

ADMINISTRATIVE OFFICE  
45 SOUTH FRUIT STREET  
CONCORD, NH 03301-4857



GEORGE N. COPADIS, COMMISSIONER  
RICHARD J. LAVERS, DEPUTY COMMISSIONER

July 22, 2021

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

**REQUESTED ACTION**

To authorize New Hampshire Employment Security ("NHES" or "Department") to enter into a contract with Bailinson Law PLLC ("Bailinson"), Warner, NH, in an amount not to exceed \$40,000.00, to provide Administrative Hearing services related to claimant eligibility for Unemployment Compensation benefits, effective upon the date of Governor and Council approval through December 31, 2021. 100% Federal Funds.

Federal funding is available in State FY 2022 as follows:

<b>02-27-27-270010-8040</b>	<b>DEPT OF EMPLOYMENT SECURITY</b>	<b><u>SFY 2022</u></b>
10-02700-80400000-102-500731	Contracts for Program Services	\$40,000

**EXPLANATION**

The COVID-19 crisis resulted in an unprecedented volume of claims for regular state Unemployment Compensation and other unemployment benefits available under federal programs. Determinations of eligibility for such benefits are made in the first instance by the Department's Certifying Officers. Claimants and, in some cases, employers, have statutory rights to appeal such determinations. Appeals are adjudicated by the Department's Appeal Tribunal Chairs ("AT" or the "Tribunal"). See RSA 282-A:53. The Department has a need to supplement its Appeal Tribunal staffing in order to respond to an extremely high volume of first level appeals and also requires additional support for second level appeals to the Commissioner as further described below.

The Department engaged in a competitive selection process using a Request for Proposals. Of five proposals received, four participants met the standards for selection, including providing a competitive governmental hourly rate. Prior to engaging in this process, the Department did go to great lengths to increase state staffing to fill this need, going from four (4) hearing officers to fourteen (14). The additional attorneys for which approval is being sought with this contract will further supplement this effort in order to address this temporary increase in workload as expeditiously and as competently as possible.

Under the terms of the contract, Bailinson will provide qualified attorneys licensed and in good standing with the State of New Hampshire to process and adjudicate first level appeals by conducting administrative hearings and issuing decisions, acting by designation as the Appeal Tribunal Chairperson with respect to such proceedings. Although Chairpersons are generally required to be employees of NHES, or "merit staff" as provided in federal law, the Families First Coronavirus Response Act ("FFCRA") granted the States and U.S. Territories emergency flexibility with respect to the use of non-merit staff to adjudicate unemployment claims. Any work to be performed shall be limited by the duration of the flexibilities afforded by the FFCRA, CARES Act, CAA and successor legislation and guidance.

In order to assist NHES in more efficiently managing the appellate process, the contractor may also be asked to provide qualified attorneys to review second level appeals (referred to as "requests to reopen"), based on the administrative hearing record as the Commissioner's designee with respect to such proceedings.

In the event Federal funds become no longer available, General funds will not be requested to support this contract.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George N. Copadis", written in a cursive style.

George N. Copadis  
Commissioner

**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**

**IDENTIFICATION**

1.1 State Agency Name New Hampshire Employment Security ("NHES")		1.2 State Agency Address 85 South Fruit Street Concord, NH 03301	
1.3 Contractor Name Ballinson Law PLLC		1.4 Contractor Address 822 Rte. 103E Warner, NH 03278	
1.5 Contractor Phone Number 603-540-3977	1.6 Account Number 364383	1.7 Completion Date December 31, 2024	1.8 Price Limitation \$40,000.00
1.9 Contracting Officer for State Agency George Copalia, Commissioner		1.10 State Agency Telephone Number 603-224-8311	
1.11 Contractor Signature  Date: 7/23/21		1.12 Name and Title of Contractor Signatory David B. Bessie, Esq.	
1.13 State Agency Signature  Date: 7/23/21		1.14 Name and Title of State Agency Signatory George Copalia, Commissioner	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ On: _____ Director Onr			
1.16 Approval by the Agency General (Form, Substance and Execution) (if applicable) By: _____ On: 7/22/21			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

**2. 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 B 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 1.17, 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 1.13 ("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 affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. 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 reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source 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 C 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 applicable 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 employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property 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 The Contractor 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 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 cured, 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 give the Contractor a written notice specifying the Event of Default and 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 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. 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.

