

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EMPLOYMENT SECURITY
REQUEST FOR PROPOSAL (RFP)
HVAC MAINTENANCE, REPAIR AND REPLACEMENT
SERVICES – TOBEY BUILDING
RFP # NHES 2019-04**

SECTION 1 – Overview and Schedule

A. Executive Summary

New Hampshire Employment Security (‘NHES’ or ‘Agency’) is seeking proposals from qualified vendors (‘Vendor’ or ‘Contractor’ or ‘Proposer’) to provide preventative maintenance and repair/replacement services for NHES heating, ventilation, and air conditioning (‘HVAC’) system at the Tobey Building in Concord, New Hampshire, to include all controls, direct exhaust units, and any applicable units that may be incorporated in this NHES location. The Proposer must also be able to install replacement units/parts as needed and obtain all materials, permits, and approvals required for work performed under any contract resulting from this RFP.

B. Schedule

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

EVENT	DATE	LOCAL TIME (EST)
RFP Released to Proposers	04/18/2019	
Proposer Inquiries Due	04/22/2019	4:00 PM
Final Agency Responses to Proposer Inquiries	04/23/2019	4:00 PM
Proposers Submit Proposals	05/03/2019	4:00 PM
Estimated Timeframe for Selection and Begin Contract Negotiations	TBD	
Estimated Submission for Governor and Council Approval	06/05/2019	10:00 AM
RFP and related materials will be posted to the following websites: http://www.nhes.nh.gov/media/requests-for-bids.htm https://das.nh.gov/purchasing/bids_posteddte.asp?sort=PostedDate%20DESC		

SECTION 2 - Description of Agency/Program Issuing the Request for Proposals

NHES provides unemployment compensation and reemployment services to the public at facilities located throughout New Hampshire. The Tobey Building, located at 45 South Fruit Street, Concord, NH, serves as NHES headquarters and is a secure facility. NHES is soliciting proposals from qualified vendors to provide HVAC preventative maintenance, repairs, and/or replacement services specifically for the Tobey Building.

SECTION 3 – Requirements

Proposed Scope of Work

Work will consist of labor, tools, equipment, materials, products, and transportation necessary to provide preventative maintenance and repair/replacement services for the NH Employment Security (NHES) Tobey Building Ice Generation and Storage Chiller Plant System: Trane Tracer SC; Chiller Plant, including air cooled chiller, pump house, chiller plant controller, dry cooler and ice storage system and Air Handling Units with Trane CDQ technology. Please refer to **Attachment 1**. Vendor must also be able to install replacement units/parts as needed. Vendor is responsible for obtaining all materials, permits, and approvals required for work performed under this contract.

Vendor Qualifications

Vendor must have a minimum of five (5) years' experience in the business/industry.

Vendor must have a minimum of five (5) years' experience working with Ice Generation and Storage Chiller Plant systems.

Vendor must be factory certified and trained on Trane Tracer SC building management system.

Vendor must be Trane factory certified in preventative maintenance for Trane CGAM chillers, and Trane CDQ air handling units.

Frequency of Examinations

Vendor will perform preventative maintenance and inspect all units each October, June and April in accordance with specifications below, with repairs being completed as needed. Filters will be cleaned/replaced each October, June, April, and January in accordance with specifications below. Controls inspections/examinations will be done twice a month throughout the year.

Specifications

Specifications indicated are minimum requirements. Proposed work, parts and materials that do not meet minimum standards will result in rejection of proposal. Vendor must demonstrate, to the satisfaction of NHES, that work, parts and materials quoted meet or exceed minimum required standards for Ice Generation and Storage Chiller Plant System: Trane Tracer SC; Chiller Plant, including air cooled chiller, pump house, chiller plant controller, dry cooler and ice storage system and Air Handling Units with Trane CDQ technology. Any deviation and/or substitution of equipment from specification must be resolved through the vendor inquiry process.

Please refer to Inspection Checklist / Reports / Records, **Attachment 2**.

Response Time

Vendor must be on call 24/7/365 = 24 hours a day, 365 days a year, and must provide a phone number for 24-hour manned telephone. Vendor must guarantee response to emergency service requests within one (1) hour.

Vendor must provide emergency contingency plan that includes cost and time guarantees for installation of emergency backup chiller. Costs will include delivery and installation of emergency chiller, which must be operating correctly within 48 hours of catastrophic failure.

Report

Upon completion of each preventative maintenance inspection, a written report of findings will be provided to NHES. Please refer to **Attachment 2**.

Work Area

Vendor will leave work areas clean. Whenever working on roof-top units, Vendor must stay on roof pads as damage can result from not adhering to this requirement.

