhat uncertain, qualifications of the Project Manager are particularly critical. Therefore, the State requires that the Project Manager be identified with some degree of certainty.

For the Project Manager candidate, provide a resume not to exceed five (5) pages in length addressing the following:

- The candidate's educational background;
- An overview of the candidate's work history;
- The candidate's project experience, including project type, project role and duration of the assignment;
- Any significant certifications held by or honors awarded to the candidate; and
- At least three (3) references, with contact information, that can address the candidate's performance on past projects.

E-4 Candidates for key Vendor staff Roles

Provide a resume not to exceed 2 pages for each key Vendor staff position on the Project Team. Each resume should address the following:

- The individual's educational background;
- An overview of the individual's work history;
- The individual's project experience, including project type, project role and duration of the assignment;
- Any significant certifications held by or honors awarded to the candidate; and
- At least three (3) references, with contact information, that can address the individual's performance on past projects.

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APPENDIX F: PRICING WORKSHEETS

A Vendor's Cost Proposal must be based on the worksheets formatted as described in this appendix.

F-1 Activities/Deliverables/Milestones Pricing Worksheet – Deliverables List

The Vendor must include, within the Not-to-Exceed for IT service activities, tasks and preparation of required Deliverables, pricing for the Deliverables required based on the proposed approach, and methodology and tools. The following format must be used to provide this information.

Table F-1: Activities/Deliverables/Milestones Pricing Worksheet

	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date	Price
PLANNING AND PROJECT MANAGEMENT				
1	Conduct Project Kickoff Meeting	Non-Software		
2	Project Status Reports	Written		
3	Work Plan	Written		
4	Infrastructure Plan, including Desktop and Network Configuration Requirements	Written		
5	Security Plan	Written		
6	Communications and Change Management Plan	Written		
7	Requirements Trace ability Matrix	Written		
8	Software Configuration Plan	Written		
9	Systems Interface Plan and Design/Capability	Written		
10	Testing Plan	Written		
11	Data Conversion Plan and Design	N/A	N/A	N/A
12	Deployment Plan	N/A	N/A	N/A
13	Comprehensive Training Plan and Curriculum	Written		
14	End User Support Plan	Written		
15	Business Continuity Plan	Written		
16	Documentation of Operational Procedures	Written		

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INSTALLATION				
17	Provide Software Licenses if needed	N/A	N/A	N/A
18	Provide Fully Tested Data Conversion Software	N/A	N/A	N/A
19	Provide Software Installed, Configured, and Operational to Satisfy State Requirements	N/A	N/A	N/A
TESTING				
20	Conduct Integration Testing	Non-Software		
21	Conduct User Acceptance Testing	Non-Software		
22	Perform Production Tests	Non-Software		
23	Test In-Bound and Out-Bound Interfaces	Software		
24	Conduct System Performance (Load/Stress) Testing	Non-Software		
25	Certification of 3 rd Party Pen Testing and Application Vulnerability Scanning.	Non-Software		
SYSTEM DEPLOYMENT				
26	Converted Data Loaded into Production Environment	N/A	N/A	N/A
27	Provide Tools for Backup and Recovery of all Applications and Data	N/A	N/A	N/A
28	Conduct Training	<i>Non-Software</i>		
29	Cutover to New Software	<i>Non-Software</i>		
30				
31	Provide Documentation	<i>Written</i>		
32	Execute Security Plan	<i>Non-Software</i>		
OPERATIONS				
33	Ongoing Hosting Support	Non-Software		
34	Ongoing Support & Maintenance	Software		
35	Conduct Project Exit Meeting	Non-Software		

F-2 Proposed Vendor Staff, Resource Hours and Rates Worksheet

Use the Proposed Vendor Staff Position, Resource Hours and Rates Worksheet to indicate the individuals that will be assigned to the Project, hours and applicable rates. Names must be provided for individuals designated for key roles, but titles are sufficient for others. Information is required by phase.

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Table F-2: Proposed Vendor Staff, Resource Hours and Rates Worksheet

Title	Name	Initiation	Implementation	Project Close out	Hourly Rate	Hours X Rate
Project Manager						
Position #1						
Position #2						
Position #3						
TOTALS						

F-3 Future Vendor Rates Worksheet

The State may request additional Services from the selected Vendor and requires rates in the event that additional Service is required. The following format must be used to provide this information. "SFY" refers to State Fiscal Year. The New Hampshire State Fiscal Year runs from July 1 through June 30 of the following calendar year. Positions not identified in the Proposed Position Worksheet may be included in the Future Vendor Rates Worksheet.

Table F-3: Future Vendor Rates Worksheet

Position Title	SFY 2018	SFY 2019	SFY 2020
Project Manager			
Position #1			
Position #2			
Position #3			

F-4 Software Licensing, Maintenance, and Support Pricing Worksheet

Table F-4: Software Licensing, Maintenance, and Support Pricing Worksheet

Software Name	Initial Cost	Maintenance Support and Upgrades		
		Year 1	Year 2	Year 3

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F-5 Web Site Hosting, Maintenance, and Support Pricing Worksheet

Table F-5: Web Site Hosting, Maintenance, and Support Pricing Worksheet

HOSTED SERVICES	Year 1	Year 2	Year 3	TOTAL
Web Site Hosting Fee				
Technical Support and updates				
Maintenance and Updates				
GRAND TOTAL				

APPENDIX G-1 SECURITY

Application Security

IT Security involves all functions pertaining to the securing of data and systems through the creation and definition of security policies, procedures and controls covering such areas as identification, authentication and non-repudiation.

This shall include but is not limited to

- Develop software applications based on industry best practices and incorporating information security throughout the software development life cycle
- Develop applications following security-coding guidelines as set forth by organizations such as, but not limited to Open Web Application Security Project (OWASP) Top 10, SANS Common Weakness Enumeration (CWE) Top 25 or CERT Secure Coding.

APPENDIX G-2 TESTING REQUIREMENTS

All testing and acceptance addressed herein shall apply to testing the System. This shall include planning, test scenario development, Data, and System preparation for testing, and execution of unit testing, System integration testing, conversion/migration testing, installation testing, performance, and stress testing, Security review and testing, and support of the State during user Acceptance Testing (UAT).

G-1.1 Test Planning and Preparation

The overall Test Plan will guide all testing. The Vendor provided, State approved, Test Plan will include, at a minimum, identification, preparation, and Documentation of planned testing, a requirements traceability matrix, test variants, test scenarios, test cases, test scripts, test Data, test phases, unit tests, expected results, and a tracking method for reporting actual versus expected results as well as all errors and problems identified during test execution.

It is crucial that client training and testing activities not be abbreviated in order to meet Project Implementation Schedules. Therefore, the State requires that the testing activities be represented both in terms of effort and duration.

Vendors must disclose in their proposals the scheduling assumptions used in regard to the Client resource efforts during testing.

State testing will commence upon the Vendor Project Manager's certification, in writing, that the Vendor's own staff has successfully executed all prerequisite Vendor testing, along with reporting the actual testing results, prior to the start of any testing executed by State staff.

The State will commence its testing within five (5) business days of receiving Certification from the Vendor that the State's personnel have been trained and the System is installed, configured, complete, and ready for State testing. The testing will be conducted by the State in an environment independent from the Vendor's development environment. The Vendor must assist the State with testing in accordance with the Test Plan and the Work Plan, utilizing test and live Data to validate reports, and conduct stress and performance testing, at no additional cost.

G-1.2 Testing

Testing begins upon completion of the Software configuration as required and user training according to the Work Plan. Testing ends upon issuance of a letter of UAT Acceptance by the State.

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Vendor must demonstrate that their testing methodology can be integrated with the State standard methodology.