## 9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, 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 B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

## 10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 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, formulas, 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.

10.2 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.

10.3 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.

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.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor Initials

Date

DB  
7/24/21

Contractor, or subcontractors, including but not limited to the negligence; reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. 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 continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial 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 or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 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 ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

#### 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. The 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. 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.

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

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and 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. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

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 or modifying provisions set forth in the attached EXHIBIT A 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 with respect to the subject matter hereof.

**EXHIBIT A**

**1 ADDITIONAL PROVISIONS**

The following are addition provisions to those included in Standard State Contract form, P-37:

1.1 Contract Documents

This Contract Agreement is comprised of the following documents:

- A. Form P-37 General Provisions and Exhibit A, B, and C
- B. RFP # NHES 2021-04 Administrative Hearing Services
- C. Contractor's Proposal dated May 6, 2021

In the event of conflict or ambiguity among any of the text of the Contract Documents, the P-37 will control.

1.2 Confidentiality

Each Qualified Attorney agrees to maintain the confidentiality of data obtained in the course of the attorney's work under this Agreement and to comply with all federal and state law regarding the confidentiality of such information. It should be understood, without any reservation, that unless you have been specifically authorized to release confidential information by NHES you are prohibited from doing so. All requests for information should be referred to NHES. To reveal information made confidential by statute, will immediately place your contract in jeopardy and also make likely criminal prosecution as provided for in RSA 282-A:121.

1.3 Criminal Record

Contractor and each of its employees working on NHES property will be required to sign and submit **STATEMENT OF CONFIDENTIALITY OF RECORDS FORM** and a **CRIMINAL RECORD AUTHORIZATION FORM** prior to the start of any work. There is a fee for each background check required, which must be paid by the Contractor.

1.3. Termination

1.3.1 This contract shall terminate automatically and Contractor shall return all materials to NHES if federal authorization to utilize non-merit staff to adjudicate unemployment claims is revoked.

1.3.2 Either party may terminate this agreement at any time. The party requesting termination must give the other party written notice, by certified mail, to so terminate at least sixty (60) days prior to effective date of termination.

1.4 NH Certificate of Good Standing

Contractor must provide a **CERTIFICATE OF GOOD STANDING** from the NH Secretary of State.

1.5 Certification Regarding Debarment, Suspension and Other Responsibility Matters in Primary Covered Transactions

Contractor certifies that the primary participant, and its principals, to the best of its knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or State agency. Contractor will inform NH Employment Security of any changes in the status regarding this statement.

1.6 Davis-Bacon Act (if applicable)

Davis-Bacon Act and Related Acts, apply to contractors and subcontractors performing on federally funded/assisted contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating) of public buildings or public works. Under these Acts, contractors and sub-contractors must pay laborers and mechanics prevailing wages and fringe benefits for corresponding work on similar projects in the area as determined by the Department of Labor. When there is no Davis-Bacon assignment, applicable Wage Determination is realized by using the lowest skilled craft above laborer, excluding power equipment rate.

1.7 American with Disabilities Act

The undersigned Contractor agrees to comply with all Federal, State and Local ADA rules and regulations.

1.8 Damage (if applicable)

Contractor will agree that any damage to building(s), materials, equipment and/or other property during the performance of service will be repaired at Contractor's expense. Contractor agrees to return all building(s), materials, equipment and/or property to its original or better condition and with acceptance by a representative of NHES. Contractor agrees to obtain approval of NHES representative assigned to project for any sub-contractor performing such repair work.

