

State of New Hampshire
Department of Environmental Services Nonpoint Source Management Program
New Hampshire Municipal Roadway Soils Management (NHMRSM)
Request for Proposal (RFP) 2023-NHMRSM

Section 1 – Overview and Schedule

A. Executive Summary

The New Hampshire Department of Environmental Services (NHDES) Nonpoint Source Management Program seeks to hire a consultant to perform a due diligence review and develop operational guidelines for materials management associated with non-hazardous roadway soils resulting from municipal roadway maintenance activities such as ditch re-establishment, street sweeping and catch basin cleaning.

The NHDES Nonpoint Source Management Program provides funding and technical support for planning and infrastructure projects pertaining to stormwater and nonpoint source management projects. To accomplish the New Hampshire Municipal Roadway Soils Management work, NHDES seeks to enter into a contractual agreement with a qualified consultant to perform the scope of work from approximately April 2024, through December 31, 2025.

The project objective is to perform a due diligence review and use the information to develop guidance for proper management of roadway soils generated during routine municipal maintenance activities including ditch re-establishment, street sweeping, and catch basin cleaning. The guidance will also ensure that municipalities maintain compliance with local, state, and federal requirements pertaining to maintenance activities and materials management and are consistent with [Env-Sw 903](#) and [NHDES Fact Sheet SW-38 \(2023\)](#).

A second objective is to provide, to the maximum extent possible, proper operational procedures and training for performing activities and tasks that have potential to generate hazardous waste and non-hazardous contaminated soil and provide guidelines for management of these materials during specified activities.

A third objective is to develop up to two regional waivers in accordance with the New Hampshire Solid Waste Rules to manage and reuse non-hazardous roadway soils. A waiver from the New Hampshire Solid Waste Rules may allow for reuse of roadway soils in a prescribed fashion, such as reuse within a permanently owned municipal right-of-way, for municipalities and non-traditional permittees that fall under the New Hampshire MS4 and Great Bay Total Nitrogen General Permits. Additionally, the selected consultant will prepare a findings and recommendation report for all other New Hampshire municipalities relative to development of a waiver from the New Hampshire Solid Waste Rules for reuse of roadway soils.

The selected consultant will be expected to set appointments to contact and meet with the project’s Advisory Committee that includes representatives from NHDES, municipalities, and other partners as identified to explain the purpose of the project and to collect documentation and information needed to support this effort. Meetings may be virtual or in person. Travel throughout the state of New Hampshire may be necessary and may include visits to municipal buildings and potential project sites. Information preparation and completion will require access to a computer with internet, Microsoft Word, Excel, and Adobe. The virtual meeting platforms of Zoom, Teams, and WebEx are commonly used throughout New Hampshire among state and municipal partners.

B. Schedule of RFP Events

The following table provides a Schedule of Events for this RFP through contract finalization and 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
RFP Released to Proposers (Advertisement)	12/05/2023	N/A
Proposer Inquiry Period Ends (submit inquiries to Sally Soule, sally.a.soule@des.nh.gov)	12/18/2023	4:00 PM EST
Final Agency Responses to Proposer Inquiries and Distribution of <i>Question and Answer Digest</i> to all interested applicants	12/29/2023	4:00 PM EST
Proposers Submit Proposals	01/19/2024	4:00 PM EST
Evaluation of proposals completed by Proposal Review Team	02/20/2024	N/A
Estimated Timeframe for Proposer Oral Presentations and Interviews (if applicable)	02/26/2024 - 03/06/2024	TBD
Estimated Notification of Selection and Begin Contract Negotiations	03/18/2024	N/A
Contract Awarded	03/29/2024	N/A
Services Start	TBD: Upon fully executed contract approved by New Hampshire Governor and Council	

During the procurement process, applicants shall have no contact with the agency regarding this solicitation other than submittal of questions in response to the RFP as described in the Schedule of Events. Such action may disqualify applicants from further consideration for an award or contract resulting from this process.

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

The mission of NHDES is to help sustain a high quality of life for all citizens by protecting and restoring the environment and public health in New Hampshire. The department achieves its mission with a balance of voluntary, regulatory, technical, and financial support (grant and loan)

programs within the department's three divisions: Air Resources, Waste Management and Water. Within the Water Division, the New Hampshire Nonpoint Source (NPS) Management Program contributes to the department mission by protecting and restoring clean water in the state's rivers, lakes, estuaries, and other waters from the negative impacts of nonpoint source pollution. Specifically, the NPS Management Program works toward improving land management practices, such that water quality in impaired watersheds is restored and water quality in healthy watersheds is not degraded. The NPS Management Program is a non-regulatory entity within the department that administers the EPA Section 319 Clean Water Act (CWA) grant program, 604(b) Water Quality Planning grant program, Soak up the Rain New Hampshire, and Salt Reduction Programs. In addition, it provides program management oversight and guidance to the NHDES Clean Water State Revolving Fund (CWSRF) Loan Program for stormwater projects and assistance to permittees that fall under the New Hampshire MS4 General Permit and the Great Bay Total Nitrogen General Permit. This project will be managed by personnel from the NPS Management Program.

