



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
25 Capitol Street - Room 120
Concord, New Hampshire 03301
Office@das.nh.gov

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MLC

Charles M. Arlinghaus
Commissioner
(603) 271-3201

Joseph B. Bouchard
Assistant Commissioner
(603) 271-3204

Catherine A. Keane
Deputy Commissioner
(603) 271-2059

July 10, 2019

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

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

REQUESTED ACTION

Pursuant to the provisions of Chapter 145, sub-paragraph I, (a), Laws of 2019, the Department of Administrative Services (DAS) requests authorization to exceed the 3/12 limitation of said resolution for the accounts listed below in the total amount of \$98,010 to the extent shown as projected deficits, for the period of Fiscal Committee and Governor and Council approval through September 30, 2019. **Funding Source: 100% General Funds**

01-14-14-143510-29010000

Department of Administrative Services - Risk Management Unit

Class	Account	Description	Current FY20 Budget	Requested Action	Revised FY20 Budget
Class 10	500100	Personal Service Perm	\$280,968.00	\$0.00	\$280,968.00
Class 11	500126	Personnel Services Unclassified	\$28,028.00	\$0.00	\$28,028.00
Class 18	500106	Overtime	\$5,000.00	\$0.00	\$5,000.00
Class 20	500200	Current Expense	\$2,655.00	\$0.00	\$2,655.00
Class 26	500251	Organizational Dues	\$305.00	\$0.00	\$305.00
Class 30	500300	Equipment New and Replacement	\$125.00	\$0.00	\$125.00
Class 39	500191	Telecommunications	\$2,080.00	\$0.00	\$2,080.00
Class 50	500109	Personal Service Temporary	\$18,325.00	\$0.00	\$18,325.00
Class 60	500602	Benefits	\$177,783.00	\$0.00	\$177,783.00
Class 66	500544	Employee Training	\$895.00	\$0.00	\$895.00
Class 70	500704	In State Travel Reimbursement	\$161.00	\$0.00	\$161.00
Class 80	500710	Out of State Travel Reimbursement	\$1,029.00	\$0.00	\$1,029.00
Class 103	500741	Contracts for Operation Services	\$140.00	\$0.00	\$140.00
Class 210	500756	Bonding Insurance	\$1,625.00	\$6,635.00	\$8,260.00

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Class 211	500757	Catastrophic Casualty Insurance	\$149,625.00	\$91,375.00	\$241,000.00
Total			\$668,744.00	\$98,010.00	\$766,754.00

EXPLANATION

The Risk Management Unit budget in FY2019 includes amounts to pay for certain statewide insurance premiums. The annual insurance premiums are due in full upon the policy renewal date. The annual premium for the statewide State Employee Faithful Performance Bond policy is due in July and the annual premium for the statewide Cyber Security policy is due in August. Due to the timing of the annual policy renewals and premium due dates, the CR does not provide sufficient funding to make the total premium payments. If the Risk Management Unit cannot make the total premium payments on time, it will result in additional interest fees of 5-6% (up to approx. \$5,000) and could require additional contracting with the State's broker to allow for interest payments. Ultimately, failure to pay the full premium upon renewal for either policy will result in a cancellation of the policy.

Listed below are answers to standard questions required of all Fiscal Committee item requests, related to RSA 9:16-a, "Transfers authorized", RSA 14:30-a, VI "Expenditure of funds over \$100,000 from any Non State Source", or RSA 124:15, "Positions Authorized", or both, and all emergency requests pursuant to "Chapter 145, subparagraph I, (a), Laws of 2019, making temporary appropriations for the expenses and encumbrances of the State of New Hampshire":

1. Is the action required of this request a result of the Continuing Resolution for FY 2020?

This request is a result of the continuing resolution.

2. If this request is retroactive what is the significance and importance of the action being effective from an earlier date?

The request is not retroactive.

3. Is this a previously funded and ongoing program established through Fiscal Committee and Governor and Executive Council action? (If so, include as an attachment the original documents as approved and cite the specific dates of authorization and end dates for each action as part of your answer to this question.)

The State Employee Faithful Performance Bond is required by RSA 93-B. This Bond protects the State's property interests up to specified policy limits. If an employee steals or inadvertently loses state property, the State can file a claim to recover stolen/lost amounts. The Risk Management Unit budgeted for this Bond in accounting unit 2901 in the budget submitted for FY20/21.

The Cyber Security Insurance policy was first included in the State's FY18/19 budget. This policy limits the State's exposure to financial loss from a breach in our data security. The Risk Management Unit budgeted for the policy in the budget submitted for FY20/21. The policy in place today expires August 23, 2019 and the renewal policy must be paid in full in August. On August 8, 2018 the current Cyber Security Insurance contract, Item #63, was approved by G&C and is effective from August 23, 2018 – August 23, 2019. Risk Management Unit anticipates the August 23, 2019 – August 23, 2020 Cyber Security Insurance contract to be on the August 14, 2019 G&C agenda.