1.9 Payment Bond/Miller Act (if applicable)

Contractor agrees to comply with The Miller Act bond requirement and NH RSA 447:16. A payment bond, with surety satisfactory for protection of all persons supplying labor and materials in carrying out construction, alteration, or repair work provided for in the contract may be required. Amount of payment bond will equal total amount payable by terms of contract unless officer awarding contract determines, in writing, that a payment bond in that amount is impractical, in which case contracting officer will set amount of payment bond. Amount of bond will not be less than total amount of contract. A Payment Bond is required for contracts \$30,000 or greater. A Performance Bond is required for contracts totaling \$100,000 or greater.

1.10 Non-discrimination

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*Administrative Hearing Services*

In connection with the furnishing of services under the Contract, the Contractor agrees to comply with all laws, regulations, and orders of federal, state, county or municipal authority which impose any obligations or duties upon the Contractor, including but not limited to civil rights laws, non-discrimination laws and equal opportunity laws. During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, disability, national origin, marital status or veteran status, and will take appropriate steps to prevent such discrimination.

1.11 Vendor Application/Alternate W-9

In connection with this Contract, the Contractor shall have completed and filed a Vendor Application and Alternate W-9 Form with the New Hampshire Bureau of Purchase and Property.

1.12 Contract Work Hours and Safety Standards Act (if applicable)

For contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, the Contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

1.13 Rights to Inventions Made Under a Contract or Agreement (if applicable)

Contractor agrees to comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

1.14 Clean Air Act and the Federal Water Pollution Control Act (if applicable)

For contracts in excess of \$150,000, the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

1.15 Byrd Anti-Lobbying Amendment (if applicable)

For contracts in excess of \$100,000, the Contractor certifies it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence

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an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award/contract.

1.16 Never Contract with the Enemy

Pursuant to 2 CFR 183.300, none of the funds received under contract with NHES shall be provided directly or indirectly to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

1.17 Prohibition on Certain Telecommunications and Video Surveillance Services and Equipment

Pursuant to 2 CFR 200.216, none of the funds received under contract with NHES shall be used to procure or obtain equipment, services, or systems that use(s) covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunication equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

1.18 Stevens Amendment

This contract with NHES may be supported in part or in whole by the Employment and Training Administration (ETA) of the United States Department of Labor (USDOL) as part of awards received.

**2 CHANGED PROVISIONS**

The following provisions of Standard State Contracting Form, P-37 are amended as follows:

11. Insurance

In light of the services to be provided, NHES agrees to accept commercial general liability insurance in amounts of not less than \$1,000,000 per occurrence and \$1,000,000 aggregate.

12. Assignment/Delegation/Subcontracts

Contractor will not assign, subcontract or otherwise transfer any duty, obligation, or performance required by this Agreement other than to Qualified Attorneys identified in Contractor's Proposal.

DATED: 7/23/21

  
DAVID BAILLESON, Esq.

EXHIBIT B

**2 SCOPE OF SERVICES**

**2.1 Overview**

New Hampshire Employment Security ("NHES") administers all aspects of the State of New Hampshire's Unemployment Compensation ("UC") System under RSA Chapter 282-A and related federal statutes and regulations, including the determination and adjudication of individuals' eligibility for UC benefits and for benefits provided under the Federal CARES Act ("CARES Act"), the Continued Assistance for Unemployed Workers Act of 2020 ("CAA"), the American Rescue Plan Act of 2021 ("ARPA") and any amendments or successors thereto, and the Lost Wages Assistance Program ("LWA") established by President's Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (8/8/2020) (the "Presidential Memorandum") (collectively, the "Programs").