Section 3 – Proposed Scope of Work

A. Background

Issued in January 2017, New Hampshire's current Small Municipal Separate Storm Sewer System (MS4) General Permit (USEPA 2017) describes requirements for municipal operation and maintenance activities including catch basin cleaning and street sweeping. Under this permit, permittees, including municipalities, may earn pollution reduction credits through cleaning of impervious surfaces or by gathering, removing, and properly disposing of street sweeping and catch basin spoils. Additionally, municipalities in New Hampshire's coastal watershed are subject to the USEPA's Great Bay Total Nitrogen General Permit (GBTNGP) which includes optional pathways for nitrogen reduction through activities such as street sweeping and catch basin cleaning. Due to the requirements of these federal permits, municipalities seek guidance on how to implement programs to address nonpoint source pollution through routine operation and maintenance activities. However, clear, consistent operational and regulatory guidance for storage, disposal, and limited reuse of material generated during these activities does not currently exist.

This project will research and develop operational guidelines and training for materials management associated with municipal street sweeping and catch basin cleaning. The guidelines will be consistent with State of New Hampshire Solid Waste Management Bureau disposal regulations and will be encompassing of requirements described in the NH MS4 and the GBTN general permits for these activities.

B. Acronyms

CWA – Clean Water Act
CWSRF-Clean Water State Revolving Loan Fund
EPA – Environmental Protection Agency
GBTNP – Great Bay Total Nitrogen General Permit
LRS – Limited Reuse Soils
NH MS4 – New Hampshire Municipal Separate Storm Sewer System
NHDES – New Hampshire Department of Environmental Services
NPS – Nonpoint Source
RFP-Request for Proposals
USEPA – US Environmental Protection Agency

C. Scope of Work:

- 1.0 Due diligence. Conduct literature search, review technical information, and meet with appropriate regulatory staff to obtain and review information relative to the project including relevant permits and regulations (local, state federal) – including criteria for soil reuse; existing operation and maintenance plans for the activities of interest; literature and studies from other states or entities; [NHDES Fact Sheet SW-38 \(2023\)](#) and additional information as identified.
- 2.0 Regulatory summary. Summarize local, state, and federal regulatory requirements as pertains to the subject activities and materials. Evaluate regulatory options for materials management and soils reuse or disposal at an authorized waste facility.
- 3.0 Operational Guidelines. Develop operational guidelines and guidance memo for management of materials generated during street sweeping and catch basin cleaning activities. For example, it is anticipated the operational guidance will describe and include, but is not limited to the following items and activities:
 - 3.1 General provisions
 - 3.1.1 Local, state, and federal regulatory requirements
 - 3.1.2 Description of roles and responsibilities
 - 3.1.3 General specifications for management activities
 - 3.1.4 Soils testing – parameters, frequency, etc.
 - 3.2 Definitions
 - 3.2.1 Limited Reuse Soils
 - 3.2.2 Street waste
 - 3.2.3 Routine maintenance
 - 3.2.4 Obviously contaminated materials
 - 3.2.5 Topsoil

- 3.3 Responsibility
 - 3.3.1 Municipal staff roles
 - 3.3.2 Regulatory authorities and contacts (local, state, and federal)
 - 3.3.3 Other responsibilities as identified
- 3.4 Work Instruction Procedures
 - 3.4.1 Inspection of work areas prior to and during maintenance activities
 - 3.4.2 Catch basin inspection and cleaning
 - 3.4.3 Street sweeping operations
 - 3.4.4 Staging of soils for storage and/or reuse
 - 3.4.5 Storage of soils
 - 3.4.6 Reuse of soils
 - 3.4.7 Disposal of soils at an authorized waste facility
- 3.5 Training activities and materials
- 3.6 Documentation, recordkeeping, and reporting
- 3.7 Communication
- 4.0 Waiver evaluation. Evaluate use of regional waivers for LRS and create up to two regional waiver applications that meet NHDES Env-Sw 202. Coordination with NHDES Solid Waste Management Bureau on revisions until waiver approval(s) is received.
- 5.0 Findings and Recommendations Report. Develop a findings and recommendations report for all other New Hampshire municipalities that are not part of the regional waiver(s).
- 6.0 Training. Develop accompanying outreach and training materials for municipal users including flow charts, videos, online class and certification, check lists, etc.
- 7.0 Meetings. Required meetings will include quarterly meetings with the project Advisory Committee and be held virtually or in-person as appropriate. A kick-off, mid-project and wrap-up meeting will each be held in person. Monthly virtual check-in meetings with the NHDES project leads will be held to ensure proper project progress and discuss any issues.

