

**State of New Hampshire**

**Department of Justice**



**Gordon J. MacDonald**

**Attorney General**

**State Victim Assistance Academy Partner(s)**

**Request for Proposals (RFP)**

**Release Date: March 11, 2020**

**Proposals Due: April 27, 2020**

**#GMU-2020-03**

## Table of Contents

Part 1.	Statewide Project Partner(S) .....	3
Part 2.	Eligibility .....	4
Part 3.	Award.....	4
Part 4.	Proposal Submission Requirements, Deadline, and Location Instructions.....	5
Part 5.	Schedule of Events.....	6
Part 6.	Proposal Inquiries .....	6
Part 7.	Statement of Work .....	7
Part 8.	Oral Interviews.....	9
Part 9.	Selection Criteria and Award Process.....	9
Part 10.	Additional Terms .....	12
Part 11.	Contact Information .....	15

## **Part 1.      Statewide Project Partner(S)**

The New Hampshire Department of Justice (hereinafter “the Agency”) received a Federal grant from the US Department of Justice Office for Victims of Crime (OVC) beginning October 2018. This grant in part was to assist the agency to redevelop a State Victim Assistance Academy (SVAA).

Since 1995, OVC has provided critical leadership by addressing training needs to professionals responding to victims of crime, through the development of SVAAAs. SVAAAs are intensive, immersive training opportunities, similar to that of police academies, for early career victim service providers and other allied professionals. These academies have become central initiatives for integrating cross-disciplinary, interagency trainings that prepare and support early career learning and skill-building, and promote meaningful collaborations among providers working with victims of crime. SVAAAs ensure that crime victims and survivors will receive culturally relevant, trauma informed services they need to achieve safety, support healing and promote the pursuits of justice. The need for quality training that SVAAAs provide has been widely identified through national scope assessments, including most recently the [Vision 21: Transforming Victim Services, Final Report](#) and a Statewide victim services stakeholder needs assessment the Agency conducted in 2019. The Statewide needs assessment results can be found at: <https://www.doj.nh.gov/grants-management/index.htm>.

Participants of New Hampshire’s SVAA will come from the fields of law enforcement and victim advocacy; including domestic/sexual violence crisis centers, prosecutor offices, CASA of NH and child advocacy centers.

The SVAA will provide foundational training on topics such as:

- Trauma
- Building Community Partnerships
- Resiliency
- Dealing with Difficult People
- Victims Compensation
- Boundaries
- Ethics
- Cultural Competency/ cultural humility

The Agency seeks a project partner to develop the curriculum for (Component A) and provide ongoing logistical support to (Component B) the SVAA. It is anticipated that the first SVAA will be held in May of 2021. See Part 7 for Statement of Work.

The Agency created a SVAA Steering Committee that will be closely involved with the creation, execution, and ongoing development of the SVAA.

## **Part 2. Eligibility**

Individual(s) and/or organization(s) capable of curriculum development and instructional design and/or training project management and logistical support, in partnership with the Agency, Statewide victim services stakeholders and the SVAA Steering Committee.

## **Part 3. Award**

If the State decides to award a contract as a result of this RFP process, any award is contingent upon approval of the Contract by Governor and Executive Council of the State of New Hampshire.

The Agency will require the successful bidder to execute a fixed price Contract using the Terms and Conditions of the State of New Hampshire P-37 Form Contract. While the Agency may consider minor modifications of this form during negotiations, the State will not accept material changes from this form agreement. To the extent that a Proposer believes that exceptions to the standard form contract will be necessary for the vendor to enter into the Agreement, the Proposer should note those issues during the Proposer inquiry period. The Agency will review requested exceptions and accept or reject the same at its sole discretion. If the Agency accepts a Proposer's exception the Agency will, at the conclusion of the inquiry period, provide notice to all potential vendors of the exception which has been accepted and indicate that the material change is available to all potential bidders. Any exceptions to the standard form contract that are not raised during the vendor inquiry period are waived. In no event is a Proposer to submit its own standard contract terms and conditions as a replacement for the State's terms in response to this solicitation.

