

## **REQUEST FOR PROPOSAL**

**New Hampshire Lottery® Commission**  
is seeking bids for cash courier security services at  
the Lottery Commission, 14 Integra Drive,  
Concord, New Hampshire.

Interested parties may obtain specifications  
and details by contacting Leonard Mannino at  
271-3391, ext. 309. Any questions must be  
requested in writing no later than 4:00 p.m.  
on March 05, 2010. Responses will be issued by fax  
and/or email by 4:00 p.m. on March 12, 2010.

Only original proposals will be accepted and must  
be received no later than 4:00 p.m. on March 26, 2010.  
at the above location. **The Lottery Commission reserves  
the right to reject any and all bids.**

**REQUEST FOR PROPOSAL  
CASH COURIER SERVICES  
FOR NEW HAMPSHIRE LOTTERY COMMISSION®**

**1.0 Terms**

“Lottery” refers to the New Hampshire Lottery Commission

“Contractor” refers to the successful bidder

“Business” refers to cash courier service provider submitting a proposal

“RFP” refers to Request for Proposal

**2.0 Purpose**

The Lottery is seeking to contract with a vendor of a cash courier security service that will be responsible for the collection, pickup, transport, and delivery of Lottery sales proceeds from the Lottery Sales Outlets and Instant Ticket Vending Machines (ITVMs) to the Lottery’s banking institution. Qualified businesses that offer armed and/or unarmed security services may respond, subject to the remaining terms and conditions set forth in the RFP.

**3.0 Scope of Desired Services**

As directed by the New Hampshire Lottery Commission and/ or their designee, courier services provided by the contractor shall include, but are not limited to the following:

Pickup, transport, and delivery/deposit of Lottery outlet sales proceeds to the Lottery’s banking institution or affiliated bank branch. Pickup at the sales outlets shall occur within 15 minutes of closing. In all cases, deposits shall be made at the bank on the date of pickup. See *section 3.5* for service to ITVMs. These services shall be conducted in a manner that is visually low profile; contractor personnel shall wear civilian attire and operate nondescript vehicles.

**3.1 Lottery Sales Outlet Locations**

A. Salem Outlet located at 417 South Broadway in Salem.

B. Concord Outlet/Main Office located at 14 Integra Drive in Concord.

**3.2 Lottery Sales Outlet Normal Hours of Operation**

A. Salem:

Sunday 9am -6pm

Monday thru Saturday 9am-9pm

B. Concord:

Sunday-closed

Monday thru Friday 8am-4pm

Saturday -closed

### **3.3 Lottery Sales Outlet State Holiday Hours of Operation**

The Liquor Commission determines the holiday hours of the Salem Outlet.

- A. Salem: Closed on November 25 and December 25, 2010.
- B. Concord: Closed on 10 occasions in recognition of state holidays.

#### State of NH Holiday Schedule

In Recognition of:	Date Closed:
New Year's Day	January 01, 2010
MLK Jr./Civil Rights Day	January 18, 2010
President's Day	February 15, 2010
Memorial Day	May 31, 2010
Fourth of July	July 05, 2010
Labor Day	September 06, 2010
Veterans' Day	November 11, 2010
Thanksgiving Day	November 25, 2010
Day After Thanksgiving	November 26, 2010
Christmas Day	December 24, 2010

### **3.4 Schedule of Sales Outlet Service**

- A: Salem: once per day.
- B: Concord: once per day.

Sales volume may require additional calls for service per day, therefore, businesses are required to demonstrate their capability of providing additional servicing without advanced noticed through their existing operation(s). Sales volume or other circumstances at the Lottery's discretion may require a reduction in servicing to one or both sales outlets.

### **3.5 Service Locations of Instant Ticket Vending Machines (ITVMs)**

1. Hooksett Rest Area/ Route 93 North Bound
2. Hooksett Rest Area/ Route 93 South Bound
3. Seabrook Rest Area/ Route 95 North Bound
4. Salem Rest Area/ Route 93 North Bound
5. Sanbornton Rest Area/ Route 93 South Bound
6. Nashua Welcome Center/ 110 Broad Street

### **3.6 Schedule of ITVM Service**

Locations 1 thru 4 above are scheduled for service twice per week. Locations 5 thru 6 above are scheduled for service once per week. Sales volume or other circumstances at the Lottery's discretion may require unscheduled additional and/or reduced services at any or all ITVMs.