D. Anticipated Deliverables

- Summary list of literature and technical information reviewed.
- Matrix showing outcome of local, state, and federal regulatory review.
- Operational guidance and templates for municipal use.
- Flow chart depicting process.
- Training materials for end users of the operational guidance.
- Regional waiver(s) and a report of findings and recommendations for municipalities not identified in the regional waiver(s).
- Meeting agendas and minutes.

Section 4 – Process for Submitting a Proposal

A. Proposal Submission, Deadline, and Location Instructions

Proposals submitted in response to this RFP must be received by the NHDES NPS Management Program no later than the time and date specified in the Schedule of RFP Events section, herein. Proposals may be submitted by (U.S. Mail, Delivery Service, In Person, Electronic). Proposals must be addressed to:

State of New Hampshire
Department of Environmental Services
Portsmouth Regional Office
222 International Drive, Suite 175
Portsmouth, NH 03801
c/o
Sally Soule – Watershed Assistance Section

Sally.A.Soule@des.nh.gov

Proposals must be clearly marked as follows:

STATE OF NEW HAMPSHIRE
RESPONSE TO RFP 2023- NHMRSM

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.

Submissions shall be limited to 15 pages and efforts should be made to keep electronic file sizes to a minimum. Reference section 5A for required Proposal information.

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

- a) One (1) original copy of the Proposal, including all required attachments; OR
- b) One electronic copy of the Proposal (PDF preferred), including all required attachments with all confidential information fully redacted, as provided for in Section 7E of this RFP

Proposers who are ineligible to submit proposals, bids or quotes issued by the Department of Administrative Services, Division of Procurement and Support Services pursuant to the provisions of RSA 21-I:11-c shall not be considered eligible for an award under this Proposal.

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 Point of Contact: Sally Soule, Sally.A.Soule@des.nh.gov .

Inquiries must be received by the Agency's RFP Point of Contact no later than the conclusion of the Proposer Inquiry Period (see Schedule of RFP 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 RFP 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. Proposers shall be responsible for reviewing the most updated information related to this RFP before submitting a proposal.

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 Point of Contact listed in the Proposal Inquiries section, herein. Agency employees have been directed not to hold conferences and/or discussions concerning this RFP with any potential contractor during the selection process, unless otherwise authorized by the RFP Point of Contact. Proposers may be disqualified for violating this restriction on communications.

D. Validity of Proposal

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

Section 5 - Content and Requirements for a Proposal

Proposals shall provide the required information and follow the format as set forth below.

A. Mandatory Requirements

The response to this Request for Proposals should include these Mandatory Requirements and be in the following order.

- Company Information
 1. Provide legal name of your company, street address, legal incorporation status, name of subsidiaries, company size and parent company.
- General Company Profile
 2. Describe your competitive advantage (what sets you apart or your company strength).
 3. Describe your experience related to the type of project and/or services being requested.
- Executive Summary (Please limit to one page)
- References
 1. Must provide three References for which your company provided a similar project and/or services being requested.
- Response Area
 1. Proposal, inclusive of everything required from Project Overview – scope of work, tasks, deliverables.
 - a. Description of deliverables to be provided by consultant.
 - b. Describe any alternative approaches that are being proposed.
 2. Subcontracting Information (if applicable).
 3. Roles & Responsibilities:
 - a. Consultant Staff, Roles & Responsibilities.
 - b. Client Staff, Roles & Responsibilities.
 - c. Other Roles & Responsibilities.
 - d. Resumes of Key Personnel assigned to Project.
 4. Project Planning and Approach
 - a. Describe your overall project approach and project management methodology to be used for this project, and any alternative methods proposed.
 - b. Provide an example of a project schedule that you would use on this project and include approach to managing the schedule and communicating task performance.

- c. Provide a list of technologies that will be used to satisfy requirements.
 - d. Provide examples of previous projects involving due diligence reviews and partnerships with municipalities and MS4 communities in the northeast.
 - e. Describe your expertise relative to nonpoint source pollution, stormwater, and best management practices to address runoff with structural and non-structural best management practices.
 - f. Describe your experience with solid and hazardous waste rules and regulations.
 - g. Describe your experience with the characterization and management of contaminated soils.
 - h. Describe your expertise researching and developing similar guidance and training materials for municipalities.
5. Project Management – Provide an overview of the following activities to be performed during the project:
- a. Risk/Issue Management and Escalation as needed. Also provide some key risks that you find common for projects with similar scope and goals and include the associated mitigation strategies you've used for those risks.
 - b. Change Management. Describe how changes will be captured, cost/effort estimated, and approved changes added to the project.
 - c. Status Updates. Include a description what meetings NHDES can expect and an example of a status report.
 - d. Communication. Describe how you propose to communicate with NHDES relative to this project.
 - e. Project Accuracy and Completeness. Describe how you propose to have oversight for accuracy and completeness.

