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State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

JOHN J. BARTHELMES
COMMISSIONER

December 13, 2016

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

Requested Action

Pursuant to RSA 21-P:37, II, authorize the Department of Safety (DOS), Division of Homeland Security and Emergency Management (HSEM) to enter into a contract with Comcast Cable Communications Management, LLC d/b/a Comcast Spotlight (VC# 253009-R002) Bedford Farms Drive, Suite 201, Bedford, NH 03110, in the amount of \$30,000.00 for non-commercial sustaining announcements (NCSAs) through television commercials and online streaming advertisements on emergency management and preparedness. Effective upon Governor and Council approval through June 30, 2017, with an option to renew the contract through June 30, 2018. Funding Source: 48% Private and Local Funds/32% Federal Funds/20% General Funds.

Funding is available in the SFY2017 operating budget as follows:

02-23-23-2360010-27400000	Dept. of Safety – Hmlnd Sec-Emer Mgmt – Emer. Mgmt. Admin	<u>SFY2017</u>
020-500247	Current Expenses – Advertising and Publication	\$30,000.00
Activity Code: 2360		

Explanation

This contract will provide for non-commercial sustaining announcements (NCSAs) to be aired statewide over New Hampshire television stations and online streaming advertisements to increase public awareness of emergency preparedness for natural and manmade hazards and to stimulate preparedness measures for communities in order to provide NH residents with critical information on protecting themselves and their families during disasters. NCSAs provided under this contract will help increase the involvement of and interaction between local governments, the private sector, residential communities, school systems and populations with special needs, i.e., elderly, handicapped, minorities, etc., through this public awareness campaign. The messages aired will provide information on emergency management related issues, as decided by DOS/HSEM.

A Request for Proposals (RFP) was posted on the State's Administrative Services Website from September 15, 2016 through October 3, 2016. Two proposals were received and evaluated with the proposal from Comcast Cable Communications Management, LLC d/b/a Comcast Spotlight receiving the higher score.

In the event that Federal funds are no longer available, Highway funds will not be requested to support this program.

Respectfully submitted,


John J. Barthelmes
Commissioner

ATTACHMENT I

Program Name: **Television Commercials and Online Streaming Advertisements to promote Individual Preparedness and Public Safety**

RFP Score Summary			
RFP CRITERIA	Max Pts	Comcast Cable Communications MGMT., LLC d/b/a Comcast	NH Association of Broadcasters
Org Capacity	30	26.6	11.7
Plan of Operation	30	26.6	11.7
Budget & Justification	35	31.6	16.7
Format	5	5	5
Total	100	89.8	45.0
Contract Price		\$30,000	\$30,000

Definitions of Scoring Criteria:

Org Capacity: The general suitability of the organization to carry out the stated goals, in this case to promote safety messages on television and online streaming.

Plan of Operation: The organization can provide the deliverables as described in the RFP.

Budget & Justification: The budget seems appropriate for what is promised to be delivered and enough detail is provided to know how the money is spent.

Format: The Organization followed the format requirements

Scoring Committee:

Michael D. Todd, PIO, NH DOS
 Anna Swenson, Program Assistant II, NH HSEM
 Alexander Marinaccio, Program Assistant II, NH HSEM

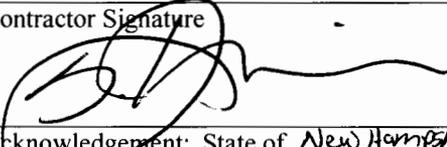
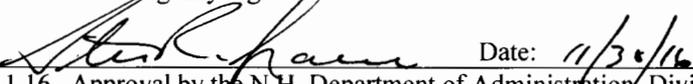
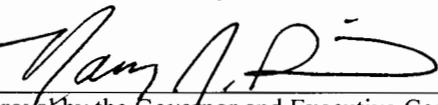
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name New Hampshire Department of Safety/DHSEM		1.2 State Agency Address 33 Hazen Drive Concord, NH 03305	
1.3 Contractor Name Comcast Cable Communications Mgmt., LLC D/B/A Comcast Spotlight		1.4 Contractor Address 2 Bedford Farms Drive Suite 201 Bedford, NH 03110	
1.5 Contractor Phone Number 603-867-2019	1.6 Account Number 27400000-500247	1.7 Completion Date 6/30/2017	1.8 Price Limitation \$30,000
1.9 Contracting Officer for State Agency Michael Todd		1.10 State Agency Telephone Number 603-892-8196	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Stephen Flaim, RVP	
1.13 Acknowledgement: State of <u>New Hampshire</u> , County of <u>Hillsborough</u> On <u>NOV 17, 2016</u> , 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]		<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> KATHERINE L TROIANO Notary Public, State of New Hampshire My Commission Expires Jan. 27, 2021 </div>	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Katherine L. Troiano - Notary</u>			
1.14 State Agency Signature  Date: <u>11/30/16</u>		1.15 Name and Title of State Agency Signatory Steven R. Lavoie, Director of Administration	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>12/9/2016</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

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

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

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

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

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

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

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

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

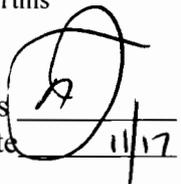
7. PERSONNEL.

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

Contractor Initials

Date

A handwritten signature is written over a horizontal line. Below the signature, the date "11/17" is written.

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.

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.