### **3.7 ITVM Hours of Operation**

ITVMs are unmanned and accessible to our customers during the hours of operation for each rest area.

### **3.8 Modifications to Pickup Locations at Outlets and ITVMs**

These pickups may or may not be required for the entire term of the contract. The Lottery reserves the right to add, subtract, or change Sales Outlet(s) locations throughout the term of the contract. It is understood this may or may not affect pricing. Please describe the process by which changes in location, increases, and reductions in services are evaluated for possible price changes.

### **3.9 Description of Service to ITVMs**

Access machines, process machine generated reports, sort currency by denomination, calculate the amount of deposits, report the amount of deposits, collect, transport, delivery, and deposit of sales proceeds from the New Hampshire Lottery's Instant Ticket Vending Machines (ITVM) cited below to the Lottery's banking institution or affiliated bank branch office.

### **3.10 Supplies Provided by Lottery for ITVM Service**

Lottery will provide bank deposit bags and blank bank deposit slips.

3.11 Participate in scheduled meetings with Lottery to review contract and performance standards as needed.

### **4.0 Proposal Preparation and Submission Requirements**

4.1 Business must have at least 4 years experience as a cash courier security service provider.

4.2 A brief transmittal letter prepared on your firm's business stationary shall accompany the original and required copies of the proposal. The letter should also indicate your firm's willingness to provide an on-site inspection of current operations to the review committee.

4.3 Provide a description of your operations and organizational structure and the full name, mailing address, telephone number and facsimile number of the primary contact person from your firm.

4.4 Provide a detailed narrative describing your firm's qualifications to provide courier services of cash deposits.

4.5 If subcontracting for courier services, provide a brief description of the relationship and the history of partnership with the Subcontractor.

4.6 Describe how your firm evaluates the performance of the courier service provider.

4.7 Describe how your firm evaluates the security offered by the courier service provider and please include whether or not such person(s) are subject to state and federal criminal background checks.

4.8 Describe your process for resolving cash collection and bag count discrepancies and the process to reimburse the Lottery for lost or stolen cash bags that are the responsibility of the courier business prior to the deposit. Describe any limitations to the business's coverage.

4.9 Provide a listing of clients for which similar courier services are provided and please include current volume of service to the client as well as the length of the current relationship. Please indicate and include contact name, title, telephone number, and e-mail address for those clients listed that you wish to use as references. Include written authorization for the Lottery Commission to obtain verification of any and all information provided. *Attachment "A" may be used for this purpose.*

4.10 Provide a brief statement regarding any pending litigation against your firm.

4.11 Each vendor must submit a cost proposal for the services requested in the *Scope of Services* section 3.0 thru 3.9.

- 4.12 Explain any annual adjustments and the review process anticipated.
- 4.13 Name, address, telephone, email address and FAX number of business and key contact person.
- 4.14 A “Lottery account” personnel chart. Include all personnel on this chart who will be involved with the Lottery account, also provide a brief resume of each.
- 4.15 Businesses must submit prices; any contract fees must be all inclusive.

*Please use the format in Attachments “B” and “C” for pricing this RFP.*

- 4.16 Fees for any additional services requested by the Lottery Commission will be mutually agreed upon prior to the rendering of such service.

4.17 **Number of Copies**

Businesses must submit a complete response to this RFP. One (1) original and seven (7) Copies of each proposal must be submitted to the address provided in *Section 5.3*.

4.18 **Number of Pages**

Responses should be limited to fifteen (15) pages plus appendices.

4.19 **Business Contact Person**

All Businesses submitting a response to this RFP must specify in their transmittal letter who at the firm is the sole contact person for the Lottery to contact should any clarification be needed with respect to the response. Please include the contact person’s name, telephone number, and e-mail address.

4.20 **Withdrawal**

A firm withdraws their proposal by notifying the Lottery in writing at any time prior to the deadline for proposal submittal. After the deadline, proposals once opened, become a public record of the Lottery and will not be returned to the business.

4.21 **Oral Presentation**

If selected, the Business may be asked to provide a brief oral presentation. Oral presentations are an option of the Lottery and may or may not be conducted. If conducted, oral presentations will be at the discretion of the Lottery and held in Concord, New Hampshire.

5.0 **Proposal Presentation**

*Organization of Proposal:* Proposals should be organized in the order in which the requirements are presented in *Section 4*. Where additional space is required; use an appendix to submit the relevant information.

