



STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION of ECONOMIC DEVELOPMENT
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Office of International Commerce
Aerospace and Defense Export Consortium Manager Consultant Services
Request for Proposals

Issue Date: October 3, 2016

Title: Aerospace and Defense Consortium Manager Consultant Services

Issuing Agency: State of New Hampshire
Department of Resources and Economic Development (DRED)
Division of Economic Development
Office of International Commerce
172 Pembroke Road
Concord, NH 03301

Period of Contract: Pending receipt of U.S. Department of Defense Office of Economic Adjustment (OEA) grant funding and approval from State of New Hampshire Governor and Executive Council, thirteen (13) months from date of approval from Governor and Executive Council, plus two one-year options to renew

Project Cost: Should not exceed \$58,500.00.

Funding Source: U.S. Department of Defense Office of Economic Adjustment (OEA) grant

Proposal Deadline: 3:00 p.m.
October 28, 2016
**Proposal must be received at DRED not later than 3:00 p.m.*

Overview: The Office of International Commerce is seeking a consultant with proven skills necessary to consult and manage the New Hampshire Aerospace and Defense Export Consortium (NHADEC), a 501 (C)(3) organization. This activity is funded by a grant from the U.S. Department of Defense, OEA. The program consists of several activities and programs, both short- and long-term, to continue the maturation of the NHADEC and the sectors it supports. Additional work will require the consultant to collaborate with other contracted parties and partners to develop short- and long-term strategies aimed at building, strengthening, sustaining and diversifying the clusters, as well as assist in growing the sector consortium as it transitions to a self-sustaining organization.

ALL PROPOSALS MUST BE LABELED: PROPOSAL – Aerospace and Defense Export Consortium Manager Consultant Services

All inquiries for information should be directed to:
Nathaniel Nelson, International Trade Officer, Office of International Commerce
Email: Nathaniel.Nelson@dred.nh.gov

If proposals are mailed, send directly to issuing agency shown above. If proposals are hand-delivered, deliver to receptionist at DRED office, 172 Pembroke Road, Concord.

REQUEST FOR PROPOSALS
Aerospace and Defense Consortium Manager Consultant Services

1. PURPOSE

Pending receipt of U.S. Department of Defense (DoD) Office of Economic Adjustment (OEA) grant funding, the purpose and intent of this Request for Proposals (RFP) is to enter into a contract for a period of thirteen (13) months, with two one-year options to renew, upon the agreement of both parties and the approval of Governor and Executive Council (G&C). The qualified contractor will coordinate with the Division of Economic Development's Office of International Commerce (OIC) and the New Hampshire Aerospace and Defense Export Consortium (NHADEC) Board of Directors to implement the programs surrounding the NHADEC. Additionally, the qualified contractor will provide counsel and direction for NHADEC's transition to a self-sustaining organization.

2. BACKGROUND

2.1 The NH Department of Resources and Economic Development has received an OEA grant from the DoD. The ultimate objectives of this grant are to provide assistance to businesses impacted by DoD program changes and to aid businesses in economic diversification. Further, the goal of the grant is to enhance the capacity of the State of New Hampshire, and its businesses, workers, industries, and communities to respond to Defense-related activities. Assistance will be provided through programs of the NHADEC.

Founded in 2013, NHADEC is a promotional consortium focused on fostering the most opportune foreign markets for its members through collaborative efforts and global brand messaging and awareness. In less than 3 years, the consortium developed programs, technical assistance and expertise to support and expand export activities of its members. These programs have included regular member meetings, training sessions on export compliance, domestic and international trade shows, presentations by global market experts and business-to-business matchmaking. The focus of NHADEC's efforts is on export capacity building—increasing sales by diversifying and building new markets.