The COVID-19 crisis resulted in an unprecedented volume of claims for UC and other unemployment benefits under the Programs. Determinations of eligibility for such benefits are made in the first instance by the Department's Certifying Officers. Claimants and, in some cases, employers, have statutory rights to appeal such determinations. Appeals are adjudicated by the Department's Appeal Tribunal Chairs ("AT" or the "Tribunal"). See RSA 282-A:53. The Department has a need to supplement its AT staffing in order to respond to an extremely high volume of first level appeals and also requires additional staffing support for second level appeals to the Commissioner as further described below.

The Department is engaging Contractor to provide qualified attorneys to process and adjudicate a portion of the first level appeals by conducting administrative hearings and issuing decisions, acting by designation as the AT with respect to such proceedings. For purposes of this contract, "Qualified Attorneys" will be those attorneys submitted and approved in connection with the Contractor's proposal. Although ATs are generally required to be employees of NHES, or "merit staff" as provided in federal law, the Families First Coronavirus Response Act ("FFCRA") granted the States and U.S. Territories emergency flexibility with respect to the use of non-merit staff to adjudicate unemployment claims. Any work to be performed under this Contract shall be limited by the duration of the flexibilities afforded by the FFCRA, CARES Act, CAA and successor legislation and guidance.

RSA 282-A:48 enables any interested party to appeal a determination of a Certifying Officer to an Appeal Tribunal. RSA 282-A:56, and the Administrative Rules adopted pursuant thereto, provide the procedures to be followed for all appeal hearings and shall be followed in proceedings handled by the Contractor. See Emp 207, Practice and Procedure. Qualified Attorneys shall receive training on the procedures to be followed in conducting the appeal hearings.

RSA 282-A:60 provides that an interested party may request the decision of the Appeal Tribunal be reopened in certain circumstances. "The commissioner may, upon written request of an interested party or upon his own initiative, in any case in which a decision has been rendered, reopen the case on the basis of fraud, mistake, or newly discovered evidence." Depending upon

Contractor's Initials: OB  
Date: 7/24/21

*Administrative Hearing Services*

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the relative volumes of appeals at the first and second levels, and the continuation of emergency flexibilities for non-merit staff, the Contractor may be asked to provide Qualified Attorneys to review applicable records and prepare reopening decisions as provided at RSA 282-A:60, acting as the Commissioner's designee. Additional training on process and applicable New Hampshire case law will be provided, as needed, for contractors who will be preparing reopening decisions.

In order to assist NHES in more efficiently managing the appellate process, and ensure prompt payment of benefits to eligible claimants, following training on Unemployment Insurance law and procedures, Contractor shall provide Qualified Attorneys to conduct administrative hearings and issue decisions acting by designation as the AT or, based on the hearing record, shall review requests to reopen as Commissioner's designee with respect to such proceedings.

## **2.2 Deliverables**

Prior to the first of each month, Contractor will provide NHES with each Qualified Attorney's availability to conduct hearings for that month.

Based on Qualified Attorneys' availability, NHES will schedule and notice administrative hearings to the appealing and interested parties. State Administrative Rule Emp. 202.01(c) requires notice to interested parties at least eight (8) days prior to the hearing.

Once a hearing has been scheduled, NHES will provide the Qualified Attorney a hearing file, consisting of interested parties' contact information, determination(s) under appeal, other determinations, if any, related to the appeal, benefit payment summary, any documents filed by the interested parties, and any other documents necessary to consideration of the appeal.

NHES will also provide the Qualified Attorney a digital recording device.

Prior to the hearing, Qualified Attorney is expected to review the hearing file and be prepared to enter Department exhibits if needed.

Qualified attorney will conduct a telephonic appeal hearing in accordance with the provisions of RSA 282-A: 53-57, State Administrative Rules Emp. 207, and training received from NHES.

Following closure of the record under Emp. 207.30, the Qualified Attorney shall write a decision, in accordance with federal Department of Labor Quality Assurance standards and NHES template, including relevant factual and legal findings.