*Submission of Materials:* Proposals shall be signed by an authorized representative of the Business. All information requested should be submitted. Proposals which are substantially incomplete or lack key information may be rejected by the Lottery Commission and cause the vendor not to be considered as a capable provider of services.

*Clarity of Proposal:* Proposals should be prepared simply and provide a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.

It is expected that the responses to the requirements that follow will demonstrate support for your firms' ability to provide the services desired by the Lottery Commission in *Section 3, Scope of Desired Services*.

**5.1 Appendices, Data, and Other Submissions**

Include any appendices, data, and other submissions necessary to support your proposal. Any creative suggestions are encouraged and should be included within this section of the proposal.

**5.2 Sole Contact**

The sole contact for the purpose of responding to this RFP is Leonard Mannino. No direct contact or interaction is permitted between businesses submitting proposals and staff members of the Lottery regarding this RFP.

**5.3 Questions**

Questions regarding this RFP must be submitted in writing to Leonard Mannino. Questions will be accepted by FAX, US mail, email, or hand delivery to the contact information listed below, through the end of the business day (4:00 PM Eastern Time) on March 05, 2010.

New Hampshire Lottery Commission  
Attn: Leonard Mannino  
14 Integra Drive  
Concord, New Hampshire 03301  
Phone: (603) 271-3391 ext: 309  
Fax : (603) 271-1160  
Email: [Leonard.D.Mannino@lottery.nh.gov](mailto:Leonard.D.Mannino@lottery.nh.gov)

**5.4 Response to Questions**

All answers shall be sent by email and/or fax to businesses considering submitting a proposal through the end of business day (4:00 PM Eastern Time) on March 12, 2010.

**5.5 Business Responsibility**

It is the duty of the business to take all appropriate measures in order to obtain all information and instructions required by it to make its proposal conform to the requirements of this RFP. No business will be able to claim lack of information or instructions to support or justify its proposal or to avoid any obligation, condition or specification contained in this RFP or its proposal.

**5.6 Cost of Preparation of Proposal**

All expenses incurred by the business in connection with the preparation or submission of its proposal including, but not limited to, equipment or supplies ordered in anticipation of the selection are the responsibility of the business and the Lottery shall not incur any obligation whatsoever toward the business whether the proposal is rejected, accepted or incorporated in whole or in part into a contract with the Lottery.

## **5.7 Proposal Acceptance or Rejection**

The Lottery reserves the right to make the determination as to which businesses have met the basic requirements of this RFP. The Lottery reserves the right to accept or reject in whole or in part any or all proposals in response to this RFP and to negotiate in any manner necessary to serve the best interests of the Lottery.

Only original proposals will be accepted and must be received no later than 4:00 p.m. on March 26, 2010 at the location listed in Section 5.3 above.

## **5.8 Negotiations**

If negotiations are conducted, Contractors will be strictly held to the terms and conditions submitted in their proposals however, the Lottery may consider alternative solutions with respect to any nonmaterial details.

## **5.9 Notification**

Businesses whose proposals are not accepted will be notified in writing.

## **5.10 Public Information Act**

Upon submission, a business's bid becomes the property of the Lottery and thus its contents will be subject to public scrutiny upon submission of the winning bidder's contract to Governor and Council for approval. Anything provided to the Lottery, where in the opinion of the business, contains confidential or proprietary information or trade secrets must clearly be labeled as such. Further, upon request by the Lottery, businesses must provide ample justification of why such materials should not be disclosed by the Lottery and must bear any and all costs associated with non-disclosure. Failure to either pay all costs or to provide the necessary justification for removal from the public domain will render any such claims of confidentiality, proprietary or trade secrets null and void.

## **6.0 Contract**

As a result of this RFP, the contractor selected to perform cash courier security services for the Lottery shall contract with the State of New Hampshire Lottery Commission.

## **6.1 Length of Contract**

The aforesaid contract shall be for a one (1) year period beginning approximately July 01, 2010 with an option to renew for a two year extension.

## **6.2 Payment of Invoice**

Approved contractor invoices shall be paid within thirty (30) days after receipt of invoice.

## **6.3 Basis of Contract**

The terms and conditions in this RFP will provide the basis for the contract together with any further terms and conditions that arise through negotiations of the final contract.