Based on global examples, NHADEC is one of only a few export consortiums in the United States. All of these consortia have the similar goal of member organizations coming together with the objective of pooling resources to increase exports for specific business sectors. For example, an export consortium for dairy exists in Oregon, while several colleges and universities have formed export consortia. Export consortia are also present throughout the international community. Examples include the Agrofresh Export Consortium Group in Spain, which promotes Spanish agriculture exports; the Italian Consortium Export, which focuses on 100% made-in-Italy products for the North American market; and Medilab Exports Consortium, which is engaged in the export of Indian scientific and lab equipment.

The purpose of this consultancy is to continue the management and growth of the consortium. Key to the growth of the consortium is the implementation of key programs and activities, as established through the DoD OEA grant. Additional purposes of this consultancy are to coordinate and manage the implementation of the short- and long-term strategies aimed at strengthening, diversifying, and sustaining the consortium sectors.

2.2 Definitions:

2.2.1 "Contractor" refers to the Offeror under this Request for Proposals (RFP) with which the Department of Resources and Economic Development (DRED) negotiates a contract. The terms in this RFP referring to "Contractor", represent contract terms that will be a part of the final Contract.

2.2.2 "Offeror" refers to any individual, corporation, partnership or agency that responds in writing to this RFP.

- 2.2.3 "State" refers to the State of New Hampshire.
- 2.2.4 "DED" refers to the Division of Economic Development.
- 2.2.5 "OIC" refers to the Office of International Commerce, an office of the Division of Economic Development, a division of the Department of Resources and Economic Development.
- 2.2.6 The "Contract" is the resulting contract entered into between DRED and the successful Offeror

3. SCOPE OF WORK

The role of the contractor is to coordinate, manage, and strategically evaluate the NHADEC, as well as implement programs associated with the consortium, in accordance with state and federal programs, within OIC.

The contractor responsibilities will be to:

- Coordinate and collaborate with the OIC team and the NHADEC Board of Directors in the management, direction, and implementation of NHADEC and its programs.
- Plan for and direct the facilitation of regular membership and board meetings and consortium-related updates (newsletter/email) for consortium members.
- Attend both regular membership and board meetings.
- Serve on the NHADEC Board of Directors as an *ex-officio* member.
- Collaborate in the development and implementation of the short- and long-term plans, strategies, and programs aimed at the continued sustainability and growth of the consortium and its members.
- Actively participate in the development and implementation of outreach activities aimed to enhance and promote the export capacity of New Hampshire's aerospace and defense industries.
- Coordinate with OIC and the Division of Economic Development on domestic and international brand building of New Hampshire's aerospace and defense industry, NHADEC, and its entire membership.
- Lead program development and implementation of sector's ongoing mission to connect with regional and international partners.
- Coordinate and mature linkages and partnerships with regional and international aerospace and defense clusters.
- Contribute to the development of a training and best practices information sharing program for NH's aerospace and defense sectors and assist in its implementation.
- Research, identify, and showcase industry best-practices, industry prospects and market trends, and trade events for consortium members.
- Assist OIC in development and implementation of programs established through OEA grant funding.
- Direct programming, coordination of logistics, recruitment of companies, and development of follow-up plans, as appropriate, for NHADEC annual events.
- Assist in the counsel of consortium members on international business development best practices and cultural considerations.
- Assist with administrative support to ensure adherence to schedule, manage interdependencies, and provide recommendations to the OIC and NHADEC Board of Directors.
- Prepare reports, as determined by the OIC and NHADEC, to document work achieved towards the execution and delivery of tasks.
- Provide personnel, as needed, who have the necessary skills and expertise to accomplish their assigned functions and ensure performance is maintained at an acceptable level.
- Travel, both in-state and out-of-state, on behalf of the NHADEC to events necessary for the execution of the Manager's responsibilities.

The contractor project deliverables are:

1. Initial briefing meeting with OIC Program Manager outlining action plan for the project.
2. Weekly reports/updates provided to OIC Program Manager to note project status.
3. Updates to company profiles provided to OIC for input into client and regional database.

