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State of New Hampshire
Department of Revenue Administration

109 Pleasant Street
PO Box 457, Concord, NH 03302-0457
Telephone 603-230-5005
www.revenue.nh.gov

Lindsey M. Stepp
Commissioner

Carollynn J. Lear
Assistant Commissioner

February 24, 2021

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

REQUESTED ACTION

Authorize the Department of Revenue Administration (DRA) to retroactively exercise a renewal option and amend an agreement with Berry, Dunn, McNeil & Parker, LLC (Berry Dunn) (Vendor # 254300), 100 Middle Street, Portland, ME 04101, to provide the DRA with Periodic Project Health Assessments of the next generation Revenue Information Management System (RIMS) project, with no change to the price limitation of $360,000, and extending the completion date from October 31, 2020, to October 31, 2021, effective upon Governor and Council approval. The contract was originally approved by Governor and Council on October 31, 2018 (item #53) and amended with Governor and Council approval on November 25, 2019 (item #44). No-cost extension.

EXPLANATION

This request is **retroactive** due to the DRA's need to reevaluate the need for such services after the completion of the second phase of the RIMS project, which went live on October 5, 2020.

Pursuant to the contract, Berry Dunn will perform the following and/or similar services if requested by the DRA:

> The Contractor shall provide periodic project health assessments at planned milestones throughout the RIMS implementation project in order to help ensure that the project stays on track.
>
> DRA leadership will gauge the number of assessments required based on the success of the health assessment process, and the general comfort level with the RIMS project implementation process and the RIMS Vendor. The project health assessment process consists of two phases:
>
> - Developing the health assessment methodology (one-time task)
> - Conducting periodic health assessments (recurring task)

The one-time task of creating the health assessment methodology was completed by Berry Dunn during the initial contract term with the addition of four project health assessments

performed by Berry Dunn during the first phase of the project (rollout 1), which successfully went live on October 28, 2019. Pursuant to Amendment 1, Berry Dunn performed an additional three project health assessments during the second phase of the project (rollout 2), which successfully went live on October 5, 2020. This second one-year renewal provides for additional project health assessments to be performed by Berry Dunn during the third phase of the RIMS project (rollout 3).

The original contract had the option to renew for three additional one-year terms, at the sole option of the State, subject to the parties' prior written agreement on applicable fees for each extended term up to but not beyond October 21, 2022, contingent upon sufficient funds being available, and subject to approval of Governor and Council. DRA is exercising its second one-year renewal option with this amendment, leaving one year remaining.

Respectfully Submitted,

Lindsey M. Stepp

Lindsey M. Stepp
Commissioner of Revenue Administration

AMENDMENT No. 2 of the
PERIODIC PROJECT HEALTH ASSESSMENTS OF THE
REVENUE INFORMATION MANAGEMENT SYSTEM (RIMS)
CONTRACT, DATED OCTOBER 31, 2018

The New Hampshire Department of Revenue Administration (DRA) and Berry, Dunn, McNeill & Parker, LLC (Contractor) entered into an agreement for Periodic Project Health Assessments of the Revenue Information Management System (RIMS) which was approved by the Governor and Council on October 31, 2018 (item #53) (the "Contract"). The Contract provides for three annual extensions of its term, subject to Governor and Council approval. Certain amendments were made to the Contract pursuant to Amendment No. 1, dated as of November 5, 2019, and approved by the Governor and Council on November 25, 2019. The parties hereby agree to amend and modify the Contract again as follows:

1. Item 1.7 of the Contract is hereby amended such that the completion date, as amended, is changed from October 31, 2020 to October 31, 2021;
2. Exhibit A, paragraph 3 of the Contract is hereby amended to change the termination date of the Contract from October 31, 2019, as extended to October 31, 2020 by implication of Amendment No. 1, to October 31, 2021;
3. Exhibit A, Table 2 of the Contract is hereby amended to include the following additional rows for this Amendment No. 2:

Phase	Deliverable	Current Planned Due Date
3	Recurring Periodic Health Assessment #8 (D2.8)	3/10/2021
3	Recurring Periodic Health Assessment #9 (D2.9)	5/30/2021

This Amendment No. 2 of the Contract, as previously amended, is hereby incorporated by reference into the Contract and expressly made a part thereof, by the parties. All other terms of the Contract are hereby reaffirmed and are in effect and unmodified hereby.

IN WITNESS WHEREOF, the parties hereto have set their hands on the 24 day of February, 2021.

Department of Revenue Administration

By: Lindsey M. Stepp
Lindsey M. Stepp, Commissioner

Berry, Dunn, McNeil & Parker, LLC

By: _____

Charles K. Leadbetter, Principal

Acknowledgement:

Approved by the Attorney General (form, substance and execution):

By: _____ On: 2/25/2021

Michael Haley Attorney

Approved by the Governor and Executive Council:

By: _____ On: _____

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 BERRY, DUNN, MCNEIL & PARKER, LLC is a Maine Professional Limited Liability Company registered to do business in New Hampshire as BERRY, DUNN, MCNEIL & PARKER, P.L.L.C. on March 12, 1999. 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: **310384**

Certificate Number: **0005260377**

IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 17th day of February A.D. 2021.