Unit Testing	<p>Application components are tested on an individual basis to verify that the inputs, outputs, and processing logic of each application component functions without errors. Unit Testing is performed in either the development environment or a testing environment.</p> <p>The goal is to find errors in the smallest unit of Software. If successful, subsequent integration testing should only reveal errors related to the integration between application components.</p>
System Integration Testing	<p>a.) Validates the integration between the individual unit application components and verifies that the new System meets defined requirements and supports execution of interfaces and business processes. The Systems Integration Test is performed in a test environment.</p> <p>b.) Emphasizes end-to-end business processes, and the flow of information across applications. It includes all key business processes and interfaces' being implemented, confirms data transfers with external parties, and includes the transmission or printing of all electronic and paper documents.</p> <p>c.) The State will conduct System Integration Testing, utilizing scripts developed, as identified in the Test Plan, to validate the functionality of the System and its interfaces. The State will also use System Integration Testing to validate modifications, fixes and other System interactions with the Vendor supplied Software Solution.</p>
Conversion /Migration Validation Testing	<p>The Conversion/Migration Validation Testing should replicate the entire flow of the converted data through the Software Solution. As the Software Solution is interfaced to legacy or third-party applications, the testing verifies that the resulting converted legacy data performs correctly.</p>
Installation Testing	<p>Application components are installed in the System test environment to test the installation routines and are refined for the eventual production environment. This activity serves as a dry run of the installation steps in preparation for configuring the production System.</p>
User Acceptance Testing (UAT)	<p>The User Acceptance Test (UAT) is a verification process performed in a copy of the production environment. The User Acceptance Test verifies System functionality against predefined Acceptance criteria that support the successful execution of approved business processes.</p> <p>a.) The Vendor's Project Manager must certify in writing, that the Vendor's own staff has successfully executed all prerequisite Vendor testing,</p>

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	<p>along with reporting the actual testing results prior to the start of any testing executed by State staff.</p> <p>b.) The State will be presented with a State approved Test Plan, test scenarios, test cases, test scripts, test data, and expected results, as well as written Certification of the Vendor's having completed the prerequisite tests, prior to the State staff involvement in any testing activities</p> <p>c.) UAT will also serve as a performance and stress test of the System. It may cover any aspect of the new System, including administrative procedures such as backup and recovery. The results of the UAT provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.</p> <p>d.) Upon successful conclusion of UAT and successful System deployment, the State will issue a letter of UAT Acceptance and the respective Warranty Period shall commence as described in Section H-25.10.1: Warranty Period.</p>
<p>Performance Tuning and Stress Testing</p>	<p>Vendor shall develop and document hardware and software configuration and tuning of System infrastructure as well as assist and direct the State's System Administrators and Database Administrators in configuring and tuning the infrastructure to support the software throughout the project</p> <p>Performance Tuning and Stress Testing</p> <p><u>Scope</u></p> <p>The scope of performance testing shall measure the system level metrics critical for the development of the applications infrastructure and operation of the applications in the production environment. It will include the measurement of response rates of the application for end-user transactions and resource utilization (of various servers and network) under various load conditions. These response rates shall become the basis for changes and retesting until optimum system performance is achieved.</p> <p>The application transactions shall be identified with specific roles and selected transactions shall be recorded for the performance measurements. These will be compared to baselines to determine if object and/or system performance increases as changes are made.</p> <p>Performance testing shall consider the full scope of the application infrastructure with emphasis on the most heavily used or shared transactions. Performance testing of the application will profile the identified user transactions and assist in the identifying performance gaps to improve the most critical parts of the applications.</p> <p>Performance testing and tuning shall occur in the final production</p>

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environment and shall use a copy of the final production database to provide the best results.

Vendor must lead this effort. Responsibilities include identifying appropriate tunable parameters and their default and recommended settings, developing scripts, which accurately reflect business load and coordinating reporting of results.

Test types

Performance testing shall use two different types of tests to determine the stability of the application. They are baseline tests and load tests

Baseline Tests: Baseline tests shall collect performance data and load analysis by running scripts where the output is broken down into business transactions or functions. The test is like a single user executing a defined business transaction. During baseline testing, each individual script is run to establish a baseline for transaction response time, throughput and other user-based metrics. Usually each business transaction is executed multiple times during a single test run to obtain an average for the user-based metrics required for the performance testing evaluations. It must be noted that changes made to the code after baseline testing is completed will skew the results collected to date. All effort will be made to provide a code test base that is tested in the environment for problems prior to the establishment of the baseline, which are used in future testing and tuning efforts. Any changes introduced into the environment after performance testing has started can compromise the accuracy of the results and will force a decision to be made whether baseline results need to be recreated.

Load Tests: Load testing will determine if the behavior of a system can be sustained over a long period of time while running under expected conditions. Load tests helps to verify the ability of the application environment under different load conditions based on workload distribution. System response time and utilization is measured and recorded.

Tuning

Tuning will occur during both the development of the application and load testing. Tuning is the process whereby the application performance is maximized. This can be the result of making code more efficient during development as well as making tuning parameter changes to the environment.

For infrastructure tuning, parameters will be identified for all components prior to undertaking the load testing efforts. This should include a list of the variables, their definitions, the default settings, range of acceptable

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settings and the settings as testing begins. This will permit the team to identify the areas of most potential gain and a starting point. Tuning is a process which is repeated until the team feels that the systems are running at or near optimum performance.

Implementing Performance and Stress Test

Performance and Stress test Tools must be provided by the Vendor for this effort. Consideration must be give to licensing with respect to continued use for regression testing. If the Vendor is familiar with open source low/no cost tools for this purpose those tools should be identified in your response.

Scheduling Performance and Stress Testing

Vendor shall perform test planning. The steps for planning include identification of application functionality as well as what percentage of normal daily use is represented by each function. This information will become the foundation for scripting so that tests closely represent what loads in production will look like.

Vendor shall provide definition and expectations from testing. This definition should include who is in charge of testing and coordinating results, anticipated run times, logs required for tracking, their locations and which technician is responsible to track and provide them following each test to the team.

Initial test runs shall be completed to establish that the tests and data sets can be run to completion without errors. The ratio of types of transactions which makeup the test shall be reviewed prior to the beginning of testing and then again once testing has begun to make sure that testing accurately reflects the system performing in production.

Initial tests shall be used to establish a baseline from which all subsequent tests will be compared. Tests will be considered for baseline status once two of them have been run within 2% of each other in key and overall performance areas. No changes to the test scripts or data sets (with the exception of restores after each test) can be done to the test environment once tuning has begun so as to not damage the comparison to baseline results. The systems must be restarted prior to each test run to assure all cache is cleaned out. All effort will be made to run these tests at a time when system and network infrastructure utilization doesn't impact the results. Tests will be run in close proximity to our infrastructure to eliminate the public network from our environment.

Post test reporting and result assessment will be scheduled following each test. The team will compare these results to the baseline and a determination must be made to make additional changes to the parameter being tuned or return to the prior configuration and select

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	<p>another parameter to tune while keeping in mind that significant changes to any one parameter may require the retesting of some others. Careful work on identifying dependencies up front should minimize this impact.</p> <p>If defects are identified in the application during testing, they will be recorded; however, changes to the application code should be avoided if possible so as not to affect baseline comparisons. If a change to the application is required new baselines will be established (and possibly the execution of prior tests to validate changes with the new application) before testing can continue.</p> <p>When performing capacity testing against a GUI the focus will be on the ability of the interface to respond to user input.</p> <p>During stress/load testing the tester will attempt to stress or load an aspect of the system to the point of failure. The goal being to determine weak points in the system architecture. The tester will identify peak load conditions at which the program will fail to handle required processing loads within required time spans.</p> <p>During Performance testing the tester will design test case scenarios to determine if the system meets the stated performance criteria (i.e. A Login request shall be responded to in 1 second or less under a typical daily load of 1000 requests per minute.). In both cases, the tester will determine the capacity of the system under a known set of conditions.</p>
<p>Regression Testing</p>	<p>As a result, of the user testing activities, problems will be identified that require correction. The State will notify the Vendor of the nature of the testing failures in writing. The Vendor will be required to perform additional testing activities in response to State and/or user problems identified from the testing results.</p> <p>Regression testing means selective re-testing to detect faults introduced during the modification effort, both to verify that the modifications have not caused unintended adverse effects, and to verify that the modified and related (possibly affected) System components still meet their specified requirements.</p> <p>a.) For each minor failure of an Acceptance Test, the Acceptance Period shall be extended by corresponding time defined in the Test Plan.</p> <p>b.) The Vendor shall notify the State no later than five (5) business days from the Vendor's receipt of written notice of the test failure when the Vendor expects the corrections to be completed and ready for retesting by the State. The Vendor will have up to five (5) business days to make corrections to the problem unless specifically extended in writing by the State.</p> <p>c.) When a programming change is made in response to a problem identified during user testing, a regression Test Plan should be developed by</p>