EXHIBIT A

SCOPE OF SERVICES

The responsibilities of the contractor are as follows:

- a) To coordinate the airing of advertisement spots on at least six television channels available in New Hampshire; the spots will feature emergency management related issues, as decided by DOS/HSEM. At least one third of the advertisements being aired must be viewed in between the following hours, Monday-Friday: 6-9am, 8-11pm.
- b) To procure online streaming advertisements services to reach throughout the State.
- c) To administer to the channels all materials needed for air play of advertisements.
- d) To advise and assist DOS/HSEM in bringing televised advertisements spots into compliance with industry standards.
- e) To duplicate as necessary the materials needed for stations.
- f) To provide with affidavits of performance and the following itemized information about each spot: total number run, dollar value and the date and time of airing.
- g) Based on Federal Communication Commission licenses, stations reserve the right to accept or refuse all television spots.
- h) To ensure the ads commence on or within two weeks of the approved contract date.
- i) All ads shall be edited in a manner that maximizes the air time for the message. All disclaimers shall be removed whenever possible and shall be as short as possible if it is not possible to remove them.
- j) To provide DOS/HSEM with copies of television spots with all final edits for approval prior to broadcast.
- k) The contractor will be responsible for the payment of subcontractors.

Contractor Initials _____

Date _____

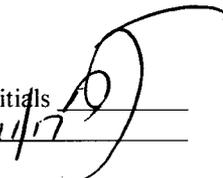

11/17

EXHIBIT B

TERMS OF PAYMENT

The appropriate account number for the P-37 form, section 1.6 is as follows:

FY2017

02-23-23-2360010-27400000-020-500247
Division of Homeland Security and Emergency Management

Payment for contracted services for television airtime and production costs will be made upon receipt of itemized invoices as follows:

Payment #1- Invoice due March 3, 2017 \$15,000
(or upon G&C approval)

Payment #2- Upon completion of aired broadcasts and Department of Safety's receipt of final performance and evaluation report as stated in the Scope of Services not to exceed June 30, 2017.
\$15,000

Invoices shall be submitted to:

Linda Tessier, Administrator
NH Department of Safety
Division of Homeland Security and Emergency Management
33 Hazen Drive
Concord, NH 03305

Contractor Initials 
Date 11/17

EXHIBIT C

SPECIAL PROVISIONS

There are no modifications, additions and/or deletions to Form P-37.

It is agreed that the Contractor will meet as needed with DOS/HSEM project personnel to ensure proper implementation of the terms of this contract.

Contractor Initials 
Date 11/17

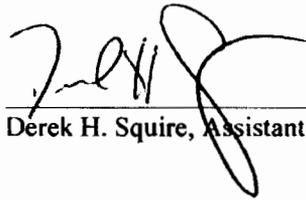
ASSISTANT SECRETARY'S CERTIFICATE

I, Derek H. Squire, Assistant Secretary of Comcast Cable Communications Management, LLC, a Delaware limited liability company (the "Company"), do hereby certify as follows:

Stephen D. Flaim is a duly elected and appointed officer of the Company, holding the title of Regional Vice President, New England Region; and

Stephen D. Flaim is authorized as of May 19, 2016 by action by written consent of the sole member of the Company to execute, on behalf of the Company, any and all documents related to the Request for Proposal to be filed with the New Hampshire Department of Safety, Division of Homeland Security and Emergency Management.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of November 17, 2016.

A handwritten signature in black ink, appearing to read 'Derek H. Squire', is written over a horizontal line. The signature is stylized and cursive.

Derek H. Squire, Assistant Secretary

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that COMCAST SPOTLIGHT, INC. is a Delaware Profit Corporation registered to transact business in New Hampshire on March 22, 2004. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 467660



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 6th day of October A.D. 2016.

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

New Hampshire Department of Safety

Comprehensive General Liability Insurance Acknowledgement Form

The New Hampshire Office of Attorney General requires that Request For Proposals (RFP) and Request For Applications (RFA) packages inform all bidders of the State of New Hampshire's general liability insurance requirements. The limits of liability required are dependent upon your corporation's legal formation, and the annual total amount of contract work with the State of New Hampshire.

Please select only ONE of the three checkboxes below that best describes your corporation's legal formation and annual total amount of contract work with the State of New Hampshire:

- 1) The contractor certifies that it IS a 501(c)(3) contractor whose annual total amount of contract work with the State of New Hampshire does not exceed \$500,000.
2) The contractor certifies that it IS a 501(c)(3) contractor whose annual total amount of contract work with the State of New Hampshire equals or exceeds \$500,000.
3) The contractor certifies that it is NOT a 501(c)(3) contractor.

INSURANCE REQUIREMENTS for selection #1 - Per RSA 21-f: 13, XIV. The general liability insurance provision for standard state contracts requires any contractor who qualifies for nonprofit status under section 501(c)(3) of the Internal Revenue Code and whose annual gross amount of contract work with the state does not exceed \$500,000 to have:

- Comprehensive general liability insurance in amounts of not less than \$1,000,000 per claim or occurrence and \$2,000,000 in the aggregate. These amounts may NOT be modified.

INSURANCE REQUIREMENTS for selection #2 or #3 - Per Agreement P-37 General Provisions, 14.1 and 14.1.1. Insurance and Bond: 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 benefits of the State, the following insurance:

- 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 or occurrence. (The State of New Hampshire MAY modify these amounts if the State determines contract activities are of low liability risk.)

Please indicate your current comprehensive general liability coverage limits below, sign, date and return with your application package.
\$ Per Claim \$4,900,000 Per Incident/Occurrence \$25,000,000 General Aggregate
Signature & Title Regional Vice President Date 9-29-16

This acknowledgement must be returned with your application.