If an award is made, it shall be made based upon evaluation of the submitted proposals in accordance with the review process outlined in Part 9 below. The award will be based upon criteria, standards, and weighting identified in Part 9 of this RFP.

The Term of the Contract(s) will be from the date of Governor and Council approval through September 30, 2021.

**Part 4. Proposal Submission Requirements, Deadline, and Location Instructions**

Proposals submitted in response to this RFP must be received by the Agency, no later than the date specified in the Schedule of Events section, herein. Proposals may be submitted by E-mail. Proposals must be addressed to:

Grants.Apps@doj.nh.gov

c/o

Danielle Snook

Proposals must be clearly marked as follows:

STATE OF NEW HAMPSHIRE

RESPONSE TO RFP # GMU-03

Project cost proposal shall be submitted only in a separate sealed envelope by mail at the following address:

RFP # GMU-03 Price Proposal

Grants Management Unit

33 Capitol Street

Concord, NH 03301

Unless waived as a non-material deviation in accordance with Part 10. h, late submissions will not be accepted. Delivery of the Proposals shall be at the Proposer's expense. The time of receipt shall be considered when a Proposal has been officially documented by the Agency, in accordance with its established policies, as having been received at the location designated above. The Agency accepts no responsibility for mislabeled mail or mail that is not delivered or undeliverable for whatever reason. Any damage that may occur due to shipping shall be the Proposer's responsibility.

## **Part 5. Schedule of Events**

The following table provides a Schedule of Events for this RFP through Contractor negotiations. The Agency reserves the right to amend this Schedule at its sole discretion and at any time through a published Addendum.

<b>EVENT</b>	<b>DATE</b>	<b>LOCAL TIME</b>
RFP Released	3/11/2020	
Proposer Inquiry Period Ends	3/30/2020	4:00 p.m.
Final Agency Responses to Proposer Inquiries posted online	4/13/2020	4:00 p.m.
Proposer(s) Submit Proposals	4/27/2020	
Oral Interviews	TBD, as necessary	
Estimated Notification of Selection and Begin Contractor Agreement Negotiations	5/18/2020	

## **Part 6. Proposal Inquiries**

All inquiries concerning this RFP, including but not limited to, requests for clarifications, questions, and any changes to the RFP, shall be submitted via email to the following RFP designated Points of Contact:

TO: Danielle.Snook@doj.nh.gov

Inquiries must be received by the Agency's RFP Points of Contact no later than the conclusion of the Applicant Inquiry Period (see Schedule of Events section, herein). Inquiries received later than the conclusion of the Applicant Inquiry Period shall not be considered properly submitted and may not be considered.

The Agency intends to issue official responses to properly submitted inquiries on or before the date specified in the Schedule of Events section, herein; however, this date is subject to change at

6

the Agency's discretion. The Agency may consolidate and/or paraphrase questions for sufficiency and clarity. The Agency 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 Agency. Official responses by the Agency will be made only in writing by the process described above.

## **Part 7. Statement of Work**

For the below statement of work there are two different parts in which a vendor can apply for. Vendors can apply for the statement of work for both Component A and B or Component A independently or Component B independently. If a vendor is applying for both Components, please include a price/budget for Component A and Component B separately.

The SVAA will offer 40 hours of training with a mixed methodology of in-person and web based content, for a cohort of 30 students. The proposed date of the first academy is May 2021. The location is TBD within the State of New Hampshire with the Steering Committee and Agency having the final decision on location. The Steering Committee will identify various subject matter experts to provide input into the training content and to deliver the modules. Therefore, the selected vendor is not required to be a subject matter expert.

The proposer must at a minimum address the responsibilities outlined below in Component A and/or Component B and describe the plan to achieve the responsibilities:

### **7-a Component A: Curriculum Development**

- The Vendor shall meet with the SVAA Steering Committee and other identified partners on a regular basis to identify and evaluate professional development and learning needs. This includes participation in various workgroups, meetings and quality assurance activities.
- The Vendor shall develop, update and maintain learning curricula based on needs assessments, current research and collaboration with the SVAA Steering Committee and other subject matter experts.
- The Vendor shall apply a spectrum of learning methodologies to maximize transfer of learning for participants, with a primary emphasis on adult learning modalities, specifically skill-building opportunities such as role-playing and flipped classroom methods, self-care, and web based training.