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	<p>the Vendor based on the understanding of the program and the change being made to the program. The Test Plan has two objectives:</p> <ol style="list-style-type: none"> 1. validate that the change/update has been properly incorporated into the program; and 2. validate that there has been no unintended change to the other portions of the program. <p>d.) The Vendor will be expected to:</p> <ol style="list-style-type: none"> 1. Create a set of test conditions, test cases, and test data that will validate that the change has been incorporated correctly; 2. Create a set of test conditions, test cases, and test data that will validate that the unchanged portions of the program still operate correctly; and 3. Manage the entire cyclic process. <p>e.) The Vendor will be expected to execute the regression test, provide actual testing results, and certify its completion in writing to the State prior to passing the modified Software application to the users for retesting.</p> <p>In designing and conducting such regression testing, the Vendor will be required to assess the risks inherent to the modification being implemented and weigh those risks against the time and effort required for conducting the regression tests. In other words, the Vendor will be expected to design and conduct regression tests that will identify any unintended consequences of the modification while taking into account Schedule and economic considerations.</p> <p>In their Proposals Vendors must acknowledge their responsibilities for regression testing as described in this section.</p>										
<p>Security Review and Testing</p>	<p>IT Security involves all functions pertaining to the securing of data through the creation and definition of security policies, procedures and controls covering such areas as identification, authentication and non-repudiation.</p> <table border="1" data-bbox="483 1478 1446 1875"> <thead> <tr> <th data-bbox="483 1478 792 1549">Service Component</th> <th data-bbox="792 1478 1446 1549">Defines the set of capabilities that:</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1549 792 1696">Identification and Authentication</td> <td data-bbox="792 1549 1446 1696">Supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users</td> </tr> <tr> <td data-bbox="483 1696 792 1768">Access Control</td> <td data-bbox="792 1696 1446 1768">Supports the management of permissions for logging onto a computer or network</td> </tr> <tr> <td data-bbox="483 1768 792 1839">Encryption</td> <td data-bbox="792 1768 1446 1839">Supports the encoding of data for security purposes</td> </tr> <tr> <td data-bbox="483 1839 792 1875">Intrusion Detection</td> <td data-bbox="792 1839 1446 1875">Supports the detection of illegal entrance</td> </tr> </tbody> </table>	Service Component	Defines the set of capabilities that:	Identification and Authentication	Supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users	Access Control	Supports the management of permissions for logging onto a computer or network	Encryption	Supports the encoding of data for security purposes	Intrusion Detection	Supports the detection of illegal entrance
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	<table border="1" data-bbox="480 222 1446 842"> <tr> <td></td> <td>into a computer system</td> </tr> <tr> <td>Verification</td> <td>Supports the confirmation of authority to enter a computer system, application or network</td> </tr> <tr> <td>Digital Signature</td> <td>Guarantees the unaltered state of a file</td> </tr> <tr> <td>User Management</td> <td>Supports the administration of computer, application and network accounts within an organization.</td> </tr> <tr> <td>Role/Privilege Management</td> <td>Supports the granting of abilities to users or groups of users of a computer, application or network</td> </tr> <tr> <td>Audit Trail Capture and Analysis</td> <td>Supports the identification and monitoring of activities within an application or system</td> </tr> <tr> <td>Input Validation</td> <td>Ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.</td> </tr> </table> <p data-bbox="431 884 1511 1094">In their proposal, the Vendors must acknowledge their responsibilities for security testing. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability. Tests shall, at a minimum, cover each of the service components.</p>		into a computer system	Verification	Supports the confirmation of authority to enter a computer system, application or network	Digital Signature	Guarantees the unaltered state of a file	User Management	Supports the administration of computer, application and network accounts within an organization.	Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network	Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system	Input Validation	Ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.
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Input Validation	Ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.														
Penetration Testing	<p data-bbox="431 1136 1511 1199">a.) Implement a methodology for penetration testing that includes the following:</p> <ul data-bbox="431 1205 1511 1703" style="list-style-type: none"> · Is based on industry-accepted penetration testing approaches (for example, NIST SP800-115) · Includes coverage for the entire CDE perimeter and critical systems · Includes testing from both inside and outside the network · Includes testing to validate any segmentation and scope-reduction controls · Defines application-layer penetration tests to include, at a minimum, the vulnerabilities listed in Requirement 6.5 · Defines network-layer penetration tests to include components that support network functions as well as operating systems · Includes review and consideration of threats and vulnerabilities experienced in the last 12 months · Specifies retention of penetration testing results and remediation activities results. <p data-bbox="431 1745 1511 1879">b.) Perform external penetration testing at least annually and after any significant infrastructure or application upgrade or modification (such as an operating system upgrade, a sub-network added to the environment, or a web server added to the environment).</p>														

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	<p>c.) Perform internal penetration testing at least annually and after any significant infrastructure or application upgrade or modification (such as an operating system upgrade a sub-network added to the environment, or a web server added to the environment).</p> <p>d.) Exploitable vulnerabilities found during penetration testing are corrected and testing is repeated to verify the corrections.</p> <p>e.) If segmentation is used to isolate the CDE from other networks, perform penetration tests at least annually and after any changes to segmentation controls/methods to verify that the segmentation methods are operational and effective, and isolate all out-of-scope systems from in-scope systems.</p>
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APPENDIX G-2: CERTIFICATES

A. Certificate of Good Standing

As a condition of Contract award, the Vendor, if required by law, must furnish a Certificate of Authority/Good Standing dated after April 1, 201X, from the Office of the Secretary of State of New Hampshire. If your company is not registered, an application form may be obtained from:

Secretary of State
State House Annex
25 Capitol Street
Concord, New Hampshire 03301
603-271-3244

If your company is registered, a Certification thereof may be obtained from the Secretary of State.

Note: Sovereign states or their agencies may be required to submit suitable substitute documentation concerning their existence and authority to enter into a Contract

B. Certificate of Authority/Vote

The Certificate of Authority/Vote authorizes, by position, a representative(s) of your corporation to enter into an agreement or amendment with the State of New Hampshire. This ensures that the person signing the agreement is authorized as of the date he or she is signing it to enter into agreements for that organization with the State of New Hampshire

The officer's signature must be either notarized or include a corporate seal that confirms the title of the person authorized to sign the agreement. The date the Board officer signs must be on or after the date the amendment is signed. The date the notary signs must match the date the Board officer signs.

You may use your own format for the Certificate of Authority/Vote as long as it contains the necessary language to authorize the agreement signatory to enter into agreements and amendments with the State of New Hampshire as of the date they sign.

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CERTIFICATE OF AUTHORITY/VOTE CHECKLIST

SOURCE OF AUTHORITY

Authority must come from the **governing body**, either:

- (1) a **majority voted** at a meeting, or
- (2) the body provided **unanimous consent in writing**, or
- (3) the organization's **policy or governing document** (bylaws, partnership agreement, LLC operating agreement) authorizes the person to sign

SOURCE OF AUTHORITY WAS IN EFFECT ON DAY AGREEMENT OR AMENDMENT WAS SIGNED

Certificate must show that the person signing the contract **had authority when they signed the Agreement or Amendment**, either:

- (1) Authority was **granted the same day** as the day the Agreement or Amendment was signed, or
- (2) Authority was **granted after** the day the agreement or amendment was signed and the governing body ratifies and accepts the earlier execution, or
- (3) Authority was **granted prior** to the day the agreement or amendment was signed and it has not been amended or repealed as of the day the contract was signed.

APPROPRIATE PERSON SIGNED THE CERTIFICATE

The person signing the certificate may be the same person signing the Agreement or Amendment only if the certificate states that the person is the **sole director** (for corps) or **sole member** (for LLCs).

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**APPENDIX H – STATE OF NEW HAMPSHIRE TERMS AND CONDITIONS
AGREEMENT**

The State of New Hampshire and the Vendor 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	
<p>1.13 Acknowledgement: State of _____, County of _____</p> <p>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.</p>			
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	
Date:			
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: _____ On: _____			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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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 prices 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.

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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.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of

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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.

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GENERAL CONTRACT REQUIREMENTS

H-25.1 State of NH Terms and Conditions and Contract Requirements

The Contract terms set forth in Appendix H: State of New Hampshire Terms and Conditions shall constitute the core for any Contract resulting from this RFP.

H-25.2 Vendor Responsibilities

The Vendor shall be solely responsible for meeting all requirements, and terms and conditions specified in this RFP, its Proposal, and any resulting Contract, regardless of whether or not it proposes to use any Subcontractor.

The Vendor may subcontract Services subject to the provisions of the RFP, including but not limited to, the terms and conditions in Appendix H: State of New Hampshire Terms and Conditions. The Vendor must submit with its Proposal all information and documentation relating to the Subcontractor necessary to fully respond to the RFP, which must include terms and conditions consistent with this RFP. The Vendor shall remain wholly responsible for performance of the entire Contract regardless of whether a Subcontractor is used. The State will consider the Vendor to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from any Contract.