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court

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4. Was funding for this program included in the FY 2018-2019 enacted Budget or requested and denied?

Yes, funding for these insurance policies was included in the FY2018 – 2019 Budget.

5. Is this program in total or in part, included in the vetoed FY 2020-2021 Operating Budget proposal currently pending for your department, or was it requested and denied?

Yes, funding for these insurance policies is included in total in the FY 2020-2021 Operating Budget proposal.

6. Does this program include, either positions or consultants, and if so are the positions filled, vacant, or have offers pending? (Please provide details for each position and note whether consultant contracts have been awarded.)

No.

7. What would be the effect should this program be discontinued or not initiated as a result of this request being denied?

State Employee Faithful Performance Bond

If this bond is not renewed the State will lose coverage for and indemnification from losses up to \$200,000 arising from employee dishonesty or the failure of any employee to faithfully perform his or her duties as prescribed by law.

Cyber Security Insurance

If this policy is not renewed the State will lose \$10,000,000 worth of coverage for cyber privacy/media liability, incident (breach) response, network extortion, digital data recovery, business interruption costs, terrorism, and prior cyber security-related acts. The incident response coverage that would be lost includes forensics, notification response requirements, call centers, identity protection, and crisis management. Loss of prior acts coverage would expose the State to claims for unknown data breaches that occurred prior to inception of the policy.

I am available to address any questions you may have.

Respectfully Submitted,



Charles M. Arlinghaus
Commissioner



State of New Hampshire
DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
 25 Capitol Street – Room 120
 Concord, New Hampshire 03301

CHARLES M. ARLINGHAUS
 Commissioner
 (603)-271-3201

JOSEPH B. BOUCHARD
 Assistant Commissioner
 (603)-271-3204

July 23, 2018,

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

REQUESTED ACTION

Authorize the Department of Administrative Services (DAS) to enter into a contract with USI Insurance Services, LLC, (vendor #286651) in an amount not to exceed \$241,915.00 for Data Security and Privacy Cyber Liability insurance for New Hampshire state government upon Governor and Council approval for the period effective August 23, 2018 through August 23, 2019. **100% General Funds.**

Funding is available in the following account:

01-14-14-143510-29010000	<u>FY19</u>
Department of Admin Services, Risk Management Unit	\$241,915.00
211-500757 Catastrophic Casualty Ins.	

EXPLANATION

The procurement of Data Security and Privacy Cyber Liability insurance for state government was included in the FY18/19 budget and is part of a strategic risk management plan to limit the State's exposure to financial loss from a breach in our data security. The Department of Information and Technology and Department of Administrative Services worked together to complete the application process and develop coverage specifications. This contract provides coverage to state government including the executive branch, legislative branch, judicial branch, State Treasury, and Secretary of State. Leadership from those entities were consulted during the application process.

USI Insurance Services (USI) arranged for this purchase in accordance with its contract with the State for *Producer Services*, approved by the Governor and Executive Council on May 16, 2018 (item #73). USI made inquiries to seven insurance markets about the program. Three markets responded with offers to provide coverage in compliance with specifications: Chubb ACE American Insurance Company thru Worldwide Facilities (wholesale market), Worldwide Facilities (retail market), and AIG.


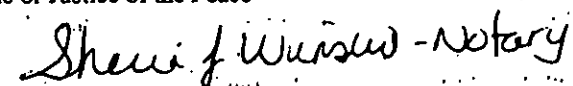

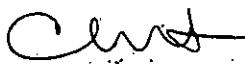

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

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 Administrative Services		1.2 State Agency Address 25 Capitol Street, Concord, NH 03301	
1.3 Contractor Name USI Insurance Services, LLC VC 286651		1.4 Contractor Address 3 Executive Park Drive, Suite 300 Bedford, NH 03110	
1.5 Contractor Phone Number 603-669-3218	1.6 Account Number 01-14-14-143510-29010000	1.7 Completion Date August 23, 2019	1.8 Price Limitation \$241,915
1.9 Contracting Officer for State Agency Joyce I. Pitman, Director Risk and Benefits		1.10 State Agency Telephone Number 603-271-3080	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Sean Hood USI Insurance Services, Regional President, NH	
1.13 Acknowledgement: State of <u>New Hampshire</u> County of <u>Hillsborough</u> On <u>July 19, 2018</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]		<div style="border: 1px solid black; padding: 5px; text-align: center;"> Sherri J. Winslow Notary Public, State of New Hampshire My Commission Expires March 21, 2023 </div>	
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Joseph Bouchard, Assistant Comm.	
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: 7/24/18			
1.18 Approval by the Governor and Executive Council (if applicable) By:  DEPUTY SECRETARY OF STATE AUG 08 2018			