- The Vendor shall assist in providing a train the trainer session for presenters prior to the SVAA.
- The Vendor shall develop and maintain an evaluation system/structure using best practice learning evaluation methodologies, which at the minimum shall include measures of:
  - a) Participant satisfaction at the end of every learning module delivered;
  - b) Pre and post knowledge and skill tests to assess gains in knowledge and skill from before to after learning; and
  - c) The evaluation of curriculum content, trainer fidelity to curricula and trainer competence in learning delivery.
- The Vendor shall provide feedback, follow up and debriefing after the training to the Steering Committee. The evaluation system must ensure learning delivery is aligned with the SVAA mission and approved by the Steering Committee.
- The Vendor shall deliver a final report that includes the finalized curriculum, evaluation takeaways, and a proposal regarding how the Agency might improve future years of SVAA. The final report due date will be August 2021.

#### **7-b Component B: Facilitate the SVAA Process**

- The Vendor shall take leadership of the process including:
  - Developing a task plan and timetable
  - Plan and facilitate two-hour monthly SVAA Steering Committee meetings until September 2021.
  - Prepare and distribute meeting agendas and minutes with SVAA committee input.
- The Vendor shall facilitate SVAA logistics including:
  - Communicating with the training facility
  - Contacting and scheduling trainers
  - Facilitate a train the trainer session for presenters prior to the SVAA
  - Web based learning modules
  - Design student registrations and applications
  - Coordinate on site logistics during the SVAA



## **Part 8. Oral Interviews**

If the Agency determines that it is appropriate, proposers may be invited to oral interviews and/or product demonstrations. The Agency retains the sole discretion to determine whether to conduct oral interviews and how many interviews to conduct. Proposers are advised that the Agency may decide to conduct interviews with less than all responsive vendors.

The purpose of oral interviews and product demonstrations is to clarify and expound upon information provided in the written Proposals. Proposers are prohibited from altering the basic substance of their Proposals during the oral interviews and product demonstrations. The Agency may ask the Proposer to provide written clarifications of elements in their Technical Proposal regardless of whether it intends to conduct Oral Interviews.

Information gained from oral interviews and product demonstrations will be used to refine technical review scores assigned from the initial review of the Proposals.

## **Part 9. Selection Criteria and Award Process**

An award will be made based on a competitive scoring process and are subject to the approval of the Attorney General and the Governor and Executive Council. NH Department of Justice staff will do an initial review of all proposals for compliance. A panel of NH Department of Justice staff and one or more members from outside the NHDOJ will review and score all compliant applications.

The Agency will use a scoring scale of 100 points for each Component, a maximum of 80 points awarded based on the Technical Proposal and a maximum of 20 points awarded for the Price Proposal, which will be distributed as set forth below.

### **Scoring Values:**

Qualifications of Key Personnel – 15  
Understanding the SVAA Needs – 20  
Approach – 30  
Project Management – 15  
Price – 20

Maximum total points for each Component – 100

Bonus Points – 4

Two points will be awarded under Component A and 2 points will be awarded under Component B for proposals addressing both Components.

### **Qualifications of Key Personnel**

Component A and B: Proposals will be evaluated based on the qualifications demonstrated by the lead and other primary team members. Primary team members are individuals other than the lead who will be responsible for activities outside of basic administrative duties. Lead and other primary team members must possess at minimum a bachelor's degree. The lead must have at least three (3) years' experience in curriculum development and instructional design and/or training project management and logistical support. They must also demonstrate the technical ability to complete a project of this scope and size.

### **Understanding the SVAA Needs**

#### **A. Description**

The SVAA is an intensive shared learning experience for early career victim assistance providers, victim advocates, law enforcement personnel, and allied professionals, including, but not limited to CASA GALs, CAC staff and others who routinely work with crime victims.

#### **B. Goal**

The SVAA is designed to improve the level of knowledge and skills of participants to enhance the quality of services provided to victims of crime in New Hampshire.