Unless the hearing is continued or otherwise postponed in accordance with the Administrative Rules, Contractor shall return the hearing file, electronic recording, and written decision within 30 days of receipt of the hearing file from NHES.

Reopening decisions shall also be prepared and returned within 30 days of receipt of the Appeal Tribunal record and reopening request.

Contractor's Initials DB

Date: 7/21/21

EXHIBIT C

3 PRICE TERMS

Contractor shall provide a monthly invoice of hours for each Eligible Attorney. Eligible Attorney's rates shall be those stated in Contractor's proposal, as follows:

Eligible Attorney	Rate
David I. Bailinson	\$125.00/Hour

Invoices should be addressed to: New Hampshire Employment Security  
ATTN: Fiscal Management Section  
Concord, NH 03301

Invoices should be e-mailed to: [accountspayable@nhes.nh.gov](mailto:accountspayable@nhes.nh.gov)

NHES will make payment within thirty (30) days following receipt of approved invoices in accordance with the normal State payment process.

Contractor's Initials: DB

Date: 7/21/21

I, DAVID BAILINSON, hereby certify that I am the sole Partner, Member or  
(Name)

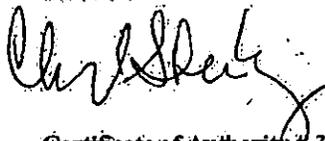
Manager and the sole officer of Bailinson Law PLLC a limited liability partnership  
(Name of Partnership or LLC)

under RSA 304-B, a limited liability professional partnership under RSA 304-D, or a limited liability company under RSA 304-C.

I certify that I am authorized to bind the partnership or LLC. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the partnership or LLC and that this authorization shall remain valid for thirty (30) days from the date of this Corporate Resolution.

DATED: 7/4/2021

ATTEST:



Certificate of Authority 3.3



**CHERYL S. STEINBERG**  
JUSTICE OF THE PEACE  
STATE OF NEW HAMPSHIRE  
My Commission Expires January 22, 2023

(Limited partnership, Limited liability professional partnership, or LLC)

# State of New Hampshire

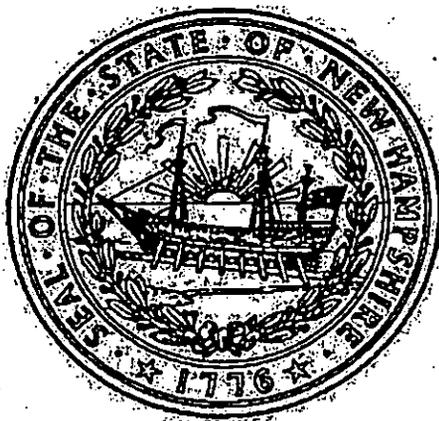
## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that BAILINSON LAW P.L.L.C. is a New Hampshire Professional Limited Liability Company registered to transact business in New Hampshire on July 30, 2018. 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: 800085

Certificate Number: 0005412067



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 22nd day of July A.D. 2021.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State



**AXIS PRO®**  
**LAWYERS PROFESSIONAL LIABILITY**  
**INSURANCE POLICY**  
**DECLARATIONS**

THIS IS A CLAIMS MADE POLICY. IT APPLIES ONLY TO THOSE CLAIMS THAT ARE FIRST MADE DURING THE POLICY PERIOD AND ANY APPLICABLE EXTENDED REPORTING PERIOD, AS THOSE TERMS ARE DESCRIBED IN THIS POLICY. PLEASE REVIEW THIS POLICY CAREFULLY AND DISCUSS THIS COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

EXCEPT AS OTHERWISE SET FORTH IN THIS POLICY, CLAIM EXPENSES REDUCE THIS POLICY'S LIMITS OF LIABILITY AND ARE SUBJECT TO THE POLICY'S DEDUCTIBLE.