William M. Gardner
Secretary of State

CERTIFICATE OF VOTE/AUTHORITY

I, John Chandler of the Berry Dunn McNeil & Parker, LLC do hereby certify that:

1. I am the duly elected Managing Principal of the Berry Dunn McNeil & Parker, LLC:

   This Limited Liability Company may enter into any and all contracts, amendments, renewals, revisions or modifications thereto, with the State of New Hampshire, acting through its Department of Revenue Administration.

   RESOLVED: That the Principal is hereby authorized on behalf of this company to enter into said contracts with the State, and to execute any and all documents, agreements, and other instruments, and any amendments, revisions, or modifications thereto, as he/she may deem necessary, desirable or appropriate, and Charles K. Leadbetter is the duly elected Principal of the Limited Liability Company.

2. The foregoing resolutions have not been amended or revoked and remain in full force and effect as of this 22 day of February, 2021.

   IN WITNESS WHEREOF, I have hereunto set my hand as the Managing Principal of the company this 22 day of February, 2021.

John Chandler
Managing Principal
Berry Dunn McNeil & Parker, LLC

BERRDUN-03 HCTALBOT

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 2/3/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Clark Insurance
1945 Congress Street, Bldg A
PO Box 3543
Portland, ME 04104-3543

CONTACT NAME: Heather Caston-Talbot, AAI, CIIP, CIC
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS: hcaston-talbot@clarkinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : The Hanover Insurance Company	22292
INSURER B : Massachusetts Bay	22306
INSURER C : Maine Employers Mutual Ins Co	11149
INSURER D : Travelers Property Casualty Co. of America	25674
INSURER E :	
INSURER F :	

INSURED
Berry Dunn McNeil & Parker LLC
PO Box 1100
Attn: Jodi Coffee
Portland, ME 04104

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X GL form CG 00 01 GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT X LOC OTHER:			ZZP D240054	4/30/2020	4/30/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			ADPD240058	4/30/2020	4/30/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Hired Auto P.D.	$ 1,000,000 $ $ $ $ 50,000
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0			UHP D240055	4/30/2020	4/30/2021	EACH OCCURRENCE AGGREGATE	$ 8,000,000 $ 8,000,000 $
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		5101800149	1/1/2021	1/1/2022	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
D	Employee Dishonesty			105608076	4/30/2020	4/30/2021	Limit	5,000,000
D	Employee Theft			105608076	4/30/2020	4/30/2021	Of Client Prop Limit	5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Department of Revenue Administration
109 Pleasant Street
PO Box 457
Concord, NH 03302

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Heather Caston-Talbot

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State of New Hampshire
Department of Revenue Administration

109 Pleasant Street
PO Box 457, Concord, NH 03302-0457
Telephone 603-230-5005
www.revenue.nh.gov

Lindsey M. Stepp
Commissioner

Carollynn J. Lear
Assistant Commissioner

November 6, 2019

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

REQUESTED ACTION

Authorize the Department of Revenue Administration (DRA) to retroactively exercise a renewal option and amend an agreement with Berry, Dunn, McNeil & Parker, LLC (Berry Dunn) (Vendor # 254300), 100 Middle Street, Portland, ME 04101, to provide the DRA with Periodic Project Health Assessments of the next generation Revenue Information Management System (RIMS) project, by increasing the contract amount by $21,000 from $339,000 to $360,000 and extending the completion date from October 31, 2019 to October 31, 2020 effective upon Governor and Council approval. **100% Capital Funds**. The contract was originally approved by Governor and Council on October 31, 2018 (item #53).

Funding is available in account 17-228:1-228:A RIMS as follows:

01-84-84-840030-16800000-034 Capital Projects	$21,000

EXPLANATION

This request is **retroactive** due to the DRA's need to reevaluate the need for such services after the completion of the first phase of the RIMS project, which went live on October 28, 2019.

Pursuant to the contract, Berry Dunn will perform the following and/or similar services if requested by the DRA:

> The Contractor shall provide periodic project health assessments at planned milestones throughout the RIMS implementation project in order to help ensure that the project stays on track.
>
> DRA leadership will gauge the number of assessments required based on the success of the health assessment process, and the general comfort level with the RIMS project implementation process and the RIMS Vendor. The project health assessment process consists of two phases:
>
> - Developing the health assessment methodology (one time task)
> - Conducting periodic health assessments (recurring task)

The one time task of creating the health assessment methodology was completed during the initial contract term with the addition of four project health assessments during the first phase of the project (rollout 1), which went live on October 28, 2019. This one year renewal provides for three additional project health assessments during the second phase of the RIMS project (rollout 2).

The original contract had the option to renew for three additional one-year terms, at the sole option of the State, subject to the parties' prior written agreement on applicable fees for each extended term up to but not beyond October 21, 2022, contingent upon sufficient funds being available, and subject to approval of Governor and Council.

