



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF BUSINESS AND ECONOMIC AFFAIRS
100 NORTH MAIN STREET, SUITE 100
CONCORD, NH 03301**

DATE OF CHANGE: May 1, 2023

ADDENDUM # 1 TO BID INVITATION # 2023-15

DATE OF BID CLOSING: 05/15/2023 TIME OF BID CLOSING: 3:00 PM (EST)

FOR: NH Digital Equity Planning Grant Plan (Infrastructure Investment and Jobs Act)

CURRENTLY READS:

The selected Applicant will be required to provide, in a timely manner, all documents necessary for approval of the contract by the Governor, including, but not limited to:

- 1) A current Certificate of Good Standing from the NH Secretary of State
- 2) A notarized Certificate of Authority for the individual signing the contract
- 3) A Certificate of Insurance naming the State of New Hampshire, Department of Business and Economic Affairs as an additional insured and reflecting the following required coverage:
 - i) Comprehensive General Liability Insurance. The coverage shall have appropriate riders 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;
 - ii) Automobile liability coverage; and iii) State of New Hampshire Workers' Compensation, as defined by the state.
- 4) A performance bond meeting the following requirements:
 - i) The bond shall be in an amount equal to the total project's cost; ii) The bond shall be in place for the duration of construction of the award contract and for 3 months after acceptance by the State;
 - iii) The bond must be in the form and substance satisfactory to the State and shall be maintained by the Selected Applicant in full force and effect until three months after project completion and acceptance of the project by the State, as defined by this RFP and the contract;
 - iv) The bond shall be issued by a licensed insurance company authorized to do business in the State of New Hampshire and made payable to the State of New Hampshire. The performance bond shall contain the contract number and dates of performance; and
 - v) The bond shall be executed by the Selected Applicant and their Surety or Sureties, guaranteeing complete execution of the award contract and all supplemental agreements pertaining thereto including the payment of all legal debts pertaining to the project.
 - vi) The Selected Applicant shall bear the full expense of the bond.

CHANGE TO READ:

The selected Applicant will be required to provide, in a timely manner, all documents necessary for approval of the contract by the Governor, including, but not limited to:

- 1) A current Certificate of Good Standing from the NH Secretary of State
- 2) A notarized Certificate of Authority for the individual signing the contract
- 3) A Certificate of Insurance naming the State of New Hampshire, Department of Business and Economic Affairs as an additional insured and reflecting the following required coverage:
 - a. Comprehensive General Liability Insurance. The coverage shall have appropriate riders 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;
 - b. Automobile liability coverage; and iii) State of New Hampshire Workers' Compensation, as defined by the state.

CURRENTLY READS:

- A written one-page introductory statement including:
 - Experience in providing services as described in Section 3.
 - Expertise of participating personnel including, but not limited to, those identified in Attachment A and a description of training and development programs that ensure all personnel assigned to contract are capable and qualified.

CHANGE TO READ:

- A written introductory statement **not to exceed three (3) pages** including:
 - Experience in providing services as described in Section 3.
 - Expertise of participating personnel including, but not limited to, those identified in Attachment A and a description of training and development programs that ensure all personnel assigned to contract are capable and qualified.

Question 1:

We noticed a requirement that the selected consultant provide a certificate of good standing from the State of New Hampshire in order to proceed. Are you all only looking for New Hampshire based companies to respond to this Request for Proposal (RFP), or can we provide a certificate from the state in which we're incorporated?

State Response:

The selected Contractor will need to register with the New Hampshire Secretary of State and provide a certificate of good standing in order to proceed.

Question 2:

There is significant overlap in both outreach requirements and in content for the Broadband Equity, Access, and Deployment (BEAD) and Digital Equity plans, so coordinating efforts will be critical to avoid duplication and over-burdening stakeholders with outreach. How do you envision incorporating this engagement into your overall BEAD and Digital Equity planning efforts?

State Response:

Engagement overlap may not be avoidable but can be minimized. Per the BEAD Notice of Funding Opportunity (NOFO), the Digital Equity Plan must be incorporated into the State’s Five-year Action Plan.

Question 3:

What is the State’s planned sequencing of the Digital Equity Plan & Five-year BEAD funding plan creation (e.g., will they happen simultaneously, is the BEAD plan already complete)?

State Response:

The State’s Five-year Action Plan hasn’t been completed. The BEAD RFP was recently released on April 24th, 2023. The Digital Equity Plan must be incorporated into the State’s Five-year Action Plan.

Question 4:

Are there specific activities that the team putting together the Digital Equity Plan will be expected to coordinate and/or execute together with the BEAD funding plan team (e.g., determining existing barriers for certain populations, development of an outreach strategy)?

