



State of New Hampshire Department of Revenue Administration

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



John T. Beardmore
Commissioner

Lindsey M. Stepp
Assistant Commissioner

July 17, 2017

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

REQUESTED ACTION

Authorize the Department of Revenue Administration (DRA) to enter into a **sole source** contract with BerryDunn (Vendor # 254300), 100 Middle Street, Portland, ME 04101, to provide procurement services to assist the DRA with the vendor selection process for the next generation Revenue Information Management System (RIMS), in an amount not to exceed \$70,000, effective upon Governor and Council approval through June 30, 2018. **100% General Funds**

Funding is available in the following account:

01-84-84-840510-1501 Document Processing, Department of Revenue Administration

103-502664 Contracts for OP Services FY 2018 \$70,000.00

EXPLANATION

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

- Participate in planning for the RIMS vendor conference;
- Participate in the RIMS vendor conference;
- Review responses to questions from vendors;
- Review RIMS vendor proposals and develop a "heat map" and strengths and weaknesses summary;
- Participate in evaluation process;
- Assist in developing a vendor demonstration script;
- Attend vendor demonstrations; and/or
- Review draft contract documents and develop a findings memorandum.

TDD Access: Relay NH 1-800-735-2964

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
Page 2 of 2

This request is **sole source** because, under Contract #2015-132, which was competitively bid, BerryDunn assisted the DRA in producing a comprehensive list of business requirements to modernize the current information management system, and Request For Proposal (RFP) #2017-101, to develop RIMS. BerryDunn has examined the current system and conducted interviews and trade studies, among other research, and fully understands DRA's vision for modern and efficient tax processing.

BerryDunn has intimate knowledge of the core functionality of the current system, RFP #2017-101 (particularly the business requirements to modernize the current system), and the current market situation, to enable the DRA to select a vendor to successfully develop RIMS. Although there were additional funds available under Contract #2015-132, the DRA is requesting to enter into a separate contract for procurement assistance in order to more clearly define the scope of services to be provided.

Source of funds: 100% general funds

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'John T. Beardmore', written over a horizontal line.

John T. Beardmore
Commissioner of Revenue Administration

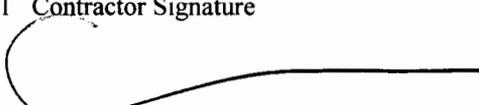
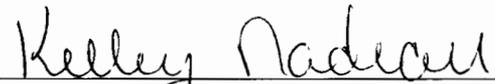
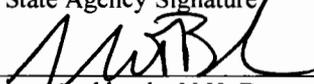
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Revenue Administration		1.2 State Agency Address 109 Pleasant Street PO Box 457, Concord, NH 03302	
1.3 Contractor Name Berry, Dunn, McNeil & Parker, LLC.		1.4 Contractor Address 100 Middle Street, P.O.Box 1100, Portland, Maine 04104	
1.5 Contractor Phone Number 207-541-2249	1.6 Account Number 30-178800000-500152	1.7 Completion Date 06/30/2018	1.8 Price Limitation 70,000
1.9 Contracting Officer for State Agency John Beardmore, Commissioner		1.10 State Agency Telephone Number (603)230-5006	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory CHARLES LEADRETT, RINWARD	
1.13 Acknowledgement: State of <u>Maine</u> , County of <u>Comberland</u> On <u>July 13, 2017</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]			
1.13.2 Name and Title of Notary or Justice of the Peace Kelley Nadeau, Notary Public		KELLEY NADEAU NOTARY PUBLIC State of Maine My Commission Expires June 29, 2023	
1.14 State Agency Signature 	1.15 Name and Title of State Agency Signatory John Beardmore, Commissioner		
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Date: <u>7/18/17</u> Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>7/19/17</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