Source of funds: 100% capital funds

Respectfully Submitted,

Lindsey M. Stepp

Lindsey M. Stepp
Commissioner of Revenue Administration

AMENDMENT No. 1 of the
PERIODIC PROJECT HEALTH ASSESSMENTS OF THE REVENUE INFORMATION MANAGEMENT SYSTEM (RIMS)
CONTRACT, DATED OCTOBER 31, 2018

The New Hampshire Department of Revenue Administration (DRA) and Berry, Dunn, McNeil & Parker, LLC (Contractor) entered into an agreement for Periodic Project Health Assessments of the Revenue Information Management System (RIMS) which was approved by the Governor and Council on October 31, 2018 (item #53) (the "Contract"). The Contract provides for three annual extensions of its term, subject to Governor and Council approval. The parties hereby agree to amend and modify the Contract as follows:

1. Item 1.7 of the Contract is hereby amended such that the completion date is changed from October 31, 2019 to October 31, 2020;
2. Item 1.8 of the Contract is hereby amended such that the price limitation is changed from $339,000 to $360,000;
3. Exhibit A, paragraph 3 of the Contract is hereby amended to change the termination date of the Contract to October 31, 2020;
4. Exhibit B of the Contract is hereby amended to change all relevant references therein from $339,000 to $360,000; and
5. Exhibit A, Table 2 of the Contract is hereby amended to include the following additional rows for this Amendment No. 1:

Phase	Deliverable	Current Planned Due Date
2	Recurring Periodic Health Assessment #5 (D2.5)	12/12/2019
2	Recurring Periodic Health Assessment #6 (D2.6)	4/30/2020
2	Recurring Periodic Health Assessment #7 (D2.7)	9/30/2020

This Amendment No. 1 of the Contract is hereby incorporated by reference into the Contract and expressly made a part thereof, by the parties. All other terms of the Contract are hereby reaffirmed and are in effect and unmodified hereby.

IN WITNESS WHEREOF, the parties hereto have set their hands on the 5 day of November, 2019.

Department of Revenue Administration

By: Lindsey M. Stepp
Lindsey M. Stepp, Commissioner

Berry, Dunn, McNeil & Parker, LLC

By: _____
Charles K. Leadbetter, Principal

Acknowledgement:

State of MAINE, County of CUMBERLAND on NOVEMBER 5, 2019 before the undersigned officer, personally appeared the person identified as the Grantee, or satisfactorily proven to be the person whose name is associated with the Grantee and acknowledged that s/he executed this document in the capacity indicated.

Brenda Grindle — BRENDA GRINDLE, NOTARY
Signature of Notary Public/Justice of the Peace — Name and Title of Notary Public/Justice of the Peace

BRENDA GRINDLE
NOTARY PUBLIC
State of Maine
My Commission Expires
July 7, 2023

Approved by the Attorney General (Form, Substance and Execution)

By: Dianne Mark On: 11/15/19

Approved by the New Hampshire Governor and Executive Council

By: _____ On: _____

State of New Hampshire
Department of Revenue Administration

109 Pleasant Street
PO Box 457, Concord, NH 03302-0457
Telephone 603-230-5005
www.revenue.nh.gov

Lindsey M. Stepp
Commissioner

Carollynn J. Lear
Assistant Commissioner

October 17, 2018

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

REQUESTED ACTION

Authorize the Department of Revenue Administration (DRA) to enter into a **sole source** contract with Berry, Dunn, McNeil & Parker, LLC (Berry Dunn) (Vendor # 254300), 100 Middle Street, Portland, ME 04101, to provide the DRA with Periodic Project Health Assessments of the next generation Revenue Information Management System (RIMS) project, in an amount not to exceed $339,000, effective upon Governor and Council approval through October 31, 2019. **100% Capital Funds.**

Funding is available in account 17-228:1-228:A RIMS as follows:

	FY2019
01-84-84-840030-16800000-034-Capital Projects	$339,000

EXPLANATION

Pursuant to the contract, Berry Dunn will perform the following and/or similar services if requested by the DRA:

> The Contractor shall provide periodic project health assessments at planned milestones throughout the RIMS implementation project in order to help ensure that the project stays on track.
>
> DRA leadership will gauge the number of assessments required based on the success of the health assessment process, and the general comfort level with the implementation and with the RIMS project implementation process and the RIMS Vendor. The project health assessment process will consist of two phases:
> - Developing the health assessment methodology (one time task)
> - Conducting periodic health assessments (recurring task)

This request is **sole source** because of the experience that Berry Dunn gained by working with the DRA over the past several years in support of many aspects of the RIMS project development initiative. Berry Dunn has intimate knowledge and fully understands DRA's vision for a modern and efficient tax processing system because

they assisted the DRA with the development of the RIMS Requirements and Request for Proposal. Additionally, Berry Dunn has many years of experience as an Independent Validation and Verification Vendor and with supporting the DRA and many other states agencies with project implementation.

Source of funds: 100% capital funds

Respectfully Submitted,

Lindsey M. Stepp

Lindsey M. Stepp
Commissioner of Revenue Administration

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 Department of Revenue Administration		1.2 State Agency Address 109 Pleasant Street PO Box 457, Concord, NH 03302	
1.3 Contractor Name Berry, Dunn, McNeil & Parker, LLC.		1.4 Contractor Address 100 Middle Street, P.O.Box 1100, Portland, Maine 04104	
1.5 Contractor Phone Number 207-541-2249	1.6 Account Number 30-16800000-500152	1.7 Completion Date October 31, 2019	1.8 Price Limitation $339,000
1.9 Contracting Officer for State Agency Lindsey M. Stepp, Commissioner		1.10 State Agency Telephone Number (603)230-5006	
1.11 Contractor Signature		1.12 Name and Title of Contractor Signatory Charles K. Leadbetter Principal	

1.13 Acknowledgement: State of Maine , County of Cumberland

On September 24, 2018, 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

Emily Pelletier

[Seal]