## **6.4 State of New Hampshire Contract Agreement Terms**

By submitting a proposal, the business agrees to the terms and conditions in this RFP and the State of New Hampshire contract agreement terms included with this RFP as *Attachment "D" (Form P-37)*

## **6.5 Criminal background Checks**

Contractor gives the Lottery authority to process criminal background checks on all personnel that may handle Lottery sales proceeds. Contractor and business personnel will cooperate with the Lottery in filing and authorizing the paper work required by the State of New Hampshire in order to perform criminal background investigations.

**6.6 Lottery’s Right to Negotiate Terms and Conditions**

The Lottery expressly reserves the right to negotiate any terms and conditions of the contract. However, businesses are hereby put on notice that negotiations of terms in the contract are at the option of the Lottery. The entire relationship between the Lottery and the contractor shall be governed by the laws of the State of New Hampshire.

**7.0 Evaluation/Contract Award Criteria**

All responses will be reviewed and evaluated by a Review Committee comprising of the following Lottery employees:

- Georges Roy, Administrator
- Kassie Strong, Chief Accountant
- Leonard Mannino, Chief Security Officer

The Review Committee may request a meeting with one or more businesses and/or arrange for an on-site inspection of existing operations. If the Lottery awards a contract based on this RFP, it shall not only be to the business with a response that demonstrates all stated requirements can be met but that the Review Committee selects based on the results of scoring, as presented within the following table:

A total of 100 points may be awarded.  
**Requirements:** 40 Points  
**Price:** 35 Points  
**Experience and References:** 25 Points

	Requirements	Price	Experience/References
Above Average	27-40 points	23-35 points	18-25 points
Average	14-26 points	12-22 points	9-17 points
Below Average	1-13 points	1-11 points	1-8 points

**7.1 Award**

After reviewing the proposals, the selection committee retains the right to conduct interviews with any vendor before awarding the final contract, however; the Lottery retains the right to award a contract based solely upon the written proposals received without prior discussions or negotiations. If selected, each finalist would be notified of the date, place and time of their interview. The interview should demonstrate the vendor’s ability to provide the required services. Key personnel who would be responsible for providing contract services should be present and participate in the interview should the Lottery Commission schedule such an interview. The purpose of the interview is to impart to the Review Committee an understanding of how specified services will be accomplished. Further information with regard to the format of this stage of the evaluation may be provided to the finalists prior to their interview. The interview will be evaluated on the basis of whether it substantiates the characteristics and attributes claimed by the vendor in the written response to the RFP.

**8.0 Other Requirements**

**8.1** By submitting their proposals, vendors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks, or inducements from any other vendor, supplier, manufacturer, or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

- 8.2 By submitting their proposals, businesses certify that they are not currently debarred from submitting proposals on contracts by any agency of the State of New Hampshire, nor are they the agent of any person or entity that is currently debarred from submitting proposals on contracts by any agency of the State of New Hampshire.
- 8.3 **Mandatory Use of State Forms and Terms and Conditions**  
Modification of or additions to any portion of the RFP may be cause for rejection of the proposal; however, the State of new Hampshire reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal as non-responsive. As a precondition to its acceptance, the State of New Hampshire may, in its sole discretion, request that the vendor withdraw or modify non-responsive portions of a proposal which do not affect the quality, quantity, price, or delivery. No modification or addition to the provisions to the contract shall be effective unless reduced to writing and signed by the parties. Prior to the approval of a contract, a vendor will be required to execute the State's Form P-37, a copy of which is attached as *Exhibit "D"*.
- 8.4 **Qualifications of Vendors**  
The State of New Hampshire may make such reasonable investigations as deemed proper and necessary to determine the ability of the vendor to perform the work/furnish the item(s), and the vendor shall furnish to the State of New Hampshire all such information and data for this purpose as may be requested. The State of New Hampshire reserves the right to inspect the vendor's physical facilities prior to award to satisfy questions regarding the vendor's capabilities. The State of New Hampshire further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such vendor fails to satisfy the State of New Hampshire that such vendor is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.
- 8.5 **Assignment of Contract**  
A contract shall not be assignable by the Contractor in whole or in part without the written consent of the State of New Hampshire.
- 8.6 **Default**  
In case of failure to deliver goods or services in accordance with the contract term and conditions, the State of New Hampshire, after due oral or written notice, may procure them from other sources and hold the vendor responsible for any resulting additional purchases and administrative costs. This remedy shall be in addition to any other remedies which the State of New Hampshire may have.
- 8.7 **Proposal Acceptance Period**  
This proposal shall be binding upon the vendor following the proposal opening date. If the proposal is not withdrawn at that time, it remains in effect unless the solicitation is canceled.
- 8.8 **Right to Reject Bids and Waive Informalities**  
The State reserves the right to reject all proposals. The State also reserves the right to waive any informality. Incomplete proposals may be the basis for rejection.
- 8.9 **Disclosure**  
Vendors must disclose to the State any relationship(s) which may be a conflict of interest for the vendor entering into a contract with the State.
- 8.10 **Registration with Secretary of State**  
The vendor attests that it properly registered to conduct business in the State of New Hampshire. Please visit the following website to learn more about the requirements and filing fees:  
<http://www.nh.gov/sos/corporate>.