State Response:

No, not necessarily. The Digital Equity (NOFO) Attachment G will need to be followed.

Question 5:

Can you please clarify whether applicants should complete and submit Rates and Fees Schedule Attachment B as part of their proposal?

State Response:

Yes, applicants should complete and submit Rates and Fees Schedule Attachment B as part of their proposal.

Question 6:

Do applicants need to provide Form P-37 with their proposal or is this for informational purposes only?

State Response:

No, the P-37 is provided as a reference only. This is the contracting vehicle that will be completed and signed by both the State and selected Contractor.

Question 7:

Where in Contractor Data Sheet Attachment A should we put the list of “participating personnel,” as requested in RFP Section 5 – Content and Requirements for a Proposal?

State Response:

It can be a separate page in the submitted proposal referencing Contractor Data Sheet Attachment A.

Question 8:

Proposal Evaluation Criteria Attachment D, evaluation criteria 2. Approach to Scope of Work states that the evaluation “will include an assessment of the strategy, tactics, and budget that will address the items of the scope of work in the RFP Section 5.” Can you please confirm that this should actually reference RFP Section 3- Proposed Scope of Work instead of Section 5 - Content and Requirements for a Proposal?

State Response:

Please see Section 5 - Content and Requirements for a Proposal, bullet number four on page six, Proposals must address strategy, analysis, tactics, and budget of each item listed in Section 3: Scope of Work.

Question 9:

Our organization’s market-based rates are inclusive of salaries, benefits, overhead and profit. Is this an acceptable rate structure? What information is the New Hampshire Department of Business and Economic Affairs (DBEA) seeking in the “Account Management Fee” narrative in Rates and Fees Schedule Attachment B?

State Response:

Yes, if your firm charges an Account Management Fee then please explain in detail what will be covered in management fee?

Question 10:

The RFP states that applicants should provide an oral presentation of proposed strategy, methodologies, and execution (if requested). Can you please confirm that applicants don’t need to provide oral presentation materials as part of their proposal submission due May 15, 2023?

State Response:

Oral presentation material doesn’t need to be provided with the proposal submission. DBEA can request oral presentations after all submissions have been reviewed.

Question 11:

When will DBEA notify applicants oral interviews are required as part of the evaluation process?

State Response:

DBEA can request oral interviews after all submissions have been reviewed.

Question 12:

Per the DBEA 2023-15 (the “RFP”), the successful vendor is considered a subrecipient of the Digital Equity Planning Grant. However, given the inherent functions of DBEA, it is assessed that the successful vendor would be considered a “contractor” rather than a “subrecipient” in accordance with 2 CFR § 200.331. This interpretation is derived from the conditions therein, specifically parts (a) and (b). Based on the sanctioned authority of DBEA decision-makers, it is understood that the successful vendor will not be responsible for determining who is eligible to receive Federal assistance and will not have responsibility nor have the authority

for programmatic decision-making. Rather, the successful vendor will provide goods and services within normal business operations, with such goods or services being provided to many different purchasers; normally operates in a competitive environment; and provides goods and services that are ancillary to the operation of the State's Federal program. Given this information, can DBEA confirm that the successful vendor is considered a "contractor" rather than a "subrecipient," and therefore, the contract resulting from the RFP will not be considered a "subaward"?

State Response:

The winning entity would be considered a contractor.

Question 13:

Will BEA update Section 10.2 in Form Number P-37 Attachment 4 to the RFP to the following in quotations? "Except for the Contractor's intellectual property, proprietary information, and/or trade secrets, ~~a~~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." The revisions seek to ensure that a Contractor maintains ownership of its intellectual property, proprietary tools, and/or trade secrets, which may be offered under the resultant contract. Such proprietary tools/IP derive independent economic value for the Contractor's organization and the commercial viability of such intellectual property is dependent on not being generally known to the public or third parties.

State Response:

The P-37 is the State's standard contract. Any proposed modifications would take place when the contract is negotiated with the winning entity and subject to New Hampshire Department of Justice approval.

Question 14:

Will DBEA update the first sentence of Section 13 in Form Number P-37 Attachment 4 to the RFP to the following in quotations? "Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all ~~third-party~~ 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)~~ to the extent caused by the acts or omission of the Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct." The revisions seek to limit indemnification obligations to third-party claims. Any claims by the parties to the Contract are covered by the Contract itself rather than a separate indemnification obligation. The revisions also seek to focus the Contractor's obligations to commercially standard covered events.