NHES Responsibility

NHES will provide reasonable access to electricity and water. NHES must provide connectivity required for remote monitoring to Direct Digital Control (DDC) to Vendor. The ability to connect remotely is contingent on receiving permission for remote access from NHES.

Sub-Contracting

- Vendor will not sub-contract any HVAC task unless prior written approval is received from NHES.
- Work required by a utility company may be done, at Vendor's expense, as required. Utility companies are not sub-contractors.

- Some jobs may require repair work to walls, floors or ceilings as a result of required access for wiring. Vendor may sub-contract this repair work if sub-contractor is approved, in advance, by NHES.
- Vendor will list potential sub-contractors in **Attachment 3**.

Safety Issues and Compliance Requirements

- Safety and protection of NHES personnel and property, of NHES clients, and of Vendor staff is of the utmost concern. Vendor will, at its own expense whenever necessary or required, furnish safety equipment and devices and take all precautions necessary to protect health, safety, and property. All work will interfere as little as possible with NHES business functions.
- Work will be performed in compliance with all applicable State and Federal safety laws, rules, regulations, and standards, including but not limited to, OSHA and U.S. Department of Labor requirements to ensure safety of workers, NHES staff, Vendor staff, and the general public.
- Damage to NHES property will be the responsibility of the Vendor. Vendor will repair any damage it causes to NHES property promptly at no expense to NHES.
- Any rubbish or debris, including spent batteries or other equipment, will be promptly removed from the premises following replacement. All materials will be disposed of off-site in accordance with applicable laws, rules, regulations, and ordinances.
- Routine work under this Agreement will be performed in a timely and professional manner during normal working hours unless otherwise agreed in advance.

Scheduling and Mileage

- NHES reserves the right to schedule HVAC work to be completed by its own qualified employees if possible.
- NHES reserves the right, in an emergency, due to HVAC Vendor's busy schedule, or on-going large projects, if needed, to schedule with other HVAC Vendors.
- Mileage rate will only apply for repair or emergency work, if distance is greater than 100 miles. This may include truck charge and environmental charge for repair or emergency work. Mileage will be calculated for one vehicle per job. Travel time will be computed per scheduled worker based on starting from home base or Concord, whichever is closest to job site, and returning to home base. Travel time/mileage/truck/environmental charges will be detailed on invoice.

HVAC Systems

Vendor may be required to perform related duties such as duct work, replacing or moving roof top units, or other installation and remodeling/repair work as needed and with prior written approval from NHES.

Invoice

Vendor will invoice NHES following completion and acceptance of each job. NHES will make payment through the normal state payment process, which is up to 30 days following receipt of approved invoice.

Invoice must include the following:

- Date work was performed;
- Brief description of work performed;
- Itemized listing of materials and cost;
- Hours worked; and
- Hourly rate charged.
 - If different rates are charged for different cost classifications, Vendor must so indicate.

Invoices should be sent to:

New Hampshire Employment Security
ATTN: Fiscal Management Section
45 South Fruit Street
Concord, NH 03301

SECTION 4 – Process for Submitting a Proposal

A. Proposal Submission, Deadline, and Location Instructions

Proposals submitted in response to this RFP must be received by NHES, no later than the time and date specified in the Schedule of Events section, herein. Proposals may be submitted by U.S. Mail, Delivery Service, or In-Person. Proposals must be addressed to:

**State of New Hampshire
Department of Employment Security
c/o Jill Revels, Business Administrator
Fiscal Management Section
45 South Fruit Street
Concord, NH 03301-4857**

Proposals must be clearly marked as follows:

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EMPLOYMENT SECURITY
RESPONSE TO RFP# NHES 2019-04
HVAC MAINTENANCE, REPAIR AND REPLACEMENT SERVICES – TOBEY
BUILDING**

Unless waived as a non-material deviation in accordance with Section 6B, late submissions will not be accepted and will be returned to the proposers unopened. 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.

All Proposals submitted in response to this RFP must consist of at least one (1) original and two (2) clearly identified copies of the Proposal, including all required attachments.

B. 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: Jill.D.Revels@nhes.nh.gov
CC: Jesse.B.Propri@nhes.nh.gov

Inquiries must be received by the Agency's RFP Points of Contact no later than the conclusion of the Proposer Inquiry Period (see Schedule of Events section, herein). Inquiries received later than the conclusion of the Proposer 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 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.

C. Restriction of Contact with Agency Employees

From the date of release of this RFP until an award is made and announced regarding the selection of a Proposer, all communication with personnel employed by or under contract with the Agency regarding this RFP is forbidden unless first approved by the RFP Points 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 potential Vendor during the

selection process, unless otherwise authorized by the RFP Points of Contact. Proposers may be disqualified for violating this restriction on communications.