4. Increase in NHADEC membership through recruitment of companies for consortium participation.
5. Coordination of (i.e., agenda development, logistical planning, etc.) and attendance at NHADEC general member and board meetings and events.
6. Recommendations for, and implementation of, short- and long-term strategies and plans for consortium sustainability and growth.
7. Collaboration with contracted marketing agency in marketing strategy and branding efforts.
8. Collaboration with contracted consultants for all NHADEC-related projects and activities.
9. Engagement in awareness building efforts for the consortium.
10. Building and maintenance of partnerships with New Hampshire aerospace and defense industry clusters (e.g., composites, maritime, antennae, etc.).
11. Building and maintenance of partnerships with national and international aerospace and defense industry-related organizations and businesses.
12. Development and implementation of, and analysis and recommendations on, a survey and its associated results aimed at assessing consortium members' market research needs.
13. Development of programming, coordination of logistics, recruitment of companies, and development of follow-up plan, as appropriate, for NHADEC annual events.
14. Implementation of a best practices information sharing and training program for consortium members, in coordination with OIC training program and other OEA grant partners.
15. Consultation to consortium members in strategies to diversify products and markets.
16. A final report that details and analyzes the findings of the project and any recommendations, including:
 - a. Contact details and listing of opportunities of partnerships with regional, national and international clusters.
 - b. Narrative of recommended short- and long-term strategies and next steps to continue the sustainment of the Consortium Manager position and the consortium, as a whole.
 - c. Final recommendations.

4. GENERAL REQUIREMENTS

4.1 Copies and Distribution of Proposal

In order to be considered for selection, Offeror is required to submit a complete written response to this RFP. One (1) original and two (2) copies of each proposal must be submitted to DED-OIC. No other distribution of the written proposal shall be made by the Offeror.

Proposals should be submitted to: Nathaniel Nelson, Office of International Commerce, at Nathaniel.Nelson@dred.nh.gov or mailed to the issuing agency shown above. Proposals should affirmatively state the ability to meet all deliverables in no more than thirteen (13) months of the award date. Three references should be provided. Please indicate past performance to the State of New Hampshire on any awards in the past five years.

4.2 Organization and Experience

- 4.2.1 Demonstrate the Offeror's financial capability to provide the work described in *Section 3: Scope of Work*. Audited financial statements, or satisfactory alternate proof of financial stability will be required prior to award of contract.
- 4.2.2 Qualifications of individuals who will be involved in the project.
- 4.2.3 Complete "Contractor Data Sheet" (Attachment A).
- 4.2.4 Has the Offeror provided contractual services to the State before? If yes, please explain relationship.

4.3 Financial Standing

An Offeror, if requested, must be prepared to present evidence of financial standing necessary to satisfactorily meet the requirements set forth in the proposal.

5. SPECIFIC REQUIREMENTS

Proposals should be as thorough and detailed as possible so that the Selection Committee may properly evaluate Offeror's capabilities to provide the required services. Responses must be structured as outlined below. Offerors are required to submit the following items as a complete proposal:

5.1 Experience Qualifications, and Strategic Exercise:

5.1.1 Complete "Contractor Data Sheet" (Attachment A).

5.1.2 A written one-page introductory statement including:

5.1.2.1 Experience in providing services as described in Section 3.

5.1.2.2 The expertise of participating personnel, including examples of and experience in providing consultative services on the four major components of international business development (finance, marketing, export controls, and logistics).

5.1.3 A written one-page narrative detailing the implementation of the identified deliverables, with language speaking to how optimal and enduring results would be achieved.

5.1.4 A written one-page description of prior work, especially in the development and implementation of strategies and interaction with international businesses and organizations.

5.1.5 A written one-page example of short- and long-term strategies for sector coordination. (To ensure client confidentiality, please be sure to redact client names.)

5.1.6 A written one-page example of a sustainability plan for a sector cluster/consortium. (To ensure client confidentiality, please be sure to redact client names.)

5.2 Proposal Submissions

5.2.1 All information requested must be submitted. Failure to submit this information at time of bid will render your proposal non-compliant and will result in a disqualification.