RECEIVED

JUL 18 2017

ADMIN. DEPT.
NH DRA

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

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Revenue Administration		1.2 State Agency Address 109 Pleasant Street PO Box 457, Concord, NH 03302	
1.3 Contractor Name Berry, Durr, McNeil & Parker, LLC.		1.4 Contractor Address 100 Middle Street, P.O.Box 1100, Portland, Maine 04104	
1.5 Contractor Phone Number 207-541-2249	1.6 Account Number 10-15010000-103-502001 30-178800000-500152	1.7 Completion Date 06/30/2018	1.8 Price Limitation 70,000
1.9 Contracting Officer for State Agency John Beardmore, Commissioner		1.10 State Agency Telephone Number (603)230-5006	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Charles LeDetteur, President	
1.13 Acknowledgment: State of <u>Maine</u> , County of <u>Cumberland</u> On <u>July 13, 2017</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]		KELLEY NADEAU NOTARY PUBLIC State of Maine My Commission Expires June 28, 2023 	
1.13.2 Name and Title of Notary or Justice of the Peace Kelley Nadeau, Notary Public			
1.14 State Agency Signature  Date: 7/18/17		1.15 Name and Title of State Agency Signatory John Beardmore, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: _____ On: _____			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

RECEIVED

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ADMIN. DEPT.
NH DRA

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 (“State”), engages contractor identified in block 1.3 (“Contractor”) to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference (“Services”).

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 (“Effective Date”).

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 (“Equal Employment Opportunity”), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor’s books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

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

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

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

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

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

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

such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

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

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

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

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

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

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

EXHIBIT A - SCOPE OF SERVICES

1. The Contractor shall perform the procurement services identified and more particularly described in Table 1 to assist the State with the vendor selection process for the Revenue Information Management System (“RIMS”). The Contractor shall not perform any services unless requested and approved by the State in advance.

Table 1: BerryDunn RIMS Procurement Services for RFP Vendor Selection

Service/Tasks	Description
1. Participate in planning for the RIMS vendor conference	<p>BerryDunn will participate in a two-hour teleconference work session (facilitated by the NHDRA’s project manager) with the NHDRA to plan for the RIMS vendor conference, as part of the RFP process. BerryDunn will be prepared to discuss the logistics and format for the conference and assist in structuring the agenda and determining the details of the information that should be discussed during the conference.</p> <p>Time estimate for this task is four hours.*</p>
2. Participate in the RIMS vendor conference.	<p>BerryDunn will participate with the NHDRA in the vendor conference held with prospective RIMS vendors. The BerryDunn team will take notes during the conference and will share their notes and observations with the NHDRA directly following the conference.</p> <p>Time estimate for this task is eight hours. *</p>
3. Review responses to questions from vendors.	<p>NHDRA will draft initial responses to any Vendor questions received prior to or during the vendor conference, whether verbal or written. BerryDunn will review and provide feedback on the draft responses developed and maintained by the NHDRA Project Manager, using tracked changes to offer suggestions.</p> <p>Time estimate for this task is sixteen hours.*</p>
4. Review RIMS vendor proposals and develop a “heat map” and strengths and weaknesses summary	<p>For NHDRA-identified proposals that pass initial screening for minimum requirements, BerryDunn will summarize the proposed level of fit to requirements in the form of a “heat map,” along with a high-level strengths and weaknesses summary for consideration by the NHDRA selection team. Vendors are able to bid both on and off premise solutions and these must be considered as separate vendor responses.</p> <p>Time estimate for this task is seventy-two hours.*</p>
5. Participate in evaluation process	<p>BerryDunn will participate in two scoring meetings in partnership with the NHDRA; the first to determine which vendors will be asked to provide product demonstrations and the second to make the final vendor selection. BerryDunn will be an active participant in these meetings offering perspective and insight. BerryDunn will not be a scoring member.</p> <p>Time estimate for this task sixteen hours.*</p>
6. Assist in developing a vendor demonstration script.	<p>BerryDunn will assist the NHDRA in developing a demonstration script to be used during vendor demonstrations. BerryDunn will provide 2-3 sample scripts, which will include interview questions for NHDRA to ask of finalists. BerryDunn will facilitate a meeting to review the NHDRA drafted-script and approach to product demonstrations. A one-hour vendor teleconference will be held to address vendor’s questions or concerns related to the script.</p> <p>Time estimate for this task is twenty-four hours.*</p>