H-25.3 Project Budget/Price Limitation

The State has funds budgeted for this Project , subject to Appendix H: State of New Hampshire Terms and Conditions, Section 4: Conditional Nature of Agreement and Section 5: Contract Price/Price Limitation/Payment.

H-25.4 State Contracts

The State of New Hampshire intends to use, wherever possible, existing statewide Software and hardware Contracts to acquire supporting Software and hardware.

H-25.5 Vendor Staff

In the Proposal the Vendor shall assign and identify a Project Manager and key Vendor staff, in accordance with the Requirements and Deliverables of Appendix C: System Requirements and Deliverables and Appendix E: Standards for Describing Vendor Qualifications.

The Vendor's selection of a Project Manager will be subject to the prior approval of the State. The State's approval process may include, without limitation, at the State's discretion, review of the proposed Project Manager's resume, qualifications, references and background checks, and an interview. The Vendor's Project Manager must be qualified to perform the obligations required of the position under the Contract, have full authority to make binding decisions, and shall function as the

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Vendor's representative for all administrative and management matters. The Project Manager must be available to promptly respond during Normal Working Hours within two (2) hours to inquiries from the State, and be at the site as needed. The Vendor must use his or her best efforts on the Project.

The Vendor shall not change key Vendor staff and Project Manager commitments (collectively referred to as "Project Staff") unless such replacement is necessary due to sickness, death, termination of employment, or unpaid leave of absence. Any such changes to the Vendor's Project Staff shall require the prior written approval of the State. Replacement Project Staff shall have comparable or greater skills with regard to performance of the Project as the staff being replaced and be subject to the provisions of this RFP and any resulting Contract.

The State, at its sole expense, may conduct reference and background checks on the Vendor's Project Staff. The State shall maintain the confidentiality of reference and background screening results. The State reserves the right to reject the Vendor's Project Staff as a result of such reference and background checks. The State also reserves the right to require removal or reassignment of the Vendor's key Project Staff found unacceptable to the State.

Notwithstanding anything to the contrary, the State shall have the option to terminate the Contract, at its discretion, if it is dissatisfied with the Vendor's replacement Project Staff.

H-25.6 Work Plan

Vendor shall submit a preliminary Work Plan in its Proposal. The Work Plan shall include, without limitation, a detailed description of the Schedule, tasks, Deliverables, major milestones, task dependencies, and payment schedule. A final Work Plan will be due five (5) business days after Contract award upon approval by Governor and Executive Council.

The Vendor shall update the Work Plan as necessary, but no less than every two weeks to accurately reflect the status of the Project, including without limitation, the Schedule, tasks, Deliverables, major milestones, task dependencies, and payment schedule. Any updates to the Work Plan shall require the written approval of the State prior to final incorporation into the Contract.

Unless otherwise agreed in writing by the State, changes to the Work Plan shall not relieve the Vendor from liability to the State for any damages resulting from the Vendor's failure to perform its obligations under the Contract, including without limitation, performance in accordance with the Schedule.

In the event of a delay in the Schedule, the Vendor must immediately notify the State in writing. The written notification will identify the nature of the delay, i.e., specific actions or inactions of the Vendor or State causing the problem; its estimated duration

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period to reconciliation; specific actions that need to be taken to correct the problem; and the expected Schedule affect the Project.

In the event the Vendor requires additional time to correct Deficiencies, the Schedule shall not change unless previously agreed in writing by the State, except that the Schedule shall automatically extend on a day-to-day basis to the extent that the delay does not result from Vendor's failure to fulfill its obligations under the Contract. To the extent that the State's execution of its major tasks takes longer than described in the Work Plan, the Schedule shall automatically extend on a day-to-day basis.

Notwithstanding anything to the contrary, the State shall have the option to terminate the Contract for default, at its discretion, if it is dissatisfied with the Vendor's Work Plan or elements within the Work Plan.

H-25.7 Change Orders

The State may make changes or revisions at any time by written Change Order. Within five (5) business days of a Vendor's receipt of a Change Order, the Vendor shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan.

A Vendor may request a change within the scope of the Contract by written Change Order, identifying any impact on cost, the Schedule, or the Work Plan. The State shall attempt to respond to a Vendor's requested Change Order within five (5) business days. The State, which includes the requesting Agency and the Department of Information Technology must approve all change orders in writing. The State shall be deemed to have rejected the Change Order if the parties are unable to reach an agreement in writing.

All Change Order requests from a Vendor to the State, and the State acceptance of a Vendor's estimate for a State requested change, will be acknowledged and responded to, either acceptance or rejection, in writing. If accepted, the Change Order(s) shall be subject to the Contract amendment process, as determined to apply by the State.

H-25.7 Deliverables

The Vendor shall provide the State with the Deliverables and Services in accordance with the time frames in the Work Plan. All Deliverables shall be subject to the State's Acceptance as set forth in Section H-25.9: Testing and Acceptance herein. Upon its submission of a Deliverable, the Vendor represents that it has performed its obligations under the Contract associated with the Deliverable.

By unconditionally accepting a Deliverable, the State reserves the right to reject any and all Deliverables in the event the State detects any Deficiency in the System, in whole or in part, through completion of all Acceptance Testing, including but not limited to, Software/System Acceptance Testing, and any extensions thereof.

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For each denial of Acceptance, the Acceptance Period may be extended, at the option of the State, by the corresponding time required to correct the Deficiency, retest or Review.

H-25.7.1 Written Deliverables Review

The State will Review the Written Deliverables for an Acceptance Period of five (5) business days after receiving written Certification from the Vendor that the Written Deliverable is final, complete, and ready for Review. The State will notify the Vendor in writing of its Acceptance or Non-Acceptance of a Deliverable by the end of the five (5) day Review Period. If any Deficiencies exist, the State will notify the Vendor in writing of the Deficiency and the Vendor must correct the Deficiency within five (5) business days of receiving notice from the State at no charge to the State. Upon receipt of the corrected Deliverable, the State will have five (5) business days to Review the corrected Written Deliverable and notify the Vendor in writing of its Acceptance or rejection thereof.

H-25.7.2 Software Deliverables Review

Described in Section H-25.9: Testing and Acceptance.

H-25.7.3 Non-Software Deliverables Review

The State will Review Non-Software Deliverables to determine whether any Deficiency exists and notify the Vendor in writing of its Acceptance or non-acceptance of the Non-Software Deliverable. The Vendor must correct the Deficiencies within five (5) business days, or within the period identified in the Work Plan, as applicable. Following correction of the Deficiency, the State will notify the Vendor in writing of its Acceptance or rejection of the Deliverable.

H-25.8 Licenses

The State has defined the Software license grant rights, terms and conditions, and has documented the evaluation criteria.

H-25.8.1 Software License Grant

The Software License shall grant the State a worldwide, perpetual, irrevocable, non-exclusive, non-transferable, limited license to use the Software and its associated Documentation, subject to the terms of the Contract.

The State may allow its agents and Vendors to access and use the Software, and in such event, the State shall first obtain written agreement from such agents and Vendors that each shall abide by the terms and conditions set forth herein.

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H-25.8.2 Software and Documentation Copies

The Vendor shall provide the State with a sufficient number of hard copy versions of the Software's associated Documentation and one (1) electronic version in Microsoft WORD and PDF format. The State shall have the right to copy the Software and its associated Documentation for its internal business needs. The State agrees to include copyright and proprietary notices provided to the State by the Vendor on such copies.

H-25.8.3 Restrictions

Except as otherwise permitted under the Contract, the State agrees not to:

- a. Remove or modify any program markings or any notice of Vendor's proprietary rights;
- b. Make the programs or materials available in any manner to any third party for use in the third party's business operations, except as permitted herein; or
- c. Cause or permit reverse engineering, disassembly or recompilation of the programs.

H-25.8.4 Title

The Vendor must hold the right to allow the State to use the Software or hold all title, right, and interest (including all ownership and intellectual property rights) in the Software and its associated Documentation.

H-25.8.5 Third Party

The Vendor shall identify all third party contracts to be provided under the Contract with the Vendor's Proposal. The terms in any such contracts must be consistent with this RFP and any resulting Contract, including, but not limited to Appendix H: State of New Hampshire Terms and Conditions General Provisions Form P-37.

H-25.9 Testing and Acceptance

The State requires that an integrated and coherent approach to complete System testing, Security Review and Testing, Deficiency correction, Acceptance, and training, and that Warranty Services be provided to ensure a successful Project.