EMILY S PELLETIER
Notary Public-Maine
My Commission Expires
October 04, 2022

1.13.2 Name and Title of Notary or Justice of the Peace

Emily Pelletier, Notary

1.14 State Agency Signature Lindsey M. Stepp Date: 9/25/18	1.15 Name and Title of State Agency Signatory Lindsey M. Stepp, Commissioner

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: 10/4/18

1.18 Approval by the Governor and Executive Council *(if applicable)*

By: DEPUTY SECRETARY OF STATE OCT 3 1 2018

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 OL
Date 9/24

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

Contractor Initials CL
Date 9/24

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

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

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

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

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

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

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

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

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

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

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

Contractor Initials CC
Date 9/14

EXHIBIT A - SCOPE OF SERVICES

1. The Contractor shall provide periodic project health assessments at planned milestones as described in *Table 1. BerryDunn RIMS Periodic Project Health Assessments Services for RIMS Implementation (the "Health Assessments")* throughout the Revenue Information Management System ("RIMS") implementation project in order to help ensure that the project stays on track. The current approach defined in the *Health Assessments* will be applied in the RIMS Implementation Rollout 1 Phase. This will allow DRA to gauge the number of assessments required for the subsequent RIMS Implementation for Rollout 2 and Rollout 3 based on the success of the health assessment process, and the general comfort level with the implementation and with RIMS Implementation Vendor. The project health assessment process will consist of two phases:

   - Developing the health assessment methodology (one time task)
   - Conducting periodic health assessments (recurring task)

   The two phases are more particularly described in Table 1. The Contractor shall not perform any services unless requested and approved by the State in writing in advance. The anticipated dates for deliverables are described in *Table 2 Anticipated Deliverable Due Dates.*

   1.1. Phase 1, Phase 2 and Phase 3 Project Health Assessment Assumptions:

   - During Phase 1 (Develop Methodology) Contractor will work collaboratively with the DRA Project Director, DRA Commissioner, and RIMS Implementation Vendor Director to agree upon the four most useful dates to conduct planned Health Assessment work.
   - With 60 days notice from the DRA, Contractor shall change the dates of planned Health Assessment work.
   - The basis for the Health Assessments will be measured against the project work plan and approach proposed by RIMS Implementation Vendor.
   - RIMS Implementation Vendor will appoint a Project Director (the "Vendor Project Director").
   - The DRA will appoint a Project Director (the "DRA Project Director").
   - Contractor's Findings/Recommendations will be inserted immediately into Contractor's SharePoint repository (KnowledgeLink) so that team members will have access to any findings/recommendations in real time. Contractor shall differentiate findings and recommendations that are in "draft" from those that are published at the end of each six week assessment period.
   - The DRA Project Director, Vendor Project Director, and the DRA Commissioner will be the recipients of Contractor's periodic project health assessment report.
   - The DRA Project Director and Vendor Project Director will have responsibility to share the results of the periodic project health assessment with the executive project committee and other project stakeholders.
   - The contract term shall be for a base year (12 months) with (3) three optional one year extensions.

EXHIBIT A - SCOPE OF SERVICES

- The number of periodic health assessments for RIMS Implementation Rollout 1 during the base year will be four; each time the contract is extended into an optional year, DRA and Contractor will revisit how frequently the periodic health assessments should be conducted for the next rollout.

Table 1: BerryDunn RIMS Periodic Project Health Assessments Services for RIMS Implementation

Service/Tasks	Description
Phase 1. Developing the health assessment methodology	1. Contractor in collaboration with the State and Implementation Vendor shall develop a list of metrics to define how project health will be assessed on this project. A report card will be created to present the metrics. 2. Contractor shall meet with the State and Implementation Vendor to understand how the RIMS project is being managed in the areas of cost, schedule, scope, risks/issues, project quality, stakeholder satisfaction, stakeholder engagement, and project management. 3. Contractor shall develop an information request sheet. 4. Contractor shall review project documentation. 5. Contractor shall develop an "initial draft" report card and recommended assessment process leveraging Contractor's SharePoint site (KnowledgeLink). 6. Contractor shall meet with the Commissioner, the DRA Project Director, and the Vendor Project Director for internal review and feedback prior to further distribution. 7. Contractor shall finalize the project health assessment report card and process. Time estimate for this task is 4 weeks.*
Phase 2. Recurring Periodic Health Assessments	Once the methodology has been established to the satisfaction of the State, Contractor shall conduct four (4) project health assessments at intervals approved by the State. Contractor shall conduct each health assessment using the following sequence of steps: 1. Request project documentation (Week 1) 2. Conduct the stakeholder survey (Week 1) 3. Receive and review requested project documentation (Week 1) 4. Conduct on-site fact-finding; two to three consultants as described hereinbelow in section 4.3, over four to five days (Week 2) 5. Update KnowledgeLink with findings and recommendations, complete agreed upon report card and assessment report (Weeks 3 and 4) 6. Meet with the Commissioner, Project Director, and Vendor Project Director for review of each periodic health assessment draft (Week 5) 7. Incorporate feedback from the Commissioner, Project Director, and Vendor Project Director and submit the period health assessment in final form (Weeks 5 and 6) Time estimate for this task is six (6) weeks.*

Phase 3. Other Services	The Contractor shall do such other services as may be reasonably necessary to perform the Periodic Health Assessments, if requested and approved by the State in writing in advance ("Other Services").

* All time estimates may be adjusted up or down in the State's discretion as the situation necessitates.