D. Validity of Proposal

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

SECTION 5 - Content and Requirements for a Proposal

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

Technical Proposal (submit in sealed envelope and separate from Price Proposal)

Company Background/Qualifications – Provide a brief description of the Proposer’s organization, including the number of years in business and number of years providing services similar to those requested in this RFP. Describe your proposed process for providing the services requested by the RFP and proposed staffing.

References – Provide three references who can speak to the Proposer’s performance of services similar or identical to those requested in this RFP. Proposer shall also provide any potential sub-contractors. References and potential sub-contractors will be provided using **Attachment 3**.

Price Proposal (submit in sealed envelope and separate from Technical Proposal)

Price Proposal – **Attachment 4** contains the necessary price proposal elements required under this RFP. The Price Proposal **must** be labeled clearly and sealed separately from the Technical Proposal.

SECTION 6 – Evaluation of Proposals

A. Criteria for Evaluation and Scoring

Each responsive Proposal will be evaluated and considered with regard to the following criteria:

Technical Proposal (submit in sealed envelope and separate from Price Proposal)

- Relevant experience and overall qualifications to include years in HVAC business. Maximum points awarded will be 20.
- Demonstrated ability to maintain and service a variety of HVAC equipment, including, but not limited to appropriate certifications, as necessary, to maintain and service TRANE equipment and its corresponding Building Automated Systems (BAS). Maximum points awarded will be 20.

- References from clients for whom similar services have been performed. NHES is seeking an established HVAC Company with a good reputation of providing similar services to at least three clients. Maximum points awarded will be 15.

Price Proposal (submit in sealed envelope and separate from Technical Proposal)

- Price proposal. NHES is seeking a reasonable price proposal for HVAC services. Maximum points awarded will be 45.

If the Agency determines to make an award, the Agency will notify Proposer based on these evaluations. Should the Agency be unable to reach agreement with the selected Proposer during Contract discussions, the Agency may then undertake Contract discussions with the second preferred Proposer and so on, or the Agency may reject all proposals, cancel this RFP, or solicit new Proposals under a new acquisition process.

The Agency will use a scoring scale of 100 points, a maximum of 45 points awarded based on the Price Proposal, a maximum of 55 points awarded for the Technical Proposal, which will be distributed as set forth in the table below.

CATEGORIES	POINTS
TECHNICAL PROPOSAL with the following potential maximum points for each Technical Proposal category;	55
1. Relevant Experience/Overall Qualifications to include years in HVAC business/industry.	20
2. Demonstrate ability to maintain and service a variety of HVAC equipment within a reasonable timeframe.	20
3. References from clients for whom similar services have been performed.	15
PRICE PROPOSAL potential maximum points	45
TOTAL POTENTIAL MAXIMUM POINTS AWARDED	100

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

B. Planned Evaluations

The Agency plans to use the following process:

- Initial screening to ensure that the Proposals are in compliance with submission requirements;
- Preliminary evaluation of the Proposals;
- Oral interviews and Product Demonstrations (if necessary);
- Final Evaluation of Technical Proposals and scoring;

- Final Evaluation of [other categories] and scoring (if applicable);
- Review of Price Proposals and final scoring; and
- Select the highest scoring Proposer and begin contract negotiation.

C. Initial Screening

The Agency will conduct an initial screening step to verify Proposer compliance with the technical submission requirements set forth in the RFP and the minimum content set forth in Section 5 of this RFP. The Agency may waive or offer a limited opportunity to cure immaterial deviations from the RFP requirements if it is determined to be in the best interest of the State.

D. Preliminary Technical Scoring of Proposals

The Agency will establish an evaluation team to initially score the Technical Proposals. This evaluation team will review the technical proposals and give a preliminary score to the technical proposals under the guidelines set forth in Section 6. Price Proposals will remain sealed during the preliminary technical review.

E. Oral Interviews and Product Demonstrations

If the Agency determines that it is appropriate, proposers may be invited to oral interviews and/or product demonstrations including demonstrations of any proposed automated systems or technology components. The Agency retains the sole discretion to determine whether to conduct oral interviews, with which proposers; and the number of interviews. Proposers are advised that the Agency may decide to conduct interviews with less than all responsive proposers.

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.

F. Final Technical Scoring of Proposals

Following Oral Interviews, Product Demonstrations, Reference Checks (if appropriate), and/or review of written clarifications of proposals requested by the Agency, the evaluation team will determine a final score for each Technical Proposal.