#### **C. Objectives**

These hours of interactive learning will benefit participants by:

- a. Assisting professionals in more fully meeting the needs of victims
- b. Creating communities of practice through collaborative learning
- c. Expanding professionals' understanding of different systems involved with victims of crime

- d. Encouraging collaboration and partnerships to promote person-centered services
- e. Assisting professionals in maintaining and enhancing sustainable practices
- f. Improving collaboration, networking, and partnerships

Both Component A and B Proposals will be evaluated on the conceptual understanding of the objectives of the SVAA outlined in this RFP. The applicant shall provide a description of their role and how it will assist in meeting the objectives of the SVAA.

### **Approach**

Component A: A plan for curriculum development and instructional design will demonstrate a methodology and understanding of curriculum development and evaluation. In order to demonstrate an understanding in these areas, the proposal must state the rationale underlying the elements of the plan. The plan must address all responsibilities outlined in part 7-a of this RFP. This plan must also demonstrate a working knowledge of adult learning modalities and web based learning. The proposer shall outline how they will build in a trauma informed approach to demonstrate an understanding of the sensitivity of crime victim issues and subjects.

Component B: A plan for facilitation and logistical support will demonstrate a methodology and understanding of training project management planning and logistics. In order to demonstrate an understanding in these areas, the proposal must state the rationale underlying the elements of the plan. The plan must address all responsibilities outlined in part 7-b.

### **Project Management**

Component A and B: Proposals will be evaluated based on how well they establish that the organization and those responsible for management of the project have sufficient capabilities, experience, and resources to manage a project of this scope and size.

Interested entities can establish management capability by submitting:

- a) a management plan that describes the tasks each member of the team will complete,
- b) a task milestone chart that describes:

- i. the development of the curriculum (Component A); and/or
- ii. the facilitation and logistical support (Component B); and
- c) the tasks that the team will need to engage in to provide necessary deliverables, and the timelines by which those tasks will be completed.

The management plan and task milestone chart must be detailed enough to establish the management capabilities of prospective project managers.

### **Price**

Price Proposals will be reviewed upon completion of the final technical scoring of Proposals. The Proposer's Price Proposal will be allocated a maximum potential score of 20 points. Proposers are advised that this **is not a low bid award** and that the scoring of the Price Proposal will be combined with the scoring of the Technical Proposal to determine the overall highest scoring Proposer.

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

Proposer's Price Score = (Lowest Proposed Price / Proposer's Proposed Price) x Weight

The highest scored proposal will receive a recommendation for approval.

Recommendations are subject to approval by the Attorney General and the Governor and Executive Council. The Agency will enter into negotiations for a contract with the selected proposer. The form of contract will be substantially similar to the document set forth as Appendix A.

## **Part 10. Additional Terms**

- a. RFP Addendum -The Agency 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 Agency, at its sole discretion, may extend the Proposal submission deadline, as it deems appropriate.
- b. Public Disclosure - Pursuant to RSA 21-G:37, all responses to this RFP shall be considered confidential until the award of a contract . At the time of receipt of proposals, the Agency will post the number of responses received with no further information. No later than five (5) business days prior to submission of a Grant

Agreement to Governor & Executive Council pursuant to this RFP, the Agency will post the name, and rank or score of each proposer.

The content of each Proposer's Proposal shall become public information upon the award of any resulting Contract. Any information submitted as part of a response to this request for proposal (RFP) may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP will be made accessible to the public online via the website Transparent NH (<http://www.nh.gov/transparentnh/>). Confidential, commercial or financial information may be exempt from public disclosure under RSA 91-A:5, IV. If a Proposer believes any information submitted in response to this request for proposal should be kept confidential, the Proposer must specifically identify that information where it appears in the submission in a manner that draws attention to the designation and must mark/stamp each page of the materials that the Vendor claims must be exempt from disclosure as "CONFIDENTIAL." Proposers must also provide a letter to the person listed as the point of contact for this RFP, identifying the specific page number and section of the information you consider to be confidential, commercial or financial and providing your rationale for each designation. Marking or designating an entire proposal, attachment or section as confidential shall neither be accepted nor honored by the State. Proposers must also provide a separate copy of the full and complete document, fully redacting those portions and shall note on the applicable page or pages that the redacted portion or portions are "confidential."