State Response:

The P-37 is the State's standard contract. Any proposed modifications would take place when the contract is negotiated with the winning entity and subject to New Hampshire Department of Justice approval.

Question 15:

Will DBEA add the following language in quotations to Section 13 in Form Number P-37 Attachment 4 to the RFP? "Except for claims, demands, and actions for personal injury or death or the Contractor's gross negligence

or willful misconduct, the Contractor's liability to the State, its officers and employees related to this Contract is limited to no more than the total amount of fees paid to the Contractor by the State under this Contract. Neither party will be liable for any lost profits or other indirect, consequential, incidental, punitive, or special damages." These edits propose a limitation of liability. Claims for personal injury or death or the Contractor's gross negligence or willful misconduct are carveouts from the proposed limitation of liability as such actions are assessed as egregious actions and unreasonable to subject to a liability cap. Any remaining losses are assessed as measurable, and an allocation of risk of economic loss has been proposed. The Contractor remains open to discussing variations as appropriate in the context of this Contract.

State Response:

The P-37 is the State's standard contract. Any proposed modifications would take place when the contract is negotiated with the winning entity and subject to New Hampshire Department of Justice approval.

Question 16:

Will DBEA be willing to negotiate specific terms of use and/or licensing terms to proprietary tools and solutions that are provided for in a Contractor's proposal to the RFP? Some Contractors anticipate using proprietary tools and solutions to successfully execute the services outlined in the RFP. Such proprietary tools and solutions carry specific terms of use and/or licensing terms to ensure the Contractor maintains ownership of its intellectual property, and that the IP continues to derive independent economic value for the Contractor's organization where the commercial viability of such intellectual property is dependent on not being generally known to the public or third parties.

State Response:

The P-37 is the State's standard contract. Any proposed modifications would take place when the contract is negotiated with the winning entity and subject to New Hampshire Department of Justice approval.

Question 17:

Has DBEA created an advisory committee or core planning team for the Equity Plan? If so, will the contractor be responsible for engaging this committee through its work?

State Response:

An Advisory Committee hasn't been created. The committee will be identified during the proposal period. The contractor will need to follow the Digital Equity NOFO Attachment G for engagement responsibilities.

Question 18:

Does DBEA have a list of organizations, stakeholders, etc. that are part of the covered populations that the contractor can use to begin outreach? Or is the contractor responsible for this initial outreach?

State Response:

DBEA doesn't have a list of organizations, stakeholders, etc. that are part of the covered populations that the contractor can use to begin outreach. The contractor shall be responsible for the initial outreach.

Question 19:

Has any outreach been communicated to any of the covered populations?

State Response:

No, the contractor shall be responsible for outreach to the covered populations.

Question 20:

What structure and support already exists for this digital equity entity? For example, existing advisory committee or data platform.

State Response:

Currently, there is no structure and support that exists for the digital equity entity.

Question 21:

What data already exists and is already planned to incorporate into this assessment and planning process? What additional and complementary secondary data is expected from contracted organization?

State Response:

DBEA recommends that applicants refer to and review the Digital Equity NOFO Attachment G.

Question 22:

What primary data from community members or covered populations (e.g., focus groups, listening groups, community surveys) already exists for incorporation into this assessment and planning process?

State Response:

Primary data from community members or covered populations (e.g., focus groups, listening groups, community surveys) exists from the National Collaborative for Digital Equity's (NCDE) weeklong webinar series, New Hampshire Digital Equity Planning Week.

Question 23:

Would there be interest in a proposal that includes delivery/completion of a plan by September, but that also extends beyond that timeline for ongoing stakeholder engagement and tracking of the plan?

State Response:

DBEA doesn't have interest in a proposal that extends beyond that timeline for ongoing stakeholder engagement and tracking of the plan because the Digital Equity Planning Grant RFP has a maximum funding allocation of \$520,000.00 and the State's Digital Equity Plan Grants Period of Performance expires at the end of September 2023.

Email: dedrfpresponses@livefree.nh.gov

NOTE: ALL CHANGES TO BID SOLICITATION NOTED IN ADDENDUMS WILL SUPERSEDE PREVIOUSLY SUBMITTED DOCUMENTS AND MUST BE SUBMITTED WITH THE BID. ALL OTHER SPECIFICATIONS REMAIN UNCHANGED AND VALID.

BIDDER _____ ADDRESS _____

BY _____
(this document must be signed)

_____ TEL. NO. _____
(please type or print name)

Please visit: <https://das.nh.gov/purchasing/vendorresources.aspx> (click on “Bid and Proposals”) and <https://www.nheconomy.com/office-of-broadband-initiatives/request-for-proposals> for complete bid and addendums.