**MATURITY:**

DURING THE FIRST SEVERAL YEARS OF THE CLAIMS MADE RELATIONSHIP, CLAIMS MADE RATES ARE COMPARATIVELY LOWER THAN OCCURRENCE RATES, AND INSUREDS CAN EXPECT SUBSTANTIAL ANNUAL PREMIUM INCREASES, INDEPENDENT OF OVERALL RATE LEVEL INCREASES, UNTIL THE CLAIMS MADE RELATIONSHIP REACHES MATURITY.

<b>COMPANY:</b> AXIS Insurance Company	<b>POLICY NUMBER:</b> 021515-0121								
<b>Item 1. Named Insured:</b> Ballinson Law PLLC 855 Route 103 E Warner, NH 03278	<b>Item 2. Policy Period:</b> Inception Date: 7/02/2021 Expiration Date: 7/02/2022 <i>Both dates at 12:01 a.m. Standard Time at the address listed in Item 1.</i>								
<b>Item 3. Limits of Liability:</b> \$1,000,000 each Claim \$1,000,000 Aggregate	<b>Item 4. Deductible:</b> \$5,000 each Claim								
<b>Item 5. Retroactive Date:</b> 7/02/2021	<b>Item 6. Premium:</b> \$677.00								
<b>Item 7. Notices to Company:</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> <u>Notice of Claim To Be Sent To:</u>             AXIS Professional Insurance            300 Connaiff Drive, Suite 6000            Berkeley Heights, NJ 07922-0357            Email: AttyAdvClaimNoticeBH@axiscapital.com         </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> <u>All Other Notices To Be Sent To:</u>             Aon Affinity Insurance Services, Inc.            1100 Virginia Drive, Suite 250            Fort Washington, PA 19034-3278            Fax: 312.381.0875            Email: AffinityLawyersAdmin@aon.com         </td> </tr> </table>		<u>Notice of Claim To Be Sent To:</u>  AXIS Professional Insurance 300 Connaiff Drive, Suite 6000 Berkeley Heights, NJ 07922-0357 Email: AttyAdvClaimNoticeBH@axiscapital.com	<u>All Other Notices To Be Sent To:</u>  Aon Affinity Insurance Services, Inc. 1100 Virginia Drive, Suite 250 Fort Washington, PA 19034-3278 Fax: 312.381.0875 Email: AffinityLawyersAdmin@aon.com						
<u>Notice of Claim To Be Sent To:</u>  AXIS Professional Insurance 300 Connaiff Drive, Suite 6000 Berkeley Heights, NJ 07922-0357 Email: AttyAdvClaimNoticeBH@axiscapital.com	<u>All Other Notices To Be Sent To:</u>  Aon Affinity Insurance Services, Inc. 1100 Virginia Drive, Suite 250 Fort Washington, PA 19034-3278 Fax: 312.381.0875 Email: AffinityLawyersAdmin@aon.com								
<b>Item 8. Endorsements Effective at Inception:</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">ALPL-101 (09-14)</td> <td style="width: 25%;">ALPL-323 (09-14)</td> <td style="width: 25%;">ALPL-324 (09-14)</td> <td style="width: 25%;">ALPL-400 NH (09-14)</td> </tr> <tr> <td>ALPL-401 NH (09-14)</td> <td>ALPL-504 (09-14)</td> <td>ALPL-506 (09-14)</td> <td>ALPL-509 (09-14)</td> </tr> </table>		ALPL-101 (09-14)	ALPL-323 (09-14)	ALPL-324 (09-14)	ALPL-400 NH (09-14)	ALPL-401 NH (09-14)	ALPL-504 (09-14)	ALPL-506 (09-14)	ALPL-509 (09-14)
ALPL-101 (09-14)	ALPL-323 (09-14)	ALPL-324 (09-14)	ALPL-400 NH (09-14)						
ALPL-401 NH (09-14)	ALPL-504 (09-14)	ALPL-506 (09-14)	ALPL-509 (09-14)						