**Data Security and Privacy Cyber Liability Insurance Coverage for
State Government
Contract Agreement Between
The Department of Administrative Services
and USI Insurance Services, LLC**

Exhibit A - Scope of Services

ARTICLE 1. SCOPE OF SERVICES

This EXHIBIT A, Scope of Services, is made a part of the P-37 Agreement (the "Agreement") and is made according to the terms of paragraph 2 of the Form P-37. This EXHIBIT A to the Agreement is between the State of New Hampshire ("State") and USI Insurance Services, LLC ("USI"). USI, hereinafter called the Contractor, agrees to provide Data Security and Privacy Cyber Liability insurance coverage for the State of New Hampshire to include the executive branch, legislative branch, judicial branch, state treasury, and secretary of state.

ARTICLE 2. EFFECTIVE DATE

Effective Date of Agreement: August 23, 2018
Expiration Date of Agreement: August 23, 2019
12:01AM Standard Time at the address of the State stated herein.

ARTICLE 3. INSURANCE COVERAGE DETAILS

The coverage consists of Data Security and Privacy Cyber Liability insurance coverage with an aggregate limit of \$10,000,000 and \$300,000 deductible for (1) Privacy Liability (including regulatory defense and penalty coverage Payment Card Industry [PCI] fines and penalty coverage); (2) Media Liability; (3) Incident Response (breach) Costs (notifications, call centers, identity protection, crisis management, public relations costs, and forensics); (4) Network Extortion; (5) Digital Data Recovery costs; (6) Business Interruption losses including extra expenses; (7) Terrorism coverage; and (8) Full Prior Acts coverage.

ARTICLE 4. ACCOUNT MANAGEMENT

USI shall manage this policy in accordance with the terms and conditions of the *Producer Services and Safe Driving Program Administration*, effective July 1, 2018.

Contractor Initials 807

Date 7/17/18

**Data Security and Privacy Cyber Liability Insurance Coverage for
State Government
Contract Agreement Between
The Department of Administrative Services
and USI Insurance Services, LLC.**

Exhibit C – Special Provisions

Form P-37, section 14 Insurance, is amended per the attached certificate of insurance from USI Insurance Services, LLC to include the following coverage enhancements:

1. General Liability coverage with limits of \$1,000,000 per occurrence/\$2,000,000 in the aggregate
2. Automobile Insurance coverage with combined single limits of \$1,000,000 per accident
3. Excess/umbrella insurance coverage with limits of \$25,000,000 per occurrence and in the aggregate
4. Workers compensation coverage with statutory limits and Employers' Liability with limits of \$1,000,000 per accident and \$1,000,000 policy limit
5. Errors and Omissions liability insurance coverage with limits of \$10,000,000 and in the aggregate

Contractor Initials 87A
Date 7/19/18

USI INSURANCE SERVICES LLC

(A Delaware Limited Liability Company)

**Written Consent of the Manager
Pursuant to the Delaware Limited Liability Company Act**

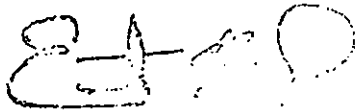
The undersigned, as the sole Manager (the "Manager") of USI Insurance Services LLC, a Delaware Limited Liability Company (the "Company"), does hereby take the following actions and adopts the following resolutions by written consent pursuant to the Delaware Limited Liability Company Act, and hereby waives notice and the holding of a meeting and hereby agrees that such resolutions shall have the same force and effect as if unanimously adopted at a duly convened meeting:

RESOLVED, that it is advisable and in the best interests of the Company that the following individuals be appointed as an authorized signatory empowered and authorized to execute contracts related to the State of New Hampshire Producer Services Contract on behalf of the Company to serve in such capacity until he or she has been removed or their respective successor shall have been duly appointed:

Sean Hood – USI Insurance Services – New England Region

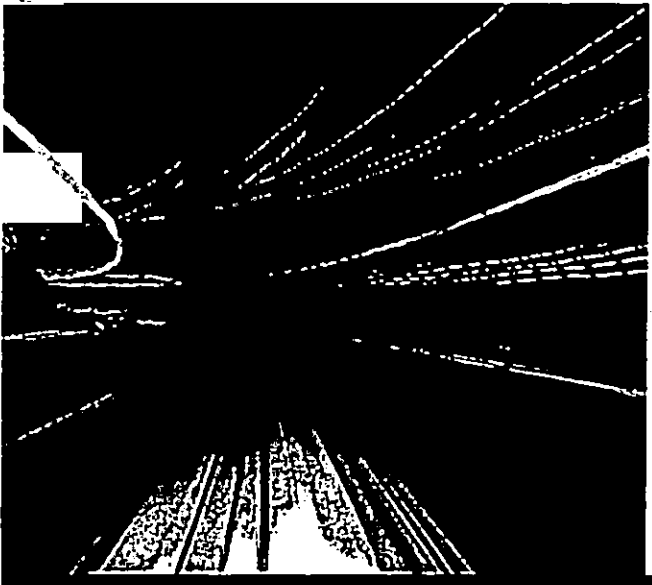
RESOLVED, that all actions previously taken by any officer, employee or agent of the Company in connection with or related to the matters set forth in or reasonably contemplated or implied by the foregoing resolutions be, and each of them hereby is, adopted, ratified, confirmed and approved in all respects as the acts and deeds of the Company.