Notwithstanding a Proposer' designations, the State is obligated under the Right-to-Know law to conduct an independent analysis of the confidentiality of the information submitted in a proposal. If a request is made to the State by any person or entity to view or receive copies of any portion of the proposal, the State shall first assess what information it is obligated to release. The State will then notify you that a request has been made, indicate what, if any, information the State has assessed is confidential and will not be released, and specify the planned release date of the remaining portions of the proposal. To halt the release of information by the State, a Vendor must initiate and provide to the State, prior to the date specified in the notice, a court action in the Superior Court of the State of New Hampshire, at its sole expense, seeking to enjoin the release of the requested information.

- c. Non-Commitment - Notwithstanding any other provision of this RFP, this RFP does not commit the Agency to award a grant. The Agency 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.
- d. Ethical Requirements - From the time this RFP is published until a contract is awarded, no bidder shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who will or has selected, evaluated, or awarded an RFP, or similar submission. Any bidder that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any bidder who has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or who is subject to a pending criminal charge for such an offense, shall be disqualified from bidding on the RFP, or similar request for submission and every such bidder shall be disqualified from bidding on any RFP or similar request for submission issued by any state agency. A bidder that was disqualified under this section because of a pending criminal charge which is subsequently dismissed, results in an acquittal, or is annulled, may notify the department of administrative services, which shall note that information on the list maintained on the state's internal intranet system, except in the case of annulment, the information, shall be deleted from the list.
- e. Validity of Proposal -Proposals must be valid for one hundred and eighty (180) days following the deadline for submission of Proposals in Schedule of Events, or until the Effective Date of any resulting Contract, whichever is later.
- f. Proposal Preparation Cost - By submitting a Proposal, a Proposer agrees that in no event shall the Agency be either responsible for or held liable for any costs incurred by a Proposer in the preparation of or in connection with the Proposal, or for Work performed prior to the Effective Date of a resulting Contract.
- g. Proposal Submission Requirements - Proposers are permitted to submit only one (1) Proposal in response to this RFP.
- h. Agency Rights - The Agency reserves the right to waive minor or immaterial deviations from the RFP requirements, if deemed to be in the best interest of the State.

- i. All curricula developed and delivered through the Vendor are owned by the Agency and may be released to or shared with other entities only with explicit approval of the Agency. These curricula should be stored on the Agency S: drive and updated as content is updated by the Vendor.

#### **Part 11. Contact Information**

From the date of release of this RFP until an award is made and announced regarding the selection of a Proposer, all communication with personnel employed by or under contract with the Agency regarding this RFP is forbidden unless first approved by the RFP Point of Contact listed in the Proposal Inquiries section, herein. Agency employees have been directed not to hold conferences and/or discussions concerning this RFP with any Contractor during the selection process, unless otherwise authorized by the RFP Point of Contact. Questions related to this request for grant proposal should be sent to the RFP Point of Contact Danielle Snook, at [Danielle.Snook@doj.nh.gov](mailto:Danielle.Snook@doj.nh.gov) or (603) 271-1301.

# Appendix A



Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name		1.2 State Agency Address	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Number	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency		1.10 State Agency Telephone Number	
1.11 Contractor Signature		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature  <div align="right">Date:</div>		1.14 Name and Title of State Agency Signatory	
1.15 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i>  By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i>  By: _____ On: _____			
1.17 Approval by the Governor and Executive Council <i>(if applicable)</i>  G&C Item number: _____ G&C Meeting Date: _____			



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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

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

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete

compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

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



## **8. EVENT OF DEFAULT/REMEDIES.**

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

## **9. TERMINATION.**

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

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

submit to the State a Transition Plan for services under the Agreement.

## **10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.**

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.

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

## **12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.**

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

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

**13. INDEMNIFICATION.** Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the



Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### **14. INSURANCE.**

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

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

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

#### **15. WORKERS' COMPENSATION.**

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

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

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

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

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

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

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

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

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

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

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