G. Price Proposal Review

Price proposals will be opened upon completion of the final technical scoring of proposals. The Proposer's Price Proposal will be allocated a maximum potential score of 45 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:

$$\text{Proposer's Price Score} = (\text{Lowest Proposed Price} / \text{Proposer's Proposed Price}) \times \text{Number of Points for Score}$$

For the purpose of use of this formula, the lowest proposed price is defined as the lowest price proposed by a Proposer who has scored above the minimum necessary for consideration on the Technical Score, if applicable.

H. No Best and Final Offer

The Proposal should be submitted initially on the most favorable terms which the proposer can offer. There will be no best and final offer procedure. The Proposer should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of the Proposal.

I. Final Selection

The Agency will conduct a final selection based on the final evaluation of the initial proposals and begin contract negotiations with the selected Proposer.

J. Rights of the Agency in Accepting and Evaluating Proposals

The Agency reserves the right to:

- Make independent investigations in evaluating Proposals;
- Request additional information to clarify elements of a Proposal;
- Waive minor or immaterial deviations from the RFP requirements, if determined to be in the best interest of the State;
- Omit any planned evaluation step if, in the Agency's view, the step is not needed;
- At its sole discretion, reject any and all Proposals at any time; and
- Open contract discussions with the second highest scoring Proposer and so on, if the Agency is unable to reach an agreement on Contract terms with the higher scoring Proposer(s).

SECTION 7 – Terms and Conditions Related to the RFP Process

A. RFP Addendum

The 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. Non-Collusion

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

C. Property of the Agency

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

D. Confidentiality of a Proposal

Unless necessary for the approval of a contract, the substance of a proposal must remain confidential until the Effective Date of any Contract resulting from this RFP. A Proposer's disclosure or distribution of Proposals other than to the Agency will be grounds for disqualification.

E. Public Disclosure

Pursuant to RSA 21-G:37, all responses to this RFP shall be considered confidential until the award of a contract. At the time of receipt of proposals, the Agency will post the number of responses received with no further information. No later than five (5) business days prior to submission of a contract to Governor & Executive Council pursuant to this RFP, the Agency will post the name, rank or score of each proposer. In the event that the contract does not require Governor & Executive Council approval, the Agency shall disclose the rank or score of the Proposals at least five (5) business days before final approval of the contract.

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/>). 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 this request for proposal, bid or information should be kept confidential as financial or proprietary information; you must specifically identify that information in a letter to the agency, and must mark/stamp each page of the materials that you claim must be exempt from disclosure as “CONFIDENTIAL.” A designation by the Proposer of information it believes exempt does not have the effect of making such information exempt. The Agency will determine the information it believes is properly exempted from disclosure. Marking of the entire Proposal or entire sections of the Proposal (e.g. pricing) as confidential will neither be accepted nor honored. Notwithstanding any provision of this RFP to the contrary, Proposer pricing will be subject to disclosure upon approval of the contract. The Agency 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 Agency to view portions of a Proposal that the Proposer has properly and clearly marked confidential, the Agency will notify the Proposer of the request and of the date the Agency plans to release the records. By submitting a Proposal, Proposers agree that unless the Proposer obtains a court order, at its sole expense, enjoining the release of the requested information, the Agency may release the requested information on the date specified in the Agency’s notice without any liability to the Proposers.

F. Non-Commitment

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

G. 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.

H. 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.

I. Challenges on Form or Process of the RFP

Any challenges regarding the validity or legality of the form and procedures of this RFP, including, but not limited to, the evaluation and scoring of Proposals, shall be brought to the attention of the Agency at least ten (10) business days prior to the Proposal Submission Deadline. By submitting a proposal, the Proposer is deemed to have waived any challenges to the form or procedures set forth in this RFP.

SECTION 8 – Contract Terms and Award

A. Non-Exclusive Contract

Any resulting Contract from this RFP will be a non-exclusive Contract. The State reserves the right to self-perform work, 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.

B. Award

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

C. Standard Contract Terms

The Agency will require the successful bidder to execute a Not to Exceed Contract using the Standard Terms and Conditions of the State of New Hampshire, which is attached as Appendix A. Any contract entered into as a result of this RFP is subject to approval by Governor & Executive Council and contingent upon continued appropriation of funding for the contract.

The Term of the Contract will be for three (3) years from the date of approval.