**8.11 Contract Approval**

The contract between the State and the Contractor will not be binding until it has been approved by the Governor and Council if required.

**8.12 Vendor Application and W-9 Form**

Prior to the approval of the contract, a vendor must have completed State of New Hampshire Vendor Application and a W-9 Form must be on file with the New Hampshire Bureau of Purchase and Property. See the following website for information on obtaining and filing the required forms:

[www.admin.state.nh.us/purchasing/bids.asp](http://www.admin.state.nh.us/purchasing/bids.asp).

**8.13 Certificate of Authority/Signature Authority**

Prior to the approval of a contract, a vendor must supply a corporate resolution or Certificate of Authority indicating the officer(s) of the firm possessing the authority to enter into contracts with the State of New Hampshire.

**8.14 Restrictions Against Disclosure**

The contractor agrees to keep all Lottery information and all related parties confidential.

**8.15 Contractual Terms Desired by Businesses**

Businesses shall specify any additional contractual terms not conflicting with those contained in this RFP that the business desires in the final formal contract.

**9.0 Contract Termination**

The Lottery reserves the right to terminate the contract with Contractor in whole or in part whenever for any reason the Lottery shall determine that such termination is in the best interest of the Lottery. If at anytime during the contract, management finds the work of the Contractor to be unsatisfactory and/or not in accordance with the contract, the Lottery shall reserve the right to cancel the contract.

**Attachment A**  
**COURIER SERVICES RFP**  
**PROPOSED BIDDER INFORMATION AND RELEASE AUTHORIZATION**

Please complete this form and return (by mail or FAX) with your questions by March 05, 2010 to the New Hampshire Lottery Commission (if emailing questions make sure to include information listed below in your email by March 05, 2010).

Name of Business: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

# Years in business: \_\_\_\_\_

**RELEASE OF INFORMATION**

I, the undersigned do authorize the Lottery Commission to obtain verification of any and all information provided to the Lottery.

I understand that whether or not I submit a proposal, our status as a potential supplier to the New Hampshire Lottery Commission in the future will not be affected.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date

**Attachment B**

**COURIER SERVICES RFP  
PRICING SHEET FOR SALES OUTLETS**

**Lottery Outlet Service**

<b>Table 1: Cost per Service Call</b>						
	<b>Year 1</b>		<b>Optional Year 1 &amp;</b>		<b>Year 2</b>	
<b>Outlet Location</b>	Per Call	Per Week	Per Call	Per Week	Per Call	Per Week
<b>Concord (M-F)</b>	\$	\$	\$	\$	\$	\$
<b>Salem (Su-Sa)</b>	\$	\$	\$	\$	\$	\$

<b>Table 2: Cost Totals</b>			
<b>Outlet Location</b>	<b>Year 1 Total</b>	<b>Optional Year 1 &amp;</b>	<b>Year 2 Total</b>
<b>Concord</b>	\$	\$	\$
<b>Salem</b>	\$	\$	\$
<b>(Concord+Salem=)</b>	\$	\$	\$
<b>Year 1 + Option Y1 &amp; Y2=</b>			\$

**Notes:** For the purposes of calculating costs, the contractual period for each year is presumed to be July 01<sup>st</sup> thru June 30<sup>th</sup>.

The Concord Outlet will be closed on 10 occasions in recognition of state holidays and the Salem Outlet will be closed on 2 occasions. On dates of closure, service will not be needed. Please be aware of these facts when forming your costs; our review will assume that you have done so.