In its Proposal, the Vendor is to include its proposed Test Plan methodology and any scheduling assumptions used regarding the client resource efforts required during testing. After Contract award, the Vendor will be required to customize its proposed Test Plan methodology to reflect the needs of the Project and include the details of its Test Plan methodology in the detailed Work Plan (the first Project Deliverable). A separate Test Plan and set of test materials will be prepared for each Software function or module.

In addition, the Vendor will provide a mechanism for reporting actual test results vs. expected results and for the resolution and tracking of all errors and problems

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identified during test execution. The Vendor will also provide training as necessary to the State staff responsible for test activities.

See Appendix G-1 for Testing Requirements

H-25.9.1 Remedies

If the Vendor fails to correct a Deficiency within the period of time allotted by the State, the Vendor shall be deemed to have committed an Event of Default, pursuant Appendix H Section 8 and H-25.14, and the State Shall have the right, at its option, to pursue the remedies in Section Appendix H-25.14.1 as well as to return the Vendor's product and receive a refund for all amounts paid to the Vendor, including but not limited to, applicable license fees, within ninety (90) days of notification to the Vendor of the State's refund request

Notwithstanding any provision of the Contract, the State's option to terminate the Contract and pursue the stated remedies will remain in effect until the Vendor completes the Contract to the satisfaction of the State.

H-25.9.2 System Acceptance

Upon completion of the Warranty Period, the State will issue a Letter of Final System Acceptance.

H-25.10 Warranty

H-25.10.1 Warranty Period

The Warranty Period will initially commence upon the State issuance of a Letter of Acceptance for UAT and will continue for ninety (90) days. If within the last thirty (30) calendar days of the Warranty Period, the System Software fails to operate as specified, the Warranty Period will cease, the Vendor will correct the Deficiency, and a thirty (30) calendar day Warranty Period will begin. Any further Deficiencies with the Software must be corrected and run fault free for thirty (30) days.

H-25.10.2 Warranties

H-25.10.2.1 System

The Vendor shall warrant that the System must operate to conform to the Specifications, terms, and requirements of the Contract.

H-25.10.2.2 Software

The Vendor shall warrant that the Software is properly functioning within the System, compliant with the requirements of the Contract, and will operate in accordance with the Specifications. Software shall be archived and or version controlled through the use of Harvest Software.

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H-25.10.2.3 Non-Infringement

The Vendor shall warrant that it has good title to, or the right to allow the State to use all Services, equipment, and Software provided under this Contract, and that such Services, equipment, and Software ("Material") do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

H-25.10.2.4 Viruses; Destructive Programming

The Vendor shall warrant that the Software will not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

H-25.10.2.5 Compatibility

The Vendor shall warrant that all System components, including any replacement or upgraded System Software components provided by the Vendor to correct Deficiencies or as an Enhancement, shall operate with the rest of the System without loss of any functionality.

H-25.10.2.6 Professional Services

The Vendor shall warrant that all Services provided under the Contract will be provided in a professional manner in accordance with industry standards and that Services will comply with performance standards.

H-25.10.3 Warranty Services

The Vendor shall agree to maintain, repair, and correct Deficiencies in the System Software, including but not limited to the individual modules or functions, during the Warranty Period at no additional cost to the State, in accordance with the Specifications and terms and requirements of the Contract, including without limitation, correcting all errors, and Defects and Deficiencies; eliminating viruses or destructive programming; and replacing incorrect, Defective or Deficient Software and Documentation.

Warranty Services shall include, without limitation, the following:

- a.** Maintain the System Software in accordance with the Specifications, terms, and requirements of the Contract;
- b.** Repair or replace the System Software or any portion thereof so that the System operates in accordance with the Specifications, terms, and requirements of the Contract;
- c.** The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State between the hours of 8:30am-5:00pm during the business week and an e-mail/telephone response within twenty-four (24) hours of request;

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- d. Maintain a record of the activities related to Warranty Repair or maintenance activities performed for the State;
- e. For all Warranty Services calls, the Vendor shall ensure the following information will be collected and maintained:
 - 1) nature of the Deficiency;
 - 2) current status of the Deficiency;
 - 3) action plans, dates, and times;
 - 4) expected and actual completion time;
 - 5) Deficiency resolution information;
 - 6) Resolved by;
 - 7) Identifying number i.e. work order number;
 - 8) Issue identified by;
- f. The Vendor must work with the State to identify and troubleshoot potentially large-scale Software failures or Deficiencies by collecting the following information:
 - 1) mean time between reported Deficiencies with the Software;
 - 2) diagnosis of the root cause of the problem; and
 - 3) identification of repeat calls or repeat Software problems; and
- g. All Deficiencies found during the Warranty Period and all Deficiencies found with the Warranty Releases shall be corrected by the Vendor no later than five (5) business days, unless specifically extended in writing by the State, at no additional cost to the State.

If in the Event of Default, the Vendor fails to correct the Deficiency within the allotted period of time (see above), the State shall have the right, at its option: 1) declare the Vendor in default, terminate the Contract, in whole or in part, without penalty or liability to the State; 2) return the Vendor's product and receive a refund for all amounts paid to the Vendor, including but not limited to, applicable license fees within ninety (90) days of notification to the Vendor of the State's intent to request a refund; 3) and to pursue its remedies available at law or in equity.

Notwithstanding any provision of the Contract, the State's option to terminate the Contract and pursue the remedies above will remain in effect until satisfactory completion of the full Warranty Period.

H-25.11 Ongoing Software Maintenance and Support Levels

The Vendor shall maintain and support the system in all material respects as described in the applicable program documentation after delivery and the warranty period of ninety (90) days through the completion of the contract term.

The Vendor will not be responsible for maintenance or support for Software developed or modified by the State.

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H-25.11.1 Maintenance Releases

The Vendor shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and documentation that are generally offered to its customers, at no additional cost.

H-25.11.2 Vendor Responsibility

The Vendor shall be responsible for performing on-site or remote technical support in accordance with the Contract Documents, including without limitation the requirements, terms, and conditions contained herein.

As part of the Software maintenance agreement, ongoing software maintenance and support levels, including all new Software releases, shall be responded to according to the following:

a. Class A Deficiencies - The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, eight (8) hours per day and five (5) days a week with an email / telephone response within two (2) hours of request; or the Vendor shall provide support on-site or with remote diagnostic Services, within four (4) business hours of a request;

b. Class B & C Deficiencies –The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within four (4) hours of notification of planned corrective action;

The Vendor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications, Terms and Requirements of the Contract;

The Vendor shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State;

For all maintenance Services calls, the Vendor shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) Deficiency resolution information, 6) Resolved by, 7) Identifying number i.e. work order number, 8) Issue identified by; and

The Vendor must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.

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If the Vendor fails to correct a Deficiency within the allotted period of time Stated above, the Vendor shall be deemed to have committed an Event of Default, pursuant to Appendix H Section H-25.14, and the State shall have the right, at its option, to pursue the remedies in H-25.14, as well as to return the Vendor's product and receive a refund for all amounts paid to the Vendor, including but not limited to, applicable license fees, within ninety (90) days of notification to the Vendor of the State's refund request

If the Vendor fails to correct a Deficiency within the allotted period of time Stated above, the Vendor shall be deemed to have committed an Event of Default, pursuant to Appendix H Section H-25.14, and the State shall have the right, at its option, to pursue the remedies in Appendix H Section H-25.14.

H-25.12 Administrative Specifications

H-25.12.1 Travel Expenses

The State will not be responsible for any travel or out of pocket expenses incurred in the performance of the Services.

The Vendor must assume all travel and related expenses by "fully loading" the proposed labor rates to include, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses.

H-25.11.2 Shipping and Delivery Fee Exemption

The State will not pay for any shipping or delivery fees unless specifically itemized in the Contract.

H-25.12.3 Project Workspace and Office Equipment

The State agency will work with the Vendor to determine the requirements for providing all necessary workspace and office equipment, including desktop computers for the Vendor's staff. If a Vendor has specific requirements, they must be included in the Vendor's Proposal.

H-25.12.4 Work Hours

Vendor personnel shall work normal business hours between 8:00 am and 5:00 pm (Eastern time), eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager.

H-25.12.5 Access/Cooperation

As applicable, and reasonably necessary, and subject to the applicable State and federal laws and regulations and restrictions imposed by third parties upon the State, the State will provide the Vendor with access to all program files, libraries, personal computer-based systems, software packages, network

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systems, security systems, and hardware as required to complete the contracted Services.