The Agency may consider modifications of this form during negotiations. To the extent that a Proposer believes that exceptions to the standard form contract will be necessary for the Proposer to enter into the Agreement, the Proposer should note those issues during the Proposer Inquiry Period. The Agency will review requested exceptions and accept, reject, or note that it is open to negotiation of the proposed exception at its sole discretion. If the Agency accepts a Proposer's exception, the Agency will, at the conclusion of the inquiry period, provide notice to all potential Proposers of the exceptions that have been accepted and indicate which exception is available to all potential Proposers. Any exceptions to the standard form contract that are not raised during the proposer inquiry period are waived. In no event is a Proposer to submit its own standard contract terms and conditions as a replacement for the State's terms in response to this solicitation.

D. Special Terms to be Included In A Contract Resulting From This RFP

- a. **TERMINATION** Either party may terminate this agreement at any time. The party requesting termination must give the other party written notice, by certified mail, to so terminate at least sixty (60) days prior to effective date of termination.
- b. **CONFIDENTIALITY AND CRIMINAL RECORD** Contractor and each of its employees working on NHES property will be required to sign and submit a **STATEMENT OF CONFIDENTIALITY OF RECORDS FORM** and a **CRIMINAL RECORD AUTHORIZATION FORM** prior to the start of any work. There is a fee for each background check required, which must be paid by the Contractor.
- c. **NH CERTIFICATE OF GOOD STANDING** Contractor must provide a **CERTIFICATE OF GOOD STANDING** from the NH Secretary of State.
- d. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS IN PRIMARY COVERED TRANSACTIONS** Contractor certifies that the primary participant, and its principals, to the best of its knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or State agency. Contractor will inform NH Employment Security of any changes in the status regarding this statement.
- e. **CONFIDENTIAL NATURE OF DEPARTMENT RECORDS AND INFORMATION.** Contractor agrees to maintain confidentiality of data obtained during course of work under this agreement and to comply with federal and state laws regarding confidentiality. Stated below are material portions of NHES Law (RSA-282-A), with pertinent explanatory statements concerning confidential nature of Department records:

- i. 282-A: 118 - Reports or Statement; Confidentiality: “[i]nformation ...obtained from any individual, claimant or employing unit pursuant to the administration of this chapter shall be held confidential and shall not be published or open to public inspection in any manner revealing the individual’s or employing unit's identity” (except as specifically provided by law).
 - ii. 282-A: 121 - Penalty. “Any employee of the Department of Employment Security, member of an Appeal Tribunal, or any individual, corporation, association, partnership or other type of organization, who lawfully obtains or sees records, reports or information obtained in administration of this chapter who violates any provision of this subdivision shall be guilty of a misdemeanor.”
 - iii. Contractor is prohibited from releasing any NHES information. To reveal information will immediately place your contract in jeopardy and also make likely criminal prosecution as provided in Section 121.
- f. **DAVIS-BACON ACT** Davis-Bacon Act and Related Acts, apply to contractors and subcontractors performing on federally funded/assisted contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating) of public buildings or public works. Under these Acts, contractors and sub-contractors must pay laborers and mechanics prevailing wages and fringe benefits for corresponding work on similar projects in the area as determined by the Department of Labor. When there is no Davis-Bacon assignation, applicable Wage Determination is realized by using the lowest skilled craft above laborer, excluding power equipment rate.
- g. **AMERICANS WITH DISABILITIES ACT** The undersigned Contractor agrees to comply with all Federal, State, and Local ADA rules and regulations.
- h. **DAMAGE** Contractor will agree that any damage to building(s), materials, equipment, and/or other property during the performance of service will be repaired at Contractor’s expense. Contractor agrees to return all building(s), materials, equipment, and/or property to its original or better condition and with acceptance by a representative of NHES. Contractor agrees to obtain approval of NHES representative assigned to project for any sub-contractor performing such repair work.
- i. **PAYMENT BOND/MILLER ACT** Contractor agrees to comply with The Miller Act bond requirement and NH RSA 447:16. A payment bond, with surety satisfactory for protection of all persons supplying labor and materials in carrying out construction, alteration, or repair work provided for in the contract, may be required. Amount of payment bond will equal total amount

payable by terms of contract unless officer awarding contract determines, in writing, that a payment bond in that amount is impractical, in which case contracting officer will set amount of payment bond. Amount of bond will not be less than total amount of contract. A Payment Bond is required for contracts \$30,000 or greater. A Performance Bond is required for contracts totaling \$100,000 or greater.