5.2.2 Offeror shall provide a thorough description of its plans and approach for accomplishing the requirements of *Section 3: Scope of Work*.

5.2.3 Each copy of the proposal must be in a single volume. Proposals must be prepared simply and economically, providing straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. The State is not responsible for the cost of proposals.

5.2.4 The original copy of the submitted proposal must remain at DRED, available for public inspection/disclosure, subsequent to awarding of the contract. Information considered confidential or proprietary may be marked as such by the submitting party. However, such determinations are not conclusive on DRED and DRED shall be subject to the provisions and requirements of RSA chapter 91-A (the New Hampshire right-to-know law) when determining what documents are subject to public inspection/disclosure pursuant to a right-to-know request.

6. EVALUATION AND AWARD CRITERIA

6.1 General Information: All proposals will be evaluated for responsiveness to the RFP by a Selection Committee made up of representatives of DRED and the NHADEC Board.

6.2 Criteria: All written proposals will be evaluated and scored on the basis of the following criteria, which will be accorded the relative weight indicated in parentheses:

- a. Experience and Qualifications of key staff and subcontractors (30%)
 - b. Overall strategy and approach, methodology (30%)
 - c. Prior work and past performance (20%)
 - d. Cost of Services (20%)
- Grand Total (100%)**

Written Proposals shall be evaluated using the criteria contained in the Proposal Score Sheet (Attachment B).

Award shall be made to the Offeror who has submitted the best overall response, as judged by the Selection Committee, and recommended to the Commissioner of DRED. A proposed Contractor must receive final approval from the G&C.

6.3 Award of Contracts: Offeror(s) deemed to be best suited among those submitting written proposals will be identified on the basis of evaluation factors stated in the Request For Proposal. Offeror(s) may be asked to make oral presentations.

The Selection Committee will make a recommendation for selection of a Contractor to the Commissioner of DRED. The selected Contractor will be notified in writing. DRED and the selected Contractor shall negotiate a contract containing the terms in the RFP. If DRED is unable to negotiate a satisfactory contract with the first selected Contractor, DRED may undertake negotiations with the next recommended Offeror.

The proposed Contract must be approved by the G&C. This process is dependent on grant approval and timing of state approval authorities.

6.4 Proposed Timetable:

Action	Date
Request for Proposals Issued	Monday, October 3, 2016
All clarifying questions received	Monday, October 10, 2016
Responses to questions sent to all	Friday, October 14, 2016
Written Proposal Deadline	Friday, October 28, 2016
Vendor Notification	Friday, November 18, 2016
Contract Process	Upon OEA Approval
Governor & Council Approval Process	Anticipated January/February 2017
Contract Effective	Upon G&C approval

7. CONDITIONS: Any prospective contractor must be willing to adhere to the following conditions and must positively state so in the proposal:

7.1 Ownership of Subsequent Products: Any product, whether acceptable or unacceptable, developed under a contract awarded as a result of this scope of work is to be the sole property of the State of New Hampshire, unless stated otherwise in the contract.

7.2 Conformance with Statutes: Any contract awarded as a result of this scope of work must be in full conformance with statutory requirements of the State of New Hampshire.

7.3 Amending or Canceling: The State of New Hampshire reserves the right to amend or cancel this scope of work, prior to the contract start date if it is in the best interest of the State, or to correct inaccuracies resulting from clerical errors.