**Attachment C**

**COURIER SERVICES RFP  
PRICING SHEET FOR SALES OUTLETS**

**ITVMs**

<b>Table 1: Price per Service Call (Scheduled Twice per Week)</b>						
<b>ITVM Location</b>	<b>Year 1</b>		<b>Optional Year 1 &amp;</b>		<b>Year 2</b>	
<b>Hooksett RA n/b</b>	\$	\$	\$	\$	\$	\$
<b>Hooksett RA s/b</b>	\$	\$	\$	\$	\$	\$
<b>Seabrook RA n/b</b>	\$	\$	\$	\$	\$	\$
<b>Salem RA</b>	\$	\$	\$	\$	\$	\$
<b>Totals</b>	\$		\$		\$	
<b>Year 1 total + Optional Y1 and Y2 totals =</b>					\$	

<b>Table 2: Price per Service Call (Scheduled Once per Week)</b>				
<b>ITVM Location</b>	<b>Year 1</b>	<b>Optional Year 1 &amp;</b>		<b>Year 2</b>
<b>Sanbornton RA s/b</b>	\$	\$		\$
<b>Nashua Welcome</b>	\$	\$		\$
<b>Totals</b>	\$	\$		\$
<b>Year 1 total + Optional Y1 and Y2 totals =</b>				\$

**Notes:** For the purposes of calculating costs, the contractual period for each year is presumed to be July 01<sup>st</sup> thru June 30<sup>th</sup>.

# Attachment D

Subject: \_\_\_\_\_

## AGREEMENT

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

### GENERAL PROVISIONS

1. Identification and Definitions.

1.1 State Agency Name	1.2 State Agency Address		
1.3 Contractor Name	1.4 Contractor Address		
1.5 Account No.	1.6 Completion Date	1.7 Audit 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 & Title of Contractor Signor	
1.13 Acknowledgment: 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 & Title of Notary or Justice of the Peace			
1.14 State Agency Signature(s)		1.15 Name/Title of State Agency Signor(s)	
1.16 Approval by Department of Personnel (Rate of Compensation for Individual Consultants)  By: _____ Director, On: _____			
1.17 Approval by Attorney General (Form, Substance and Execution)  By: _____ Assistant Attorney General, On: _____			
1.18 Approval by the Governor and Council  By: _____ On: _____			
2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("the State"), engages contractor identified in block 1.3 ("the Contractor") to perform, and the Contractor shall perform, that work or sale of goods, or both, identified and more particularly described in EXHIBIT A incorporated herein ("the Services").			
3. EFFECTIVE DATE: COMPLETION OF SERVICES. 3.1 This agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Council of the State of New Hampshire approve this agreement, ("the Effective Date"). 3.2 If the date for commencement in Exhibit A precedes the Effective Date all services performed by Contractor between the commencement date and 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 be under no obligation to pay the contractor for any costs incurred or services performed; however that if this Agreement becomes effective all costs incurred prior to the effective date shall be paid under the terms of this Agreement. All services must be completed by the date specified in block 1.6.			
4. CONDITIONAL NATURE OF AGREEMENT. Notwithstanding anything in 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 those 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 1.5 in the event funds in that account are reduced or unavailable.			

#### **5. CONTRACT PRICE: LIMITATION ON PRICE: PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in Exhibit B, incorporated herein.

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 RSA 80:7 through 7-C or any other provision of law.

5.4 Notwithstanding anything 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 of these general provisions.

#### **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. In addition, the vendor 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 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 (41C.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 and conditions of this Agreement.

#### **7. PERSONNEL**

7.1 The performance of the Services shall be carried out by employees of the Contractor. 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 The Contractor shall not hire, and shall permit no 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 has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

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.

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule; or

8.1.2 failure to submit any report required hereunder; or

8.1.3 failure to perform any other covenant 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; and

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; and

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

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 On and after the Effective Date, 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 RSA 91-A or other existing law. Disclosure pursuant to a right to know request shall require 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 to the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("the Termination Report") describing in detail all Services performed, and the Contract Price earned, to and including the date of termination. To the extent possible, the form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in 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, worker's compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT, DELEGATION AND SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Services shall be delegated or subcontracted by the Contractor without the prior written 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 shall survive the termination of this Agreement.

**14. INSURANCE AND BOND.**

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, both for the benefit of the State, 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 \$250,000 per claim and \$2,000,000 per incident; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 of these general provisions, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than 10 days after written notice thereof has been received by the State.

**15. 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, or any subsequent Event. No express failure of 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 default on the part of the Contractor.

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

**17. AMENDMENT.** This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

**18. 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.

19. **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.

20. **SPECIAL PROVISIONS.** The additional provisions set forth in EXHIBIT C hereto are incorporated as part of this Agreement.

21. **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.