Table 2: Anticipated Deliverable Due Dates

Phase	Deliverable	Current Planned Due Date
1	Developing the health assessment methodology	12/15/2018
2	Recurring Periodic Health Assessment #1 (D2.1)	2/1/2019
2	Recurring Periodic Health Assessment #2 (D2.2)	4/19/2019
2	Recurring Periodic Health Assessment #3 (D2.3)	6/28/2019
2	Recurring Periodic Health Assessment #4 (D2.4)	10/4/2019

2. CONTRACT DOCUMENTS

a. State of New Hampshire Terms and Conditions, General Provisions Form P-37
b. EXHIBIT A Scope of Services
c. EXHIBIT B Contract Price, Method Of Payment, And Terms Of Payment
d. EXHIBIT C Special Provisions
e. EXHIBIT D State Confidential Information
f. EXHIBIT E Dep't of Revenue Administration Policy NO. 16-007 Contractor Disclosures of Taxpayer and Department Information
g. EXHIBIT F Federal Tax Information

References herein to "Contract" shall have the same meaning as "Agreement."

3. TERM OF CONTRACT

This Contract shall commence November 1, 2018, or upon the approval of Governor and Executive Council, whichever is later, and shall terminate on October 31, 2019, a period of approximately one (1) year, unless extended for additional terms or early termination.

The Contract may be extended for three (3) additional one-year terms thereafter under the same terms, conditions and pricing structure upon the mutual agreement between the Contractor and State, and with the approval of the Governor and Executive Council.

EXHIBIT A - SCOPE OF SERVICES

4. CONTRACT MANAGEMENT

The Contractor at its own expense shall provide all resources necessary to perform the Services, including, but not limited to, materials, equipment, labor, and transportation. The Contractor acknowledges and agrees that this is a contract for personal services, and that time is of the essence in the performance of its responsibilities hereunder.

4.1. CONTRACTOR'S PRINCIPAL

4.1.1 **PRINCIPAL**

The Contractor shall provide a Principal who shall be responsible for all authorization and administration of this Agreement. The Principal shall be Charles K. Leadbetter.

4.1.2 The Contractor shall not change its assignment of the Contractor's Principal without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Principal shall not be unreasonably withheld. The replacement Principal shall have comparable or greater skills than the Principal being replaced. The Contractor shall provide a replacement Principal prior to the departure of the Contractor's Principal, and the Contractor shall continue to provide competent services through the assignment of a qualified interim Principal.

4.2 CONTRACTOR'S PROJECT MANAGER

4.2.1 **PROJECT MANAGER**

The Contractor shall provide a Project Manager qualified to perform the Services required under this Agreement. The Contractor's Project Manager shall work diligently and use his/ her best efforts to perform the Services. The State may require removal or reassignment of the Contractor's Project Manager who, in the sole judgment of the State, is found unacceptable or is not performing to the State's satisfaction. The Contractor's Project Manager shall be Brad Hanscom.

4.2.2 The Contractor's Project Manager shall function as BerryDunn's representative for all administrative and management matters, and shall have full authority to make binding decisions under this Agreement. The Contractor's Project Manager must be available to promptly respond to inquiries from the State, and be at the site as needed.

4.2.3 The Contractor shall not change its assignment of the Contractor's Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than the Project Manager being replaced. The Contractor shall provide a replacement Project Manager prior to departure of the Contractor's Project Manager, and the Contractor shall continue to provide competent

project management services through the assignment of a qualified interim Project Manager.

4.3 CONTRACTOR'S BUSINESS ANALYST

4.3.1 BUSINESS ANALYST

BerryDunn shall provide a Business Analyst qualified to perform the Services required under this Agreement. The Contractor's Business Analyst shall work diligently and use his/ her best efforts to perform the Services. The State may require removal or reassignment of the Contractor's Business Analyst who, in the sole judgment of the State, is found unacceptable or is not performing to the State's satisfaction.

4.3.2 The Contractor shall not change its assignment of the Contractor's Business Analyst without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Business Analyst shall not be unreasonably withheld. The replacement Business Analyst shall have comparable or greater skills than the Business Analyst being replaced. The Contractor shall provide a replacement Business Analyst within ten (10) days of the departure of the Contractor's Business Analyst, and the Contractor shall continue during the ten (10) day period to provide competent business analysis services through the assignment of a qualified interim Business Analyst.

4.4 EVENT OF DEFAULT

In addition to any other causes provided in this Agreement (including those in Form P-37), the Contractor's failure to provide a satisfactory replacement and/or interim Principal, Project Manager, or Business Analyst in accordance with the terms above shall constitute an Event of Default under this Agreement

4.5 STATE'S CONTRACT MANAGER

The State shall assign a Contract Manager who shall function as the State's representative with regard to administration of this Agreement. The State's Contract Manager shall be Lindsey Stepp.

4.6 DRA PROJECT DIRECTOR

The State shall assign a Project Director. The DRA Project Director's duties shall include the following:

a. Leading the project;
b. Developing Project strategy and approach;
c. Managing significant issues and risks;
d. Reviewing and accepting deliverables;
e. Invoice sign-offs;
f. Reviewing and approving of change requests; and

g. Managing stakeholders' concerns.

The DRA Project Director shall be Lisa Crowley.

