



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

DATE OF CHANGE: May 5, 2023

ADDENDUM # 1 TO BID INVITATION # 2023-16

DATE OF BID CLOSING: 05/22/2023 TIME OF BID CLOSING: 3:00 PM (EST)

FOR: NH Broadband Equity, Access, and Deployment Grant Plan (Infrastructure Investment and Jobs Act)

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.

CLARIFICATIONS:

Question 1:

The New Hampshire Department of Business and Economic Affairs (DBEA) identifies a deliverable deadline of August 1, 2023, for the Five-Year Action Plan. Could DBEA please clarify if this is the deadline for a drafted deliverable for DBEA, or the final deliverable prepared for submission to National Telecommunications and Information Administration (NTIA)?

State Response:

The Five-Year Action Plan deliverable deadline of August 1, 2023 is for a drafted deliverable to DBEA for review prior to submission.

Question 2:

The final deliverable deadline for the Final Broadband Equity, Access, and Deployment Program (BEAD) Proposal is December 1, 2024, yet the Request for Proposal (RFP) cites an engagement period that extends

through the BEAD period of performance in November 2027. Could DBEA please clarify what the expected engagement of the contractor is from the submission of the final deliverable through the end of the period of performance?

State Response:

The BEAD Planning Funds Grant period of performance is December 1, 2022 to November 30, 2027. The length of the contract will be determined during contract negotiations.

Question 3:

Can a single vendor be awarded both the Digital Equity Planning Grant Plan (RFP 2023-15) and BEAD Grant Plan (RFP 2023-16)?

State Response:

DBEA will review and award each RFP separately. All proposals will be evaluated separately and based on their own, individual merits.

Question 4:

A requirement of the Five-Year Action Plan is that it be available for public comment prior to submission to NTIA. Does DBEA have any requirements around the time that the draft needs to be available to the public, or the methods by which the public must be notified of the opportunity to comment, that must be considered in the project planning?

State Response:

DBEA doesn't have any set requirements, however details can be addressed at contract negotiations.

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:

Will DBEA consider bids that include teaming arrangements among multiple respondents?

State Response:

DBEA anticipates awarding this contract to a single applicant. If the winning contractor partners with other entities, then that is their decision.

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 22, 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 DBEA 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:

What is the expectation for work onsite as a percentage of total time provided?

State Response:

DBEA doesn’t have an expectation for work onsite as a percentage of total time provided.

Question 18:

Will DBEA adopt the NTIA model challenge framework for managing data challenges and changes?

State Response:

Yes, DBEA will adopt the final version of the NTIA model challenge framework for managing data challenges and changes.

Question 19:

Is any preference given for in-state bidders?

State Response:

DBEA recommends applicants refer to the RFP Section 6 Evaluations of Proposals on page ten.

Question 20:

Has DBEA already made relevant investments in this effort in the form of grants, contracts awarded or products procured?

State Response:

No, DBEA hasn't made relevant planning investments in the effort in the form of grants, contracts awarded or products procured.

Question 21:

Does DBEA currently use a "system of record" or "platform of record" to manage all relevant sources of data and/or to target investments into specific eligible areas for federal funds?

State Response:

DBEA has a contract with a broadband mapping consultant. These maps can assist with identifying eligible areas for federal funds.

Question 22:

What software or service does DBEA currently use for "broadband mapping"?

State Response:

DBEA currently has a contract with a broadband mapping consultant, NH Granit, University of New Hampshire for broadband mapping.

Question 23:

Can you please confirm that the DBEA would be responsible for both the challenge process and the execution of the sub-grantee selection process after the Initial Proposal (as outlined in the BEAD Notice of Funding Opportunity), and would provide the results to the contractor to support the development of the final proposal?

State Response:

DBEA will be responsible for both the execution of the BEAD Challenge Process and sub-grantee selection process after the Initial Proposal. DBEA will provide the results of both processes to the contractor to support the development of the BEAD Final Proposal.

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.