- j. NON-DISCRIMINATION** In connection with the furnishing of services under the Contract, the Contractor agrees to comply with all laws, regulations, and orders of federal, state, county, or municipal authority which impose any obligations or duties upon the Contractor, including, but not limited to, civil rights laws, non-discrimination laws, and equal opportunity laws. During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, disability, national origin, marital status, or veteran status, and will take appropriate steps to prevent such discrimination.
- k. VENDOR APPLICATION/ALTERNATE W-9** In connection with this Contract, the Contractor shall have completed and filed a Vendor Application and Alternate W-9 Form with the New Hampshire Bureau of Purchase and Property.
- l. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (if applicable)** For contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor agrees to comply with 40 U.S.C. §§ 3702 and 3704, as supplemented by U.S. Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, the Contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.
- m. RIGHT TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT (if applicable)** Contractor agrees to comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- n. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT (if applicable)** For contracts in excess of \$150,000, the

Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- o. BYRD ANTI LOBBYING AMENDMENT (if applicable)** For contracts in excess of \$100,000, the Contractor certifies it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award/contract.

ATTACHMENT 1

UNITS / EQUIPMENT COVERED

- 1. Trane Tracer SC**
 - **AHU Controls Support**
 - **RTU Controls Support**
- 2. Trane CGAM Chiller**
- 3. Trane Performance Climate Changer CSAA**
- 4. Drives**
- 5. Trane Dry Cooler**
- 6. Trane Blower Coils**
- 7. Trane Fan Coils**
- 8. Building Automated System – Trane Tracer ES**

ATTACHMENT 2

INSPECTION CHECKLIST / REPORTS / RECORDS

UNITS COVERED/SERVICE CHECKLIST

1. Trane Tracer SC

- **AHU Controls Support**

1. Connect Service Tool
2. System Controller Inspection
3. Verify System Software Programming
4. Sequence of Operation Verification
5. Loop Tuning
6. Review System Results
7. Disconnect Service Tool

- **RTU Controls Support**

1. Connect Service Tool
2. System Controller Inspection
3. Verify System Software Programming
4. Sequence of Operation Verification
5. Loop Turning
6. Review System
7. Disconnect Service Tool

- **Sensor Calibration**

1. Connect Service Tool
2. Calibrate Temperature 1-5 Sensor(s)
3. Calibrate Temperature 6-10 Sensor(s)
4. Calibrate Temperature 11-15 Sensor(s)
5. Calibrate Temperature 16-20 Sensor(s)
6. Calibrate Air Differential Pressure 1-5 Sensor(s)
7. Calibrate Air Differential Pressure 6-10 Sensor(s)
8. Calibrate Air Differential Pressure 11-15 Sensor(s)
9. Calibrate Air Differential Pressure 16-20 Sensor(s)
10. Calibrate Water Differential Pressure 1-5 Sensor(s)
11. Calibrate Water Differential Pressure 6-10 Sensor(s)
12. Calibrate Water Differential Pressure 11-15 Sensor(s)
13. Calibrate Water Differential Pressure 16-20 Sensor(s)
14. Calibrate Humidity 1-5 Sensor(s)
15. Calibrate Humidity 6-10 Sensor(s)
16. Calibrate Humidity 11-15 Sensor(s)
17. Calibrate Humidity 16-20 Sensor(s)
18. Calibrate CO/CO2 1-5 Sensor(s)
19. Calibrate CO/CO2 6-10 Sensor(s)
20. Calibrate CO/CO2 11-15 Sensor(s)
21. Calibrate CO/CO2 16-20 Sensor(s)
22. Disconnect Service Tool

ATTACHMENT 2

INSPECTION CHECKLIST / REPORTS / RECORDS

- **System Analysis and Review**

1. Operator Workstation Inspection
2. System Controller Inspection
3. Verify System Software Programming
4. System Back-Up
5. Customer Review – 30 Minutes
6. Software Service Pack Update
 - Update Per Workstation and/or BCU

2. Trane CGAM Chiller

- **Air Cooled Scroll Seasonal Start-Up**

1. Customer Notification
2. Initial Site Safety Inspection
3. Lock Out Tag Out
4. Electrical Inspection – Control Panel
5. Inspect Strainer & Pump – BPHE Seasonal Start-Up
6. Remove LOT & Check Heater Operation
7. Compressor Oil Level Pre-Start
8. TechView/KestrelView Connection
9. Pre-Start Chiller Check CGAM
10. Seasonal Start Unit-CGAM
11. Compressor Oil Level Check
12. Acid &/or Moisture Sample Test Per Circuit
13. Coil Cleaning with Solution

- **Air Cooled Scroll Seasonal Shut Down**

1. Customer Notification
2. Initial Site Inspection
3. Review Diagnostics
4. Lock Out Tag Out
5. Check Glycol Level
6. Check Heater Strips
7. Drain BPHE