EXHIBIT A - SCOPE OF SERVICES

7. Participate in vendor demonstrations	BerryDunn will participate in vendor demonstrations in person, making observations and asking questions of the vendors. BerryDunn will facilitate a two-hour preparation meeting with the full selection team the day before the first demonstration. Immediately following each demonstration, BerryDunn will meet with the NHDRA's evaluation team to assess the bidder's presentation relative to the established evaluation criteria and discuss identified strengths and weaknesses. NHDRA will facilitate the demonstration. Time estimate for this task is sixty hours.*
8. Review draft contract documents and develop findings memorandum.	BerryDunn will serve as an advisor to the NHDRA, reviewing the draft contract documents and identifying potential issues and challenges prior to final contract execution. BerryDunn will develop a memo of findings and recommendations and meet with the NHDRA team via teleconference to discuss the memo. NHDRA will lead contract negotiations with the preferred vendor and BerryDunn will not be directly involved with contract negotiation. Time estimate for this task is twenty hours.*

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

2. ADDITIONAL SERVICES:

The Contractor shall perform services similar in nature but outside the scope of the services identified and more particularly described in Table 1 ("Additional Services"), if requested and approved by the State in advance.

3. CONTRACT MANAGEMENT

The Contractor at its own expense shall provide all resources necessary to perform the Services, including, but not limited to, materials, equipment, labor, and transportation.

3.1 CONTRACTOR'S PRINCIPAL

3.1.1 PRINCIPAL

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

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

3.2 CONTRACTOR'S PROJECT MANAGER

3.2.1 PROJECT MANAGER

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

EXHIBIT A - SCOPE OF SERVICES

- 3.2.2 The Contractor's Project Manager shall function as BerryDunn's representative for all administrative and management matters, and shall have full authority to make binding decisions under this Agreement. The Contractor's Project Manager must be available to promptly respond to inquiries from the State, and be at the site as needed.
- 3.2.3 The Contractor shall not change its assignment of the Contractor's Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than the Project Manager being replaced. The Contractor shall provide a replacement Project Manager within ten (10) business days of the departure of the Contractor's Project Manager, and the Contractor shall continue during the ten (10) business day period to provide competent project management services through the assignment of a qualified interim Project Manager.

3.3 CONTRACTOR'S BUSINESS ANALYST

3.3.1 BUSINESS ANALYST

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

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

3.4 EVENT OF DEFAULT

The Contractor's failure to provide a satisfactory replacement and/or interim Principal, Project Manager, or Business Analyst shall constitute an Event of Default under this Agreement

3.5 STATE'S CONTRACT MANAGER

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

3.6 STATE'S PROJECT MANAGER

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

- a. Leading the project;
- b. Developing Project strategy and approach;
- c. Managing significant issues and risks;

EXHIBIT A - SCOPE OF SERVICES

- d. Reviewing and accepting deliverables;
- e. Invoice sign-offs;
- f. Reviewing and approving of change requests; and
- g. Managing stakeholders' concerns.

The State Project Manager shall be Roger Marchand.

3.7 REFERENCE AND BACKGROUND CHECKS

The State may, at its sole expense, conduct reference and background screening of the Contractor's Principal, Project Manager, and Business Analyst, including any replacement or interim personnel. Subject to applicable laws and regulations, the State shall maintain the confidentiality of any background screening results.

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

1. COST BREAKDOWN

The payment(s) by the State for the services identified and more particularly described in EXHIBIT A, Table 1 (which are numbered 1 through 8) shall not exceed, in total, \$58,400 for the duration of this Agreement. This Agreement will allow the Contractor to invoice the State for those services (also referenced in Table 2 with corresponding numbers 1 through 8) at the applicable hourly rates appearing in Table 3, up to a not to exceed amount, in total, of \$58,400. Any services and/or hours needed shall be requested and approved by the State in advance.

Table 2: BerryDunn RIMS Procurement Services for RFP Vendor Selection, including Key BerryDunn Personnel

Ref#	Service/Tasks	Key BerryDunn Personnel
1	Participate in planning for the RIMS vendor conference.	Principal, Project Manager
2	Participate in the RIMS vendor conference	Principal, Project Manager
3	Review responses from questions from vendors	Principal, Project Manager Business Analyst
4	Review RIMS vendor proposals and develop “heat map” and strength and weakness summary	Principal, Project Manager Business Analyst
5	Participate in scoring meetings	Project Manager, Business Analyst
6	Assist in developing a vendor demonstration script	Principal, Project Manager Business Analyst
7	Participate in vendor demonstrations	Project Manager, Business Analyst
8	Review draft contract documents	Principal, Project Manager
The payment(s) by the State for the services referenced above (which are numbered 1 through 8), if requested and approved by the State in advance, shall not exceed, in total, \$58,400. The payment(s) shall be calculated based on the applicable hourly rates appearing in Table 3.		