- 7.4 Rejection for Misrepresentation: The State of New Hampshire reserves the right to reject the proposal of any vendor for misrepresentation.
- 7.5 Contract Format: The successful contractor will be required to sign or provide the following documentation:
- 7.5.1 Service Contract Form – Form P-37 (Attachment C).
 - 7.5.2 Certificate of Authority. This document is required of the Contractor to certify by vote of the corporation's board that the person who signs the contract has been authorized to do so. The Contractor is required to provide this document on corporate letterhead, signed by the Chairman of the Board or similarly authorized person.
 - 7.5.3 Certificate of Existence. This document is required for all contracts exceeding thirty (30) days. They are issued by the New Hampshire Secretary of State's office certifying that the corporation, partnership, or trade name has been registered to do business in New Hampshire. Certificates of Existence shall be current and are renewable annually by April 1st.
- 7.6 Speaking on behalf of the State of New Hampshire DRED: Contractor is not authorized to represent the State's position to the public or media and must be authorized to provide information by DRED.
- 7.7 The resulting Contract may be modified only by written amendment, which has been executed and approved by the appropriate parties from the State and Contractor.
- 7.8 If for any reason, the Contractor fails to make a delivery date, the Contractor shall be assessed a "failure to perform" fee of \$1,000.00 per week, or portion thereof, until the production, revision or delivery date is met. If the Contractor foresees an event beyond its reasonable and normal control and properly notifies DRED of such event, in writing, the Contractor shall be allowed to exceed a production, revision or delivery date with no "failure to perform" fee assessed.

CONTRACTOR DATA SHEET
(To be completed by Offeror)

- 1. Years in business: Indicate the length of time you have been in business providing this type of service:
_____ years _____ months
- 2. References: Indicate below at least three (3) accounts for whom you have provided consultancy services, of which at least two will be related to consortium management and trade show coordination. Include the date services was furnished, and contacts.

Client	City / State	Dates of Service	Contact Name / Phone / E-mail

3. Are you a subsidiary firm? ___ yes ___ no

If yes, list the location of your parent affiliation:

Address: _____

City: _____ State _____

4. List total number of employees:

_____ Full-time _____ Part-time/other

Authorized Signature(s)

This form must be completed and signed by an officer of the company

Name of Firm: _____

Contact: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Fax: _____

Email: _____

Date of incorporation: _____

If not a corporation, state the type of business organization, names and addresses of the owners, address and phone of the principle place of business, date business began, and state in which organized.

I certify the accuracy of this information.

Signature: _____

Name and title (print or type): _____

Date: _____

Attachment B

Proposal Score Sheet

FOR DRED USE ONLY:

COMPANY	
REVIEWER	
DATE	
TOTAL SCORE (Maximum 100)	

Criteria	Max Points	Score	Notes
Experience and Qualifications of key staff and subcontractors Personnel/subcontractor experience; ability to absorb project into current workflow; ability to work with OIC/DED and its partners; knowledge of state, regional, and international aerospace and defense sectors; knowledge of international business best practices and resources available for international business development.	30		
Overall strategy and approach, methodology Proposal reflects the ability to collaborate with multiple agency partners and NH businesses to implement stated goals and objective, strategies, and projects.	30		
Prior work and past performance	20		
Cost of Services Proposal shall include all pricing information relative to performing the scope of services described in the RFP.	20		

FORMNUMBER P-37 (version 5/8/15)

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 [Redacted]		1.2 State Agency Address [Redacted]	
1.3 Contractor Name [Redacted]		1.4 Contractor Address [Redacted]	
1.5 Contractor Phone Number [Redacted]	1.6 Account Number [Redacted]	1.7 Completion Date [Redacted]	1.8 Price Limitation [Redacted]
1.9 Contracting Officer for State Agency [Redacted]		1.10 State Agency Telephone Number [Redacted]	
1.11 Contractor Signature [Redacted]		1.12 Name and Title of Contractor Signatory [Redacted]	
1.13 Acknowledgement: State of _____, County of _____ On _____, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature Date: _____		1.15 Name and Title of State Agency Signatory	
1.16 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> By: _____ On: _____			
1.18 Approval by the Governor and Executive Council <i>(if applicable)</i> By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

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

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

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

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

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 (“Equal Employment Opportunity”), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States is sue 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

Contractor Initials _____
Date _____

Agreement. This provision shall survive termination of this Agreement.

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

8. EVENT OF DEFAULT/REMEDIES.

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

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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

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

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

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

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

- 14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and
 - 14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.
- 14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

Contractor Initials _____
Date _____

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

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

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

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

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

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

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

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

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

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

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Contractor Initials _____
Date _____