4.7 REFERENCE AND BACKGROUND CHECKS

The Contractor shall, at its sole expense, conduct reference and background screening of the Contractor's Principal, Project Manager, and Business Analyst, including any replacement or interim personnel, and shall report the results thereof to the State no later than October 15, 2018. Subject to applicable laws and regulations, the State shall maintain the confidentiality of any background screening results.

EXHIBIT B – CONTRACT PRICE, METHOD OF PAYMENT, AND TERMS OF PAYMENT

1. COST BREAKDOWN

The payment(s) by the State for the services identified and more particularly described in EXHIBIT A, Table 1 above (which are numbered Phase 1-Task 1 through 7 and Phase 2-Task 1 through 7 and Phase 3), shall not exceed, in total, $339,000 for the duration of this Agreement. This Agreement will allow the Contractor to invoice the State for those services at the applicable hourly rates appearing in Table 3, up to a not to exceed amount, in total, of $339,000.

Table 3: Burdened Hourly Rates by Role

Position Title	Hourly Rate
Project Principal	$390
Project Manager	$260
Business Analyst	$190
Technical Analyst	$220
Subject Matter Expert	$240
Project Coordinator	$160
Technical Writer	$110

2. CONTRACT PRICE

Notwithstanding any provision in this Agreement to the contrary, in no event shall the total of all payments authorized, or actually made under this Agreement exceed the Price Limitation set forth in Form P-37, block 1.8. The payment by the State for the Services, at the applicable hourly rates in Table 3, shall be the only, and the complete compensation and reimbursement to the Contractor for all fees and expenses, of whatever nature, incurred by the Contractor in the performance hereof for the term of this Agreement.

The State is not responsible for any travel or out of pocket expenses incurred in the performance of the Services under this Agreement.

3. INVOICING

The Contractor shall submit correct invoices to the State for all amounts to be paid by the State no less frequently than quarterly and no more frequently than monthly. All invoices submitted shall be subject to the State's prior written approval, which shall not be unreasonably withheld. The Contractor shall only submit invoices for Services requested and approved by the State in writing in advance. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization and identification of the Service; date and location of the Service; and, personnel and hours expended performing the Service.

EXHIBIT B – CONTRACT PRICE, METHOD OF PAYMENT, AND TERMS OF PAYMENT

Upon the satisfactory performance of a Service, and the presentation of a properly documented and undisputed invoice, the State will pay the correct and undisputed invoice within thirty (30) days. Invoices will not be backdated and shall be promptly dispatched.

Invoices shall be sent to:

Department of Revenue Administration
c/o Lisa Crowley, Project Director
109 Pleasant Street, P.O. Box 457
Concord, New Hampshire, 03301
Telephone: (603) 230-5074
Email: lisa.crowley@dra.nh.gov

All payments shall be sent to the following address:

BerryDunn
c/o Charles K. Leadbetter, Principal
100 Middle Street, Portland, ME 04104
Telephone: (207) 541-2249
Email: cleadbetter@BerryDunn.com

4. OVERPAYMENTS TO CONTRACTOR

The Contractor shall promptly, but no later than fifteen (15) business days, return to the State the full amount of any overpayment or erroneous payment upon discovery or notice from the State.

5. CREDITS

The State may apply credits due to the State arising out of this Contract, against the Contractor's invoices, with appropriate information attached.

EXHIBIT C – SPECIAL PROVISIONS

1. CONFLICT OF INTEREST

The Contractor represents and warrants that the Contractor and its Principals have no business, professional, personal, or other interest that would conflict in any manner or degree with the performance of Contractor's obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, the Contractor shall immediately inform the State in writing of such conflict. Notwithstanding any provision of this Agreement to the contrary, if, in the reasonable judgment of the State, such conflict poses a material conflict to or with the performance of the Contractor's obligations under this Agreement, the State may terminate this Agreement immediately after giving the Contractor notice of termination. In the event of such a termination, Contractor shall be entitled only to payment for work actually performed up to the date of the notice of termination.

2. USE OF STATE'S INFORMATION, CONFIDENTIALITY

In performing its obligations under this Agreement, the Contractor may gain access to information of the State, including State Confidential Information. "State Confidential Information" shall include, but not be limited to, information deemed confidential and privileged under RSA 21-J:14 and/or information exempted from public disclosure under RSA Chapter 91-A (see e.g. RSA Chapter 91-A:5 Exemptions). The Contractor shall not use the State Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of this Agreement, except as directly connected to and necessary for the Contractor's performance under this Agreement.

3. STATE AND FEDERAL POLICY COMPLIANCE

In performing its obligations under this Agreement, the Contractor agrees and acknowledges that it must comply with the policies and procedures governing access to and disclosure of confidential information and federal tax information as such are provided in Exhibits D, E, and F or other applicable law.

4. LIMITATION OF LIABILITY

Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations, the State's liability to the Contractor shall not exceed the Price Limitation set forth in Form P-37, block 1.8.

5. TERMINATION FOR CONVENIENCE

Notwithstanding any provision of this Agreement to the contrary, the State may, at its sole discretion, terminate this Agreement for convenience by thirty (30) days written notice to the Contractor. In the event of a termination for convenience, the State shall pay the Contractor the agreed upon price for Services provided prior to the date of termination.

EXHIBIT C – SPECIAL PROVISIONS

6. TERMINATION PROCEDURE

6.1. In the event of an early termination of this Agreement for any reason other than the completion of Services, the State, in addition to any other rights provided in this Agreement (including those in Form P-37, block 10), may require the Contractor to deliver to the State any property, including without limitation, written deliverables and other information produced by the Contractor while performing the Health Assessments.