Section 6 – Evaluation of Proposals

A. Criteria for Evaluation and Scoring

Each responsive Proposal will be evaluated and considered regarding the following criteria.

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

An Agency evaluation and scoring team will determine whether the Proposer has adhered to the Mandatory Requirements as specified in this RFP and assign a Pass/Fail finding for the Proposer to either advance to the full scoring and evaluation phase or be disqualified respectively. The Agency will then use scoring categories and criteria with a maximum of 45 points awarded for the Project

Management and Technical Proposal, a maximum of 15 points for the Qualifications of the Proposer, up to 10 points awarded for Quality of Proposal, and a maximum of 30 points awarded based on the Price Proposal, which will be distributed as set forth in the table below.

CATEGORIES	MAXIMUM POINTS
Mandatory Requirements	Pass/Fail
Project Management and Technical Proposal	45
Qualifications of the Proposer	15
Quality of Proposal	10
Price Proposal	30
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 Proposal evaluation process:

- Initial screening to ensure that the Proposals comply with submission Mandatory Requirements;
- Evaluation of the Proposals and scoring;
- Oral interviews and reference checks (if necessary);
- Review of Price Proposals and final scoring;
- Best and Final Offer (BAFO) if appropriate; and
- Select the highest scoring Proposer(s) 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. Should a Proposer fail to achieve 50 points in the preliminary scoring, it will receive no further consideration from the evaluation team and the Proposer’s Price Proposal will be returned unopened. 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. 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 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. 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, 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 reviewed upon completion of the final technical scoring of proposals. The Proposer's Price Proposal will be allocated a maximum potential score of 30 points.

Proposers are advised that this **is not a low bid award**. Scoring of the price proposal will be combined with the scoring of the technical proposal to determine the overall highest scoring Proposer.

H. Best and Final Offer (BAFO)

Upon completion of the scoring process outlined in Section 6, the Agency may, at its sole option, invite the highest scoring Proposers to submit a "Best and Final Offer" for the Agency's consideration. The Agency reserves the right to select the Proposer based solely on the initial proposals and is under no obligation to solicit or accept a BAFO from any Proposers. As the Agency may not request a Best and Final Offer, Proposers are encouraged to provide their most competitive prices in their initial proposals.

The Best and Final Offer (BAFO) is a one-time invitation-only process for a proposer to submit its lowest priced offer for the Agency's consideration. In its invitation to submit a BAFO, the Agency will provide a deadline submission date for the BAFO. The Agency may communicate in writing any price/cost targets that the Agency is seeking in the BAFO. If such target(s) is provided, the

Agency will do so uniformly to all Proposers selected to participate in the BAFO. All restrictions on contact with State employees outlined in Section 4C shall remain in effect for the BAFO period.

Each invited Proposer may only make one BAFO. The BAFO may not alter the substance of the Proposer's technical proposal. The BAFO may only amend the Proposer's initial price proposal.

To the extent the Agency solicits and receives a BAFO pursuant to this section, the Agency will re-score the BAFO participants' price proposals after review of the BAFO in accordance with section 6G (Calculation of the Price Proposal Score). The Agency will not select a Proposer based on the lowest priced BAFO proposal. A final selection, if any, shall be based on the combined score of the technical proposal and BAFO price proposal. Only those Proposers who were invited to submit a BAFO will be considered for the award.

I. Final Selection

The Agency will conduct a final selection based on the final evaluation of the initial proposals or, if requested, as a result of the Best and Final Offer and begin contract negotiations with the selected Proposer.

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. 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 [Transparent NH website](#). However, 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 RFP 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 agency's authority to conduct this procurement and the form and procedures of this RFP.

Section 8 – Contract Terms and Award

A. Non-Exclusive Contract

Any resulting Contract from this RFP will be a non-exclusive Contract. The State reserves the right, at its discretion, to retain other Contractors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal.

B. Award

If the State decides to award a contract resulting from this RFP process, any award is contingent upon approval of the Contract by Governor and Executive Council of the State of New Hampshire and upon continued appropriation of funding for the contract.

C. Contract Price, Duration and Terms

The Agency will require the successful Proposer to execute a Firm Fixed Price/Not to Exceed Contract.

The Term of the Contract will be for at least twenty months from the date of approval. The contract term may be extended at the sole option of the State, subject to the parties' prior written agreement on terms and applicable fees for each extended term contingent upon satisfactory vendor performance, continued funding and Governor and Executive Council approval.

In no event is a Proposer to submit its own standard contract terms and conditions as a replacement for the State's terms and conditions presented in the Agency P-37 Standard Contract Form (General Provisions) in response to this solicitation.