2. ADDITIONAL SERVICES PRICING

The payment(s) by the State for Additional Services, as specified in EXHIBIT A, paragraph 2, “Additional Services,” shall not exceed, in total, \$11,600 for the duration of this Agreement. This Agreement will allow the Contractor to invoice the State for Additional Services at the applicable hourly rates appearing in Table 3, up to a not to exceed amount, in total, of \$11,600. Any Additional Services and/or hours needed shall be requested and approved by the State in advance.

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

Table 3: BerryDunn Hourly Rates

Principal	\$360
Project Manager	\$250
Business Analyst	\$160
Paraprofessional/Administration	\$100

3. CONTRACT PRICE

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

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

4. INVOICING:

The Contractor shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted shall be subject to the State’s prior written approval, which shall not be unreasonably withheld. The Contractor shall only submit invoices for Services as permitted by this Agreement. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization and identification of the Service; date and location of the Service; personnel and hours expended performing the Service.

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

Invoices shall be sent to:

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

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

All payments shall be sent to the following address:

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

5. OVERPAYMENTS TO CONTRACTOR

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

6. CREDITS

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

EXHIBIT C – SPECIAL PROVISIONS

1. CONFLICT OF INTEREST

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

2. USE OF STATE'S INFORMATION, CONFIDENTIALITY

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

3. LIMITATION OF LIABILITY

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

4. TERMINATION FOR CONVENIENCE

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

5. TERMINATION PROCEDURE

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

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

- a. Stop work under this Agreement on the date, and to the extent specified, in the notice;

EXHIBIT C – SPECIAL PROVISIONS

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

6. NOTICE

Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in Form P-37, blocks 1.2 and 1.4.

7. DISPUTE RESOLUTION

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights or confidential information), the party believing itself aggrieved (the “Invoking Party”) shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party’s right to any other remedy permitted under this Agreement.

The parties shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute. Disputes should be escalated per Table 4.

Table 4: Dispute Resolution Responsibility and Schedule Table

LEVEL	BerryDunn	STATE	CUMULATIVE ALLOTTED TIME
Primary	Brad Hanscom BerryDunn Project Manager	Roger Marchand State Project Manager	5 Business Days
First	Charles K. Leadbetter BerryDunn Engagement Manager	Lindsey Stepp Assistant Commissioner	10 Business Days
Second	Charles K. Leadbetter BerryDunn Project Principal	John T. Beardmore Commissioner	15 Business Days

EXHIBIT C – SPECIAL PROVISIONS

8. CHANGE OF OWNERSHIP

In the event that the Contractor should change ownership for any reason whatsoever, the State shall have the option of continuing under this Agreement with the Contractor, its successors or assigns for the full remaining term of this Agreement; continuing under this Agreement with the Contractor, its successors or assigns for such period of time as determined necessary by the State; or immediately terminate this Agreement without liability to the Contractor, its successors or assigns.

9. SURVIVAL

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

EXHIBIT D – STATE CONFIDENTIAL INFORMATION

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

The Contractor agrees to hold and maintain State Confidential Information in strictest confidence for the sole and exclusive benefit of the State. The Contractor shall not use State Confidential Information except for the purpose of performing its obligations under this Agreement, and shall not disclose State Confidential Information in any manner to any person without prior written approval of the State. The Contractor shall immediately notify the State upon request for any State Confidential Information, regardless of whether disclosure is permitted or required by judicial decree or state or federal laws/rules. The Contractor shall cooperate with the State in any effort the State undertakes to contest the request, subpoena or other legal process, at no additional cost to the State.

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

In the event of any unauthorized use or disclosure of State Confidential Information, the Contractor shall immediately notify the State both orally and in writing. The State shall investigate whether an offense has been committed in accordance with Exhibit E – State Policy No. 16-007, "Contractor Disclosure of Taxpayer and Department Information," which is incorporated herein by reference. Any such offense is an Event of Default under this Agreement. The Contractor's failure to immediately notify the State both orally and in writing of any unauthorized use or disclosure of Confidential Information is also an Event of Default, regardless of whether the State determines that an offense has been committed. Upon the occurrence of an Event of Default, the State may immediately treat this Agreement as breached and pursue any remedies at law or in equity or both.