6.2. After receipt of a notice of termination, and except as otherwise directed by the State, the Contractor shall:

a) Stop work under this Agreement on the date, and to the extent specified, in the notice;
b) Take such action as the State directs, or as necessary to preserve and protect the property related to this Agreement which is in the possession of the Contractor and in which the State has an interest;
c) Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to the State and which has been accepted or requested by the State;
d) Provide written Certification to the State that the Contractor has surrendered to the State all said property; and
e) Assist in Transition Services, as reasonably requested by the State at no additional cost.

7. 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 Form P-37, blocks 1.2 and 1.4.

8. CHANGE OF OWNERSHIP

In the event that the Contractor should change ownership for any reason whatsoever, the State shall have the option of continuing under this Agreement with the Contractor, its successors or assigns for the full remaining term of this Agreement; continuing under this Agreement with the Contractor, its successors or assigns for such period of time as determined necessary by the State; or immediately terminating this Agreement.

9. SURVIVAL

The terms, conditions and warranties contained in this Agreement that are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

EXHIBIT D – STATE CONFIDENTIAL INFORMATION

The Contractor acknowledges that its performance of the Contract includes access to Confidential Information, including, but not limited to, any information obtained from the State's records, files, or returns, that is subject to state or federal laws/rules restricting the access, use, and disclosure of Confidential Information, including, but not limited to, RSA 21-J: 14 and Internal Revenue Code Sections 7213 and 7213A. The Contractor also acknowledges that its access to Confidential Information is subject to Exhibit E- Dep't of Revenue Administration Policy No. 16-007, "Contractor Disclosures of Taxpayer and Department Information," and Exhibit C- Special Provisions, which are incorporated herein by reference. The Contractor shall ensure that every employee or subcontractor with access to Confidential Information has read, understands, and has signed Dep't of Revenue Administration Policy No. 16-007, "Contractor Disclosures of Taxpayer and Department Information," and shall provide copies of the signed document upon request of the State.

The Contractor agrees to hold and maintain Confidential Information in strictest confidence for the sole and exclusive benefit of the State. The Contractor shall not use Confidential Information except for the purpose of performing its obligations under the Contract, and shall not disclose Confidential Information in any manner to any person without prior written approval of the State. The Contractor shall immediately notify the State upon request for any Confidential Information, regardless of whether disclosure is permitted or required by judicial decree or state or federal laws/rules.

The Contractor shall implement, maintain, and use safeguards to protect Confidential Information from any unauthorized use or disclosure in at least the same manner and to the same degree the Contractor protects its own confidential information. The Contractor shall carefully restrict access to Confidential Information to the Contractor's Project Team, and shall advise those persons that they are prohibited from using Confidential Information except for the purpose of performing the Contractor's obligations under the Contract, and from disclosing Confidential Information. It is unlawful for any officer or employee of the Contractor willfully to disclose Confidential Information to any person. Any violation of RSA 21-J:14 or Internal Revenue Code Sections 7213 or 7213A is punishable upon conviction by a fine or imprisonment or both.

In the event of any unauthorized use or disclosure of Confidential Information, the Contractor shall immediately (which in no case shall be more than one (1) business day) notify the State both orally and in writing. The State shall investigate whether an offense has been committed in accordance with Exhibit E - Dep't of Revenue Administration Policy No. 16-007, "Contractor Disclosures of Taxpayer and Department Information," which is incorporated herein by reference. Any such offense is an Event of Default. The Contractor's failure to immediately notify the State both orally and in writing of any unauthorized use or disclosure of Confidential Information is also an Event of Default, regardless of whether the State determines that an offense has been committed. Upon the occurrence of an Event of Default, the State may immediately treat the Contract as breached and pursue any remedies at law or in equity or both.

If any provision of this Section conflicts with any provision of the Agreement, the provision of this Section shall govern.

EXHIBIT E – STATE POLICY NO. 16-007

Contractor Disclosures of Taxpayer and Department Information

NOTE: This Policy and Procedure is intended for the use of the Department of Revenue Administration and its contactors and vendors and is not intended to establish any higher standard of care in any civil or criminal court proceeding or action than is otherwise provided by applicable state or federal law.

I. PURPOSE

The purpose of this Policy and Procedure is to set forth the policy for required contractor contract terms relevant to the disclosure of taxpayer and Department of Revenue Administration (DRA) information, the procedure for a contractor to report disclosures of taxpayer or DRA information, and the investigatory procedure when a contractor disclosure incident is reported.

This Policy on Contractor Disclosure of Taxpayer and DRA Information ("Policy") shall be read in a manner that is consistent with state and federal law, including RSA 21-J:14 and Internal Revenue Code Sections 7213 and 7213A, as well as state administrative rules governing both the confidentiality of taxpayer information and procurement, and all relevant contracts including contracts for the exchange of information with the federal government and other states. In instances where this policy conflicts with the aforementioned authorities, those authorities shall govern.

For purposes of this Policy, the term "contractor" shall mean any individual or organization, including employees and subcontractors that the DRA contracts with for the provision of goods or services that does or may have access to any DRA information, including taxpayer records, files, returns, or return information. The term shall include any employee of a temporary employment or staffing agency assigned to work at the DRA.