The State will use reasonable efforts to provide approvals, authorizations, and decisions reasonably necessary to allow the Vendor to perform its obligations under the Contract.

H-25.12.6 State-Owned Documents and Data

The Vendor shall provide the State access to all Documents, State Data, materials, reports, and other work in progress relating to the Contract ("State Owned Documents"). Upon expiration or termination of the Contract with the State, Vendor shall turn over all State-owned Documents, State Data, material, reports, and work in progress relating to this Contract to the State at no additional cost to the State. State-Owned Documents must be provided in both printed and electronic format.

H-25.12.7 Intellectual Property

Title, right, and interest (including all ownership and intellectual property rights) in the Software, and its associated Documentation, shall remain with the Vendor.

Upon successful completion and/or termination of the Implementation of the Project, the Vendor shall own and hold all, title, and rights in any Software modifications (Custom Code??) developed in connection with performance of obligations under the Contract, or modifications to the Vendor provided Software, and their associated Documentation including any and all performance enhancing operational plans and the Vendors' special utilities. The Vendor shall license back to the State the right to produce, publish, or otherwise use such software, source code, object code, modifications, reports, and Documentation developed under the Contract.

In no event shall the Vendor be precluded from developing for itself, or for others, materials that are competitive with, or similar to Custom Software, modifications developed in connection with performance of obligations under the Contract. In addition, the Vendor shall be free to use its general knowledge, skills, experience, and any other ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this agreement.

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H-25.12.8 IT Required Work Procedures

All work done must conform to standards and procedures established by the Department of Information Technology and the State.

H-25.12.9 Computer Use

In consideration for receiving access to and use of the computer facilities, network, licensed or developed software, software maintained or operated by any of the State entities, systems, equipment, Documentation, information, reports, or data of any kind (hereinafter "Information"), Vendor understands and agrees to the following rules:

- a. Every Authorized User has the responsibility to assure the protection of information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure.
- b. That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or other private and non-State use and that at no time shall Vendor access or attempt to access any information without having the express authority to do so.
- c. That at no time shall Vendor access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and /or agreements relating to system entry/access.
- d. That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times Vendor must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State. Only equipment or software owned, licensed, or being evaluated by the State, can be used by the Vendor. Personal software (including but not limited to palmtop sync software) shall not be installed on any equipment.
- e. That if the Vendor is found to be in violation of any of the above-stated rules, the User may face removal from the State Contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.

H-25.12.10 Email Use

Mail and other electronic communication messaging systems are State of New Hampshire property and are to be used for business purposes only. Email is defined as "internal email systems" or "State-funded email systems." Vendors understand and agree that use of email shall follow State standard policy (available upon request).

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H-25-12.11 Internet/Intranet Use

The Internet/Intranet is to be used for access to and distribution of information in direct support of the business of the State of New Hampshire according to State standard policy (available upon request).

H-25.12.12 Regulatory/Governmental Approvals

Any Contract awarded under the RFP shall be contingent upon the Vendor obtaining all necessary and applicable regulatory or other governmental approvals.

H-25.12.13 Force Majeure

Neither Vendor nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lock outs, riots, and acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

Except in the event of the foregoing, Force Majeure events shall not include Vendor's inability to hire or provide personnel needed for the Vendor's performance under the Contract.

H-25.12.14 Confidential Information

In performing its obligations under the Contract, the Vendor may gain access to information of the State, including Confidential Information. "State Confidential Information" shall include, but not be limited to, information exempted from public disclosure under New Hampshire RSA Chapter 91-A: Access to Public Records and Meetings (see e.g. RSA Chapter 91-A: 5 Exemptions). The Vendor shall not use the State Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of the Contract, except as is directly connected to and necessary for the Vendor's performance under the Contract.

The Vendor agrees to maintain the confidentiality of and to protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all State Confidential Information of the State that becomes available to the Vendor in connection with its performance under the Contract, regardless of its form.

Subject to applicable federal or State laws and regulations, Confidential Information shall not include information which: (i) shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach hereof; (ii) was disclosed to the receiving party on a non-confidential basis from a source other than the disclosing party, which the

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receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party; (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party; or (iv) is disclosed with the written consent of the disclosing party. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction.

Any disclosure of the State's information shall require prior written approval of the State. The Vendor shall immediately notify the State if any request, subpoena or other legal process is served upon the Vendor regarding the State's Confidential Information, and the Vendor shall cooperate with the State in any effort it undertakes to contest the request, the subpoena or other legal process, at no additional cost to the State.

In the event of unauthorized use or disclosure of the State's Confidential Information, the Vendor shall immediately notify the State, and the State shall immediately be entitled to pursue any remedy at law and in equity, including, but not limited to injunctive relief.

Insofar as the Vendor seeks to maintain the confidentiality of its confidential or proprietary information, the Vendor must clearly identify in writing the information it claims to be confidential or proprietary. The Vendor acknowledges that the State is subject to the Right to Know Law, RSA Chapter 91-A. The State shall maintain the confidentiality of the identified Confidential Information insofar as it is consistent with applicable State or federal laws or regulations, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by the Vendor as confidential, the State shall notify the Vendor and specify the date the State will be releasing the requested information. At the request of the State, the Vendor shall cooperate and assist the State with the collection and review of the Vendor's information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be the Vendor's sole responsibility and at the Vendor's sole expense. If the Vendor fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice to the Vendor without any State liability to the Vendor.

This Contract Agreement, Appendix H Section H-25.12.14: Confidential Information shall survive the termination or conclusion of a Contract.

H-25.12.14 Data Breach

In the event of a data breach, the vendor shall comply with provisions of NHRSA 359C:20.

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H-25.13 Pricing

H-25.13.1 Activities/Deliverables/Milestones Dates and Pricing

The Vendor must include, within the fixed price for IT service activities, tasks, and preparation of required Deliverables, pricing for the Deliverables required based on the proposed approach, and methodology and tools. A fixed price must be provided for each Deliverable. Pricing worksheets are provided in Appendix F: Pricing Worksheets.

H-25.13.2 Software Licensing, Maintenance, Enhancements, and Support Pricing

The Vendor must provide the minimum Software support and Services through Software licensing, maintenance, Enhancements, and support as detailed in Section H-25.11: Ongoing Software Maintenance and Support Levels.

For Software licensing, maintenance, and support costs, complete a worksheet including all costs in the table. A worksheet is provided in Appendix F: Pricing Worksheets, under Appendix F-5: Software Licensing, Maintenance, and Support Pricing, as Table F-5: Software Licensing, Maintenance, and Support Pricing Worksheet.

H-25.13.3 Invoicing

The Vendor shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted shall be subject to the State's written approval, which shall not be unreasonably withheld. The Vendor shall only submit invoices for Services or Deliverables as permitted by the Contract. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization of each Deliverable and identification of the Deliverable for which payment is sought, and the Acceptance date triggering such payment; date of delivery and/or installation; monthly maintenance charges; any other Project costs or retention amounts if applicable.

H-25.13.4 Overpayments to the Vendor

The Vendor shall promptly, but no later than fifteen (15) business days, pay the State the full amount of any overpayment or erroneous payment upon discovery or notice from the State.

H-25.13.5 Credits

The State may apply credits due to the State, arising out of this Contract, against the Vendor's invoices with appropriate information attached.

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H-25.13.6 Records Retention and Access Requirements

The Vendor shall agree to the conditions of all applicable State and federal laws and regulations, which are incorporated herein by this reference, regarding retention and access requirements, including without limitation, retention policies consistent with the Federal Acquisition Regulations (FAR) Subpart 4.7 Vendor Records Retention.

The Vendor and its Subcontractors shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs, invoiced in the performance of their respective obligations under the Contract. The Vendor and its Subcontractors shall retain all such records for three (3) years following termination of the Contract, including any extensions. Records relating to any litigation matters regarding the Contract shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeals period.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the State and federal officials so authorized by law, rule, regulation or Contract, as applicable. Access to these items will be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the Contract and one (1) year term following litigation relating to the Contract, including all appeals or the expiration of the appeal period. The Vendor shall include the record retention and review requirements of this section in any of its subcontracts.

The State agrees that books, records, documents, and other evidence of accounting procedures and practices related to the Vendor's cost structure and profit factors shall be excluded from the State's review unless the cost or any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

H-25.13.7 Accounting Requirements

The Vendor shall maintain an accounting system in accordance with generally accepted accounting principles. The costs applicable to the Contract shall be ascertainable from the accounting system and the Vendor shall maintain records pertaining to the Services and all other costs and expenditures.