IN WITNESS WHEREOF, the undersigned Manager has executed this consent as of the 17th day of July, 2018.



Ernest J. Newborn, II
Manager

Market Results-Cyber Enterprise Risk Management
State of New Hampshire



Philip A. Cote, CPCU, AAI, LIA, Vice President
Thomas A. Ciano, Sr Vice President-Regional MPS Practice Leader
Date Prepared: July 12, 2018



The Following Notice(s) and Endorsement(s) will be added to the basic contract(s)

1. Chubb Producer Compensation Practices & Policies	ALL-20887a (03/16)
2. Cyber Services for Incident Response - Notice to Policyholders	PF-48259 (10/16)
3. Cyber Services for Loss Mitigation	PF-48260 (10/16)
4. U.S. Foreign Account Tax Compliance Act - FACTA Notice	ALL-42490b (07/16)
5. U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") Advisory Notice	ILP 001 (01/04)
6. Policyholder Disclosure Notice of Terrorism Insurance Coverage	TR-19606d (01/15)
7. Disclosure Pursuant to Terrorism Risk Insurance Act	TRIA11d (03/16)
8. Cap on Losses From Certified Acts of Terrorism	PF-45354 (01/15)
9. Trade or Economic Sanctions Endorsement	PF-46422 (07/15)
10. Loss Control Right to Inspect (To attach only if Loss Control is required by Chubb)	PF-48268 (10/16)
11. Termination Amended - Non Cancelable Except Nonpayment of Premium	PF-48340 (10/16)
12. Additional Insured - Blanket Pursuant to a Contract - Cyber ERM	PF-48155 (09/16)
13. Signature Endorsement	CC1k11h (03/14)
14. Specified Incident Exclusion Breach at DHHS (NH Hospital) and 2 separate DDoS attacks (Vildngdom actor) against NivistNH.com site and NH.gov site as referenced in Liberty 2017 application	PF-48161 (09/16)
15. Amendatory Endorsement - New Hampshire	PF-48314 (03/17)
16. Application Amended	PF-49452 (08/17)
17. Period of Restoration - Fill In 120 DAYS	PF-48160 (09/16)
18. Conduct Exclusion Amended - Final, Non-appealable Adjudication	PF-49491 (08/17)
19. Extended Reporting Period Election Time Period Endorsement 90 DAYS	PF-48460 (08/17)
20. Optional Extended Reporting Period (Item 7) Amended	PF-48153 (09/16)
a. 100%/150%/175%/250% @ 12/24/36/72 MONTH	
21. Non-Malicious Computer Ace - System Failure - Business Interruption Sublimit \$5M	PF-48274 (08/17)
22. Breach Response Indemnatee - Final Non-Appealable Adjudication	PF-49491 (08/17)
23. Duty to Defend a Regulatory Proceeding	PF-49445 (08/17)
24. Extortion Threat Enhancement for Protected Information	PF-48495 (09/17)
25. Settlement Within The Retention	PF-49471 (08/17)
26. Hardware or Equipment Replacement Endorsement	PF-49492 (08/17)

Subjectivities:

Chubb hereby indicates the coverage described below. However, any obligations the Insurer may have under this indication are conditioned upon each of the following conditions having first been met

1. The Applicant has submitted to the Insurer the following documents, and the Insurer has received such documents no later than close of business **PRIOR TO BINDING**:
 - a. Estimated number of credit cards to be processed in 2018 and PCI compliance level;
 - b. Estimated PII/PHI held in NH Hospital;
 - c. Copy of expired cyber liquor policy loss runs;
2. If coverage is subsequently bound by the Insurer, the Applicant has remitted the premium specified below to the Insurer so that the Insurer receives the premium no later than close of business on the 30th day from the date of the Binder or the Effective Date of the policy, whichever is later.

Please Note the Following for the Terrorism Risk Insurance Act:

Coverage for acts of terrorism is included in your policy. The portion of your annual premium that is attributable to coverage for acts of terrorism is \$0, and does not include any charges for the portion of losses covered by the United States government under the Act.