- **Annual Inspection**

1. Customer Notification
2. Initial Site Inspection
3. Visual Condenser Coil Check
4. Lock Out Tag Out
5. Electrical Inspection

ATTACHMENT 2

INSPECTION CHECKLIST / REPORTS / RECORDS

6. Meg Compressor Motor(s)
7. Remove Panels
8. Compressor Oil Level Check- Air-Cooled Scroll
9. Oil Analysis - Air-Cooled Scroll
10. Strainer Maintenance - BPHE Units
11. Inspect Piping – CGAM
12. Condenser Fan Blade Cleaning
13. TechView/KestrelView Connection
14. Review Diagnostics
15. Check Fans for Rubbing
16. Check EXV Sight Glass
17. Reinstall Panels
18. Run Service Report From Kestrel View
19. Techview/Kestrel View Disconnection
20. Clean and Repaint

3. Trane Performance Climate Changer CSAA

- **Annual Inspection**

1. AHU Visual Equipment Inspection
2. Supply Fan & Motor Inspection (Air Handler)
3. Condensate Drip Pan Treatment
4. Condensate Inspection
5. Heating Coil Cleaning
6. Air Handler Filter Inspection
7. Check Damper
8. AHU Supply Fan Cleaning (High Performance Building)
9. Electrical Inspection (AHU)
10. Meg Supply Fan with VFD (Intellipak)
11. UV Light Inspection
12. Start Up Seasonal Heating (Steam/Hot Water)
13. Seasonal Heating Check (Natural gas/Propane) 2 Stage Heating
14. Seasonal Heating Check (Electric)
15. CDQ & Energy Wheel Cleaning

- **Quarterly Inspection**

1. AHU Visual Equipment Inspection
2. Supply Fan and Motor Inspection (Air Handler)
3. Condensate Inspection
4. Condensate Drip Pan Treatment
5. Coil Inspection (Climate Changer)
6. Air Handler Filter Inspection

ATTACHMENT 2

INSPECTION CHECKLIST / REPORTS / RECORDS

4. Drives

- **Maintenance Procedure for Variable Frequency Drives**

1. Lock out, tag out (Drives)
2. Visually inspect panel for loose or damaged parts or wiring and any accumulation of dirt or moisture
3. Using dry nitrogen, clean the cabinet and heat sink
4. Inspect wiring and connections for tightness and signs of overheating and discoloration
5. Remove Lock Out Tag Out and Restore Power
6. Take volt and amp measurements and record
7. Verify proper operation of the unit

5. Trane Dry Cooler

- **Annual Inspection**

1. Customer Notification
2. Initial Site Inspection
3. Visual Coil Check
4. Lock Out Tag Out
5. Electrical Inspection
6. Meg Compressor Motor(s)
7. Condenser Fan Blade Cleaning
8. Review Diagnostics
9. Check Fans for Rubbing
10. Coil Cleaning

6. Trane Blower Coils

7. Trane Fan Coils

8. Building Automated System – Trane Tracer ES

ATTACHMENT 2

INSPECTION CHECKLIST / REPORTS / RECORDS

Upon completion of each inspection, a written report of findings will be provided to NHES.

Building Performance Intelligent Response Service

A Building Performance (BP) system is necessary to ensure that through the lifecycle of the building, system meets or exceeds its intended performance, determined by implementing continuous collection and analysis of critical factors in its operational data. The use of this information will provide reports and actionable recommendations to optimize system performance by balancing occupant comfort, energy use, and operating cost. BP system must collect building data 24/7/365. Contractor must submit a generated summary report on a quarterly basis, and meet with NHES on a quarterly basis to discuss system performance and indicate potential opportunities for operational improvement.

I. Remote Monitoring Facility & Staffing Minimum Requirements:

- A. Contractor will have 24/7/365 monitoring of *up to 60* of their most critical alarms from a dedicated remote facility staffed with HVAC technical specialists.
- B. Original Equipment Manufacturer (OEM) Monitoring center must have full redundancy in systems at data center level to fully support 24/7/365 operation, including, but is not limited to, electrical, phone, database, and support systems.
- C. Monitoring Center controls specialists must have field expertise in HVAC applied systems operations.
- D. Facility controls specialists must be factory-trained and certified in Building Automation Systems (BAS).
- E. In the event of an outage at the primary remote center, a redundant site must be in place to provide additional backup and support.
- F. To ensure quality standards, monitoring center must have shift supervisors available for any escalated measures 24/7/365 and must record all telephone interactions with monitoring facility.
- G. NHES must provide connectivity required for remote monitoring to Direct Digital Control (DDC) contractor, as well as annual costs of maintaining connectivity (*for example, phone line, internet, et cetera*). The ability to connect remotely is contingent on receiving permission for remote access from NHES.