H-25.14 Termination

This section H-25.14 shall survive termination or Contract conclusion.

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H-25.14.1 Termination for Default

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

- a.** Failure to perform the Services satisfactorily or on schedule;
- b.** Failure to submit any report required; and/or
- c.** to perform any other covenant, term or condition of the Contract

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

- a)** Unless otherwise provided in the Contract, the State shall provide the Vendor written notice of default and require it to be remedied within, in the absence of a greater or lesser specification of time, within thirty (30) days from the date of notice, unless otherwise indicated within by the State ("Cure Period"). If the Vendor fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving the Vendor notice of termination, at its sole discretion, treat the Contract as breached and pursue its remedies at law or in equity or both.
- b)** Give the Vendor a written notice specifying the Event of Default and suspending all payments to be made under the Contract and ordering that the portion of the Contract price which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default shall never be paid to the Vendor.
- c)** Set off against any other obligations the State may owe to the Vendor any damages the State suffers by reason of any Event of Default;
- d)** Treat the Contract as breached and pursue any of its remedies at law or in equity, or both.
- e)** Procure Services that are the subject of the Contract from another source and the Vendor shall be liable for reimbursing the State for the replacement Services, and all administrative costs directly related to the replacement of the Contract and procuring the Services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; all of which shall be subject to the limitations of liability set forth in the Contract.

In the event of default by the State, the Vendor shall provide the State with written notice of default, and the State shall cure the default within thirty (30) days.

Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby

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reserved to the State. This covenant shall survive termination or Contract Conclusion.

H-25.14.2 Termination for Convenience

The State may, at its sole discretion, terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to the Vendor. In the event of such termination for convenience, the State shall pay the Vendor the agreed upon price, if separately stated, for Deliverables for which Acceptance has been given by the State. Amounts for Services or Deliverables provided prior to the date of termination for which no separate price is stated will be paid, in whole or in part, generally in accordance with Appendix F: Pricing Worksheets.

During the thirty (30) day period, the Vendor shall wind down and cease its Services as quickly and efficiently as reasonably possible, without performing unnecessary Services or activities and by minimizing negative effects on the State from such winding down and cessation of Services.

H-25.14.3 Termination for Conflict of Interest

The State may terminate the Contract by written notice if it determines that a conflict of interest exists, including but not limited to, a violation by any of the parties hereto of applicable laws regarding ethics in public acquisitions and procurement and performance of Contracts.

In such case, the State shall be entitled to a pro-rated refund of any current development, support and maintenance costs. The State shall pay all other contracted payments that would have become due and payable if the Vendor did not know, or reasonably did not know, of the conflict of interest.

In the event the Contract is terminated as provided above pursuant to a violation by the Vendor, the State shall be entitled to pursue the same remedies against the Vendor as it could pursue in the event of a default of the Contract by the Vendor.

H-25.14.4 Termination Procedure

Upon termination of the Contract, the State, in addition to any other rights provided in the Contract, may require the Vendor to deliver to the State any property, including without limitation, Software and Written Deliverables, for such part of the Contract as has been terminated.

After receipt of a notice of termination, and except as otherwise directed by the State, Vendor shall:

- a.** Stop work under the Contract on the date, and to the extent specified, in the notice;

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- b.** Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
- c.** Take such action as the State directs, or as necessary to preserve and protect the property related to the Contract which is in the possession of Vendor and in which State has an interest;
- d.** Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to State and which has been accepted or requested by the State; and
- e.** Provide written certification to the State that Vendor has surrendered to the State all said property.

H-25.15 Limitation of Liability

H-25.15.1 State

Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations, the State's liability to the Vendor shall not exceed the total Contract price set forth in Contract Agreement, Appendix H Section 1.8 of the Contract Agreement – General Provisions.

Notwithstanding the foregoing and any provision of this Contract to the contrary, in no event does the State waive its sovereign immunity or any applicable defenses or immunities.

H-25.15.2 The Vendor

Subject to applicable laws and regulations, in no event shall the Vendor be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and the Vendor's liability to the State shall not exceed two times (2X) the total Contract price set forth in the Contract Agreement, Appendix H Section 1.8 of the Contract Agreement – General Provisions. Notwithstanding the foregoing, the limitation of liability shall not apply to the Vendor's indemnification obligations set forth in the Appendix H Contract Agreement - Sections 13: Indemnification and confidentiality obligations in Appendix H 25.12.14: Confidential Information, and data breach obligations in Appendix H-25.12.15 Data Breach which shall be unlimited.

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H-25.15.3 State's Immunity

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 shall survive termination or Contract conclusion.

H.25.15.4 Survival

This Contract Agreement, Section H-25.15: Limitation of Liability shall survive termination or Contract conclusion.

H-25.16 Change of Ownership

In the event that the Vendor should change ownership for any reason whatsoever, the State shall have the option of continuing under the Contract with the Vendor, its successors or assigns for the full remaining term of the Contract; continuing under the Contract with the Vendor, its successors or assigns for such period of time as determined necessary by the State; or immediately terminate the Contract without liability to the Vendor, its successors or assigns.

H-25.17 Assignment, Delegation and Subcontracts

The Vendor shall not assign, delegate, subcontract, or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the State. Such consent will not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void and may constitute an event of default at the sole discretion of the State.

The Vendor shall remain wholly responsible for performance of the entire Contract regardless of whether assignees, delegates, Subcontractors or other transferees ("Assigns") are used, unless otherwise agreed to in writing by the State and the Assigns fully assumes in writing any and all obligations and liabilities under the Contract from the Effective Date . In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract or other transfer shall neither relieve the Vendor of any of its obligations under the Contract nor shall it affect any remedies available to the State against the Vendor that may arise from any event of default of the provisions of the Contract. The State will consider the Vendor to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

H-25.18 Dispute Resolution

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights or Confidential Information), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by

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written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by this Agreement.

H-25.19 Venue and Jurisdiction

Any action on the Contract may only be brought in the State of New Hampshire Merrimack County Superior Court.

H-25.20 Project Holdback

The State will withhold 10% of the agreed Deliverables pricing tendered by the Vendor in this engagement until successful completion of the Warranty Period as defined in Appendix H Section 25-10.1: Warranty Period.

H-25.21 Escrow of Code

Vendor will enter into a source and configuration code escrow agreement, with a State approved escrow agent. The proposed escrow agreement shall be submitted with the Vendor's Proposal for review by the State. The escrow agreement requires the Vendor to put the Vendor Software source and configuration code in escrow. The source code shall be released to the State if one of the following events has occurred:

- a. the Vendor has made an assignment for the benefit of creditors;
- b. the Vendor institutes or becomes subject to a liquidation or bankruptcy proceeding of any kind;
- c. a receiver or similar officer has been appointed to take charge of all or part of the Vendor's assets; or
- d. the Vendor or its Subcontractor terminates its maintenance and operations support Services for the State for the Software or has ceased supporting and maintaining the Software for the State, whether due to its ceasing to conduct business generally or otherwise, except in cases where the termination or cessation is a result of the non-payment or other fault of the State;
- e. Vendor defaults under the Contract; or
- g. Vendor ceases its on-going business operations or that portion of its business operations relating to the licensing and maintenance of the Software.

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TERMS AND DEFINITIONS

The following general contracting terms and definitions apply except as specifically noted elsewhere in this document.

Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Acceptance Letter	An Acceptance Letter provides notice from the State that a Deliverable has satisfied Acceptance Tests or Review.
Acceptance Period	The timeframe during which the Acceptance Test is performed
Acceptance Test Plan	The Acceptance Test Plan provided by the Vendor and agreed to by the State that describes at a minimum, the specific Acceptance process, criteria, and Schedule for Deliverables.
Acceptance Test and Review	Tests performed to determine that no Defects exist in the application Software or the System
Access Control	Supports the management of permissions for logging onto a computer or network
Agreement	A contract duly executed and legally binding.
Appendix	Supplementary material that is collected and appended at the back of a document
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system
Best and Final Offer (BAFO)	For negotiated procurements, a Vendor's final offer following the conclusion of discussions.
Breach or Breach of Security	Unlawful and unauthorized acquisition of unencrypted computerized data that materially compromises the security, confidentiality or integrity of personal information maintained by a person or commercial entity
CCP	Change Control Procedures
CR	Change Request
COTS	Commercial Off-The-Shelf Software
CM	Configuration Management
Certification	The Vendor's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that the Vendor has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
Change Control	Formal process for initiating changes to the proposed solution or processes once development has begun.
Change Order	Formal documentation prepared for a proposed change in the Specifications.
Completion Date	End date for the Contract
Confidential Information	Information required to be kept Confidential from unauthorized disclosure under the Contract
Contract	This Agreement between the State of New Hampshire and a

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	Vendor, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Conclusion	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default.
Contract Documents	Documents that comprise this Contract
Contract Managers	The persons identified by the State and the Vendor who shall be responsible for all contractual authorization and administration of the Contract. These responsibilities shall include but not be limited to processing Contract Documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all Contract administrative activities.
Contracted Vendor	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.
Conversion Test	A test to ensure that a data conversion process correctly takes data from a legacy system and successfully converts it to form that can be used by the new system.
COTS	Commercial off the Shelf
Cure Period	The thirty (30) day period following written notification of a default within which a contracted Vendor must cure the default identified.
Custom Code	Code developed by the Vendor specifically for this project for the State of New Hampshire
Custom Software	Software developed by the Vendor specifically for this project for the State of New Hampshire
Data	State's records, files, forms, Data and other documents or information, in either electronic or paper form, that will be used /converted by the Vendor during the Contract Term
DBA	Database Administrator
Deficiencies/Defects	<p>A failure, deficiency, or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications.</p> <p>Class A Deficiency – Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the Service.</p> <p>Class B Deficiency – Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not</p>

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	require re-performance of the Service. Class C Deficiency – Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the Service.
Deliverable	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by the Vendor to the State or under the terms of a Contract requirement.
Department	An agency of the State
Department of Information Technology (DoIT)	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
Documentation	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
Digital Signature	Guarantees the unaltered state of a file
Effective Date	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract.
Encryption	Supports the transformation of data for security purposes
Enhancements	Updates, additions, modifications to, and new releases for the Software, and all changes to the Documentation as a result of Enhancements, including, but not limited to, Enhancements produced by Change Orders
Event of Default	Any one or more of the following acts or omissions of a Vendor shall constitute an event of default hereunder ("Event of Default") <ul style="list-style-type: none"> a. Failure to perform the Services satisfactorily or on schedule; b. Failure to submit any report required; and/or c. Failure to perform any other covenant, term or condition of the Contract
Firm Fixed Price Contract	A Firm-Fixed-Price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of the Vendor's cost experience in performing the Contract
Fully Loaded	Rates are inclusive of all allowable expenses, including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses
GAAP	Generally Accepted Accounting Principles
Governor and Executive Council	The New Hampshire Governor and Executive Council.

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Harvest	Software to archive and/or control versions of software
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users
Implementation	The process for making the System operational for processing the Data.
Implementation Plan	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
Information Technology (IT)	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies.
Input Validation	Ensure that the values entered by users or provided by other applications meets the size, type and format expected. Protecting the application from cross site scripting, SQL injection, buffer overflow, etc.
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Invoking Party	In a dispute, the party believing itself aggrieved
Key Project Staff	Personnel identified by the State and by the contracted Vendor as essential to work on the Project.
Licensee	The State of New Hampshire
Non Exclusive Contract	A contract executed by the State that does not restrict the State from seeking alternative sources for the Deliverables or Services provided under the Contract.
Non-Software Deliverables	Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other
Normal Business Hours	Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, July 4 th , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided
Notice to Proceed (NTP)	The State Contract Manager's written direction to the Vendor to begin work on the Contract on a given date and time
Open Data Formats	A data format based on an underlying Open Standard.
Open Source Software	Software that guarantees the user unrestricted use of the Software as defined in RSA 21-R:10 and RSA 21-R:11.
Open Standards	Specifications for the encoding and transfer of computer data that is defined in RSA 21-R:10 and RSA 21-R:13.
Operating System	System is fully functional, all Data has been loaded into the System, is available for use by the State in its daily operations.
Operational	Operational means that the System is operating and fully

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	functional, all Data has been loaded; the System is available for use by the State in its daily operations, and the State has issued an Acceptance Letter.
Order of Precedence	The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence
Project	The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto.
Project Team	The group of State employees and contracted Vendor's personnel responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Work Plan on time, on budget and to the required specifications and quality
Project Management Plan	A document that describes the processes and methodology to be employed by the Vendor to ensure a successful project.
Project Managers	The persons identified who shall function as the State's and the Vendor's representative with regard to Review and Acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Requests (CR) utilizing the Change Control Procedures (CCP)
Project Staff	State personnel assigned to work with the Vendor on the project
Proposal	The submission from a Vendor in response to the Request for a proposal or statement of work.
Regression Test Plan	A plan integrated into the Work Plan used to ascertain whether fixes to defects have caused errors elsewhere in the application/process.
Review	The process of reviewing Deliverables for Acceptance
Review Period	The period set for review of a Deliverable. If none is specified then the review period is five (5) business days.
RFP (Request for Proposal)	A Request For Proposal solicits Proposals to satisfy State functional requirements by supplying data processing product and/or Service resources according to specific terms and conditions
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network
Schedule	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract
SaaS	Software as a Service- Occurs where the COTS application is hosted but the State does not own the license or the code.
Service Level Agreement (SLA)	A signed agreement between the Vendor and the State specifying the level of Service that is expected of, and provided by, the Vendor during the term of the Contract.
Services	The work or labor to be performed by the Vendor on the Project

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	as described in the Contract.
Software	All custom Software and COTS Software provided by the Vendor under the Contract
Software Deliverables	COTS Software and Enhancements
Software License	Licenses provided to the State under this Contract
Solution	The Solution consists of the total Solution, which includes, without limitation, Software and Services, addressing the requirements and terms of the Specifications. The off-the-shelf Software and configured Software customized for the State provided by the Vendor in response to this RFP.
Specifications	The written Specifications that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
State	Reference to the term "State" shall include applicable agencies as defined in Section 1: INTRODUCTION of this RFP.
Statement of Work (SOW)	A Statement of Work clearly defines the basic requirements and objectives of a Project. The Statement of Work also defines a high level view of the architecture, performance and design requirements, the roles and responsibilities of the State and the Vendor. The SOW defines the results that the Vendor remains responsible and accountable for achieving.
State's Confidential Records	State's information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to RSA Chapter 91-A
State Data	Any information contained within State systems in electronic or paper format.
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year extends from July 1 st through June 30 th of the following calendar year
State Project Leader	State's representative with regard to Project oversight
State's Project Manager (PM)	State's representative with regard to Project management and technical matters. Agency Project Managers are responsible for review and Acceptance of specific Contract Deliverables, invoice sign off, and Review and approval of a Change Proposal (CP).
Subcontractor	A person, partnership, or company not in the employment of, or owned by, the Vendor, which is performing Services under this Contract under a separate Contract with or on behalf of the Vendor
System	All Software, specified hardware, and interfaces and extensions,

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	integrated and functioning together in accordance with the Specifications.
TBD	To Be Determined
Technical Authorization	Direction to a Vendor, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of specifications of the SOW.
Test Plan	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Term	The duration of the Contract.
Transition Services	Services and support provided when the contracted Vendor is supporting system changes.
UAT	User Acceptance Test
Unit Test	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
User Acceptance Testing	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
User Management	Supports the administration of computer, application and network accounts within an organization
Vendor/Vendor	The contracted individual, firm, or company that will perform the duties and Specifications of the contract.
Verification	Supports the confirmation of authority to enter a computer system, application or network
Walk Through	A step-by-step review of a specification, usability features or design before it is handed off to the technical team for development
Warranty Period	A period of coverage during which the contracted Vendor is responsible for providing a guarantee for products and services delivered as defined in the contract.
Warranty Releases	Code releases that are done during the warranty period.
Warranty Services	The Services to be provided by the Vendor during the Warranty Period.
Work Hours	Vendor personnel shall work normal business hours between 8:00 am and 5:00 pm, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this

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	<p>schedule may be made upon agreement with the State Project Manager. However, the State requires an unpaid lunch break of at least thirty (30) minutes be taken after five (5) consecutive hours of work.</p>
<p>Work Plan</p>	<p>The overall plan of activities for the Project created in accordance with the Contract. The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the Project as specified in Appendix C. The Work Plan shall include a detailed description of the Schedule, tasks/activities, Deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.</p>
<p>Written Deliverables</p>	<p>Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by the Vendor either in paper or electronic format.</p>

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