II. POLICY

Any DRA information, including taxpayer records, files, returns, or return information contained in the records of the DRA or the contractor, or developed by the contractor through its activities on behalf of the DRA, is confidential and privileged pursuant to RSA 21-J:14, even in instances where identical information is public information in another individual's or organization's records. The use of such confidential information for purposes other than for tax administration on behalf of the DRA is a violation of New Hampshire RSA 21-J:14 and, when federal tax information is involved, United States Internal Revenue Code (IRC) Sections 7213 and 7213A. A willful violation of RSA 21-J:14 constitutes a class A misdemeanor, punishable in accordance with RSA 626:2. A willful violation of IRC Sections 7213 and 7214A may constitute up to a felony.

An impermissible disclosure includes, but is not limited to: (1) disclosing taxpayer information or DRA records or files to an individual or entity not authorized to receive it under RSA 21-J:14; (2) accessing taxpayer information or DRA records or files that exceeds what is necessary for the contractor to perform the services the contractor has been contracted to provide the DRA (each

contractor employee shall access only that information that is necessary to perform that employee's individual job duties); (3) comingling taxpayer information or DRA records or files with any other files or records of the contractor; and (4) misusing, abusing, losing, or damaging the DRA's records or information, including the failure to safeguard records, files, returns, or return information contained in the records of the contractor, or developed by the contractor.

The severity of an impermissible disclosure will depend upon the extent to which the disclosure may compromise the DRA's proprietary information, the extent and type of information lost or destroyed, whether the impermissible disclosure was made for personal gain, the extent to which the loss of information impacts the DRA, the extent of the risk of identity theft, the failure to encrypt or protect passwords, the failure to cooperate in the investigation, the failure to report any known or suspected impermissible disclosure, and the number of previous impermissible disclosures by the contractor.

It is the policy of the DRA that contracts include provisions addressing the contractor's obligations with respect to taxpayer and DRA information as outlined below. It is also the policy of the DRA that impermissible contractor disclosures of taxpayer or DRA information are to be reported and investigated in accordance with the procedures below.

III. PROCEDURES

A. REPORTING DISCLOSURE INCIDENTS

1. When a contractor knows or suspects that an impermissible disclosure has been made by the contractor or one of the contractor's employees or subcontractors, the following procedure shall govern:
    a. The contractor shall immediately report the incident to the DRA.
    b. The DRA employee that receives the report shall immediately notify the Assistant Commissioner of the incident and all facts and documentary evidence provided by the contractor.
2. When a DRA employee receives notification or other information from anyone other than the contractor indicating that an impermissible disclosure has or may have been made by the contractor or one of the contractor's employees or subcontractors, the following procedure shall govern:
    a. The DRA employee that receives the notification or other information indicating that an impermissible disclosure has or may have occurred shall immediately notify the Assistant Commissioner of the incident and all facts and documentary evidence provided by the person reporting the incident.
    b. The Assistant Commissioner shall immediately notify the contractor that a potential disclosure incident has been reported and that an investigation shall be conducted.

EXHIBIT E – STATE POLICY NO. 16-007

Contractor Disclosures of Taxpayer and Department Information

B. INVESTIGATING REPORTED INCIDENTS

When the Assistant Commissioner's Office receives a report of an incident, the following procedure shall govern:

1. The Assistant Commissioner shall review the information and documents provided by the reporting party and request that the Internal Auditor conduct an investigation of the incident.
2. The Internal Auditor shall interview the contractor, any employee or subcontractor of the contractor, and any other individual believed to have information relating to the incident. The Internal Auditor shall request:
   i. All documentation concerning the incident;
   ii. The names of all employees or other individuals believed to have knowledge of the incident; and
   iii. Any further information that the Internal Auditor deems necessary to evaluate the incident.
3. The Internal Auditor shall conduct any further research and interviews necessary to investigate the incident.
4. At the close of the investigation, the Internal Auditor shall complete and sign a Vendor Disclosure Investigation Report ("VDIR") and submit the completed VDIR to the Assistant Commissioner's office.
5. Upon receipt of the completed and signed VDIR from the Internal Auditor, the Assistant Commissioner shall review the VDIR and determine whether the VDIR contains enough information to determine whether the incident was an impermissible disclosure. If the VDIR requires further information, the Assistant Commissioner shall refer it back to the Internal Auditor with written instructions on the additional information required. The Internal Auditor shall file the requested additional information with the Assistant Commissioner upon obtaining the requested information.
6. Once the VDIR is complete, the Assistant Commissioner shall perform an analysis to determine whether an impermissible disclosure has occurred. If an impermissible disclosure has not occurred, the Assistant Commissioner shall so notify the contractor. If an impermissible disclosure has occurred, that finding shall be issued and referred to Revenue Counsel for consultation on the appropriate response.

EXHIBIT F – FEDERAL TAX INFORMATION
CONTRACT LANGUAGE FOR GENERAL SERVICES

I. PERFORMANCE

In performance of this contract, the Contractor agrees to comply with, and assume responsibility for compliance by his or her employees, with the following requirements:

(1) All work will be performed under the supervision of the contractor or the contractor's responsible employees.

(2) The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

(3) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.

(4) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

(5) No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.

(6) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

(7) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

II. CRIMINAL/CIVIL SANCTIONS

(1) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

(2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (*see* Exhibit 4, *Sanctions for Unauthorized Disclosure*, and Exhibit 5, *Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.