II. Building Performance (BP) Reporting Requirements:

- A. Contractor must run and provide report showing baseline performance of building.
- B. Remote facility HVAC experts will translate auto-generated raw system analytical data into reports for NHES that diagnoses system performance against expectations. In addition, electric and gas pulse meter data is gathered in order to track annual energy consumption for benchmarking purposes and reporting.
- C. Reports will contain charts and graphs generated in real-time from actual building data to illustrate issues with performance and opportunities for improvement. Reports will be detailed and quantified by DDC account representative *weekly*. Subsequently, when pursuing changes, change(s) effectiveness validation is done by the same auto-generated, real-time building data during future reports and meetings with DDC account representative.
- D. Remote BP system must provide an automatic analysis capability.
- E. Auto-generate charts and graphs from remote monitoring analytics system so that no interpretation is necessary for any of the points listed in Capabilities **and Testing**, at a minimum.
- F. Charts and graphs must be printable, implemented into a report, or exported into a matrix spreadsheet system, such as Microsoft Excel. For all points listed under **Capabilities and Testing**, Remote BP system must be capable of indicating real evidence of failures and

ATTACHMENT 2

INSPECTION CHECKLIST / REPORTS / RECORDS

exceptions that could result in energy savings or improved performance.

- G. Among these failures and exceptions, Remote BP system must indicate severity of issue by outlining:
- 1) most recent failure,
 - 2) count of failures and exceptions throughout building history for a particular point,
 - 3) most dramatic failure or exception for a particular point,
 - 4) first time the exception or failure was generated.
- H. DDC contractor must illustrate operating issues associated with failure or exception and share opportunities to correct it. These custom reports, created by technical experts analyzing continuous building data and presented by DDC contractor within the context of business objectives, will provide a pathway to a building that performs optimally in terms of comfort, energy-efficiency, and serviceability throughout its lifecycle.

ATTACHMENT 3

REFERENCES / SUB-CONTRACTORS

PLEASE RETURN THIS PAGE

REFERENCES: List Name, Email/Phone # and Address of three (3) Customer/Client References

	Name:	_____
#1	Email/Phone#:	_____
	Address:	_____
	Name:	_____
#2	Email/Phone#:	_____
	Address:	_____
	Name:	_____
#3	Email/Phone#:	_____
	Address:	_____

SUB-CONTRACTORS: List Name, Email/Phone # and Address of potential sub-contractors

	Name:	_____
#1	Email/Phone#:	_____
	Address:	_____
	Name:	_____
#2	Email/Phone#:	_____
	Address:	_____
	Name:	_____
#3	Email/Phone#:	_____
	Address:	_____

Proposer Name _____

ATTACHMENT 4

PRICE PROPOSAL

PLEASE RETURN THIS PAGE SEPARATELY*

The undersigned Contractor hereby proposes to provide services to New Hampshire Department of Employment Security at prices quoted, in accordance with terms and specifications of the Proposal. Contractor will provide all labor, materials, tools, equipment and transportation necessary to provide preventative maintenance and repair/replacement services for NHES HVAC systems at the 45 South Fruit Street, Concord, NH location.

*Please submit this Price Proposal sheet in a sealed envelope **separate** from the Technical Proposal.

	CONTROLS	MECHANICAL
Hourly Repair Rate, On-site Monday - Friday, 8AM-5PM	\$	\$
Hourly Repair Rate, On-site Monday - Friday, 5PM-8AM	\$	\$
Hourly Repair Rate, On-site Saturday, Sunday and Holidays	\$	\$
Hourly Travel Time Rate	\$	\$
Truck Rate	\$	\$
Cost of Parts at Actual Cost plus Markup of	%	%
Cost of Pumping Down Refrigerant and Recharging		\$ Per lb.
Delivery and Installation of Emergency Chiller Cost	\$	
Year 1 Annual Preventative Maintenance Cost	\$	\$
Year 2 Annual Preventative Maintenance Cost	\$	\$
Year 3 Annual Preventative Maintenance Cost	\$	\$

Years run July 1st through June 30th.

Please list any additional costs that may be charged below:

Above costs will not be applied until any work and material warranties have expired.

Proposer Name/
Signature _____

Address _____

Email/Phone _____

Signing price proposal page constitutes agreement and compliance with Request For Proposal requirements.

APPENDIX A

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

APPENDIX A

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

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

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

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

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

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

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

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

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 (“Equal Employment Opportunity”), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor’s books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

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

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

APPENDIX A

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.

APPENDIX A

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.