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

EXHIBIT E – STATE POLICY NO. 16-007

Contractor Disclosures of Taxpayer and Department Information

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

I. Purpose

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

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

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

II. Policy

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

An impermissible disclosure includes, but is not limited to: (1) disclosing taxpayer information or DRA records or files to an individual or entity not authorized to receive it under RSA 21-J:14; (2) accessing taxpayer information or DRA records or files that exceeds what is necessary for the contractor to perform the services the contractor has been contracted to provide the DRA (each contractor employee shall access only that information that is necessary to perform that employee’s individual job duties); (3) comingling taxpayer information or DRA records or files with any other files or records of the contractor; and (4) misusing, abusing, losing, or damaging the DRA’s records or information, including the failure to safeguard records, files, returns, or return information contained in the records of the contractor, or developed by the contractor.

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

EXHIBIT E – STATE POLICY NO. 16-007

Contractor Disclosures of Taxpayer and Department Information

number of previous impermissible disclosures by the contractor.

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

III. Procedures

A. REPORTING DISCLOSURE INCIDENTS

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

B. INVESTIGATING REPORTED INCIDENTS

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

1. The Assistant Commissioner shall review the information and documents provided by the reporting party and request that the Internal Auditor conduct an investigation of the incident.
2. The Internal Auditor shall interview the contractor, any employee or subcontractor of the contractor, and any other individual believed to have information relating to the incident. The Internal Auditor shall request:
 - i. All documentation concerning the incident;
 - ii. The names of all employees or other individuals believed to have knowledge of the incident; and
 - iii. Any further information that the Internal Auditor deems necessary to evaluate the incident.
3. The Internal Auditor shall conduct any further research and interviews necessary to investigate the incident.
4. At the close of the investigation, the Internal Auditor shall complete and sign a Vendor Disclosure Investigation Report ("VDIR") and submit the completed VDIR to the Assistant Commissioner's office.

EXHIBIT E – STATE POLICY NO. 16-007

**Contractor Disclosures of
Taxpayer and Department Information**

5. Upon receipt of the completed and signed VDIR from the Internal Auditor, the Assistant Commissioner shall review the VDIR and determine whether the VDIR contains enough information to determine whether the incident was an impermissible disclosure. If the VDIR requires further information, the Assistant Commissioner shall refer it back to the Internal Auditor with written instructions on the additional information required. The Internal Auditor shall file the requested additional information with the Assistant Commissioner upon obtaining the requested information.
6. Once the VDIR is complete, the Assistant Commissioner shall perform an analysis to determine whether an impermissible disclosure has occurred. If an impermissible disclosure has not occurred, the Assistant Commissioner shall so notify the contractor. If an impermissible disclosure has occurred, that finding shall be issued and referred to Revenue Counsel for consultation on the appropriate response.

State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that BERRY, DUNN, MCNEIL & PARKER, INC. is a Maine Professional Profit Corporation registered to transact business in New Hampshire on January 30, 1995. 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: 223337



IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 13th day of July A.D. 2017.

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

CERTIFICATE OF VOTE/AUTHORITY

I, John Chandler of the Berry Dunn McNeil & Parker, LLC

do hereby certify that:

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

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

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

- 2. The foregoing resolutions have not been amended or revoked and remain in full force and effect as of this 13 day of July, 2017

IN WITNESS WHEREOF, I have hereunto set my hand as the Managing Principal of the company this 13 day of July, 2017.

John Chandler
John Chandler
Managing Principal
Berry Dunn McNeil & Parker, LLC

STATE OF Maine
COUNTY OF Cumberland

On July 13, 2017 before the undersigned officer, personally appeared the person identified directly above, or satisfactorily proven to be the person whose name is signed above, and acknowledged that s/he executed this document in the capacity indicated above.

Notary Seal

Kelley Nadeau
Signature of Notary or Justice of the Peace
Kelley Nadeau, Notary Public
Name/Title of Notary or Justice of Peace

My Commission Expires: June 29, 2023

KELLEY NADEAU
NOTARY PUBLIC
State of Maine
My Commission Expires
June 29, 2023

