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Virginia M. Barry, Ph.D.
Commissioner of Education
Tel. 603-271-3144



Paul Leather
Deputy Commissioner of Education
Tel. 603-271-3801

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
101 Pleasant Street
Concord, N.H. 03301
FAX 603-271-1953
Citizens Services Line 1-800-339-9900

January 14, 2015

Her Excellency, Governor Margaret Wood Hassan
And the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Education to amend a contract with Richard J. Farrell, Nashua, New Hampshire (Vendor code 252014), by increasing the price limitation by \$5,000 from \$99,100 to \$104,100, to provide additional investigative services regarding complaints of educator misconduct necessitated by passage of RSA 126: effective from the date of Governor and Council approval through June 30, 2015. The original contract was approved by Governor and Council on September 18, 2013(Item #54).

These funds are available from and are 100% Other Funds:

Account number and amount	FY 2014	FY 2015	Increase	Modified
06-56-56-564510-62040000-073-502657	\$47,100	\$52,000	\$5,000	\$104,100

EXPLANATION

The NH Department of Education would like to amend this agreement with Richard J. Farrell in order to accommodate the investigative requirements of RSA 126 and ED 511.05. The new law which became effective September 30, 2014 stipulates that the Department Of Education will investigate complaints of restraint and seclusion of students. The law has greatly increased the number of educator misconduct complaints.

Respectfully submitted,

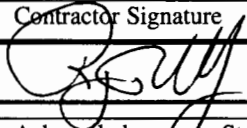
Virginia M. Barry, Ph.D.
Commissioner of Education

Subject: Richard Farrell FORM NUMBER P-37 (version 1/09)

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name <u>Department of Education</u>		1.2 State Agency Address <u>101 Pleasant Street, Concord, NH 03301</u>	
1.3 Contractor Name <u>Richard J. Farrell</u>		1.4 Contractor Address <u>36 Arrow Lane, Nashua, NH 03060</u>	
1.5 Contractor Phone Number <u>603-880-7278</u>	1.6 Account Number <u>See Exhibit B</u>	1.7 Completion Date <u>June 30, 2015</u>	1.8 Price Limitation <u>\$104,100.00</u>
1.9 Contracting Officer for State Agency <u>Virginia M. Barry, Ph.D., Commissioner</u>		1.10 State Agency Telephone Number <u>(603) 271-3142</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>Richard J. Farrell, Sole Proprietor</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>1/15/15</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] <u>Dawn M. Laflam</u> DAWN M. LAFLAM, Justice of the Peace My Commission Expires <u>March 20, 2018</u>			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Dawn M. Laflam Justice of the Peace</u>			
1.14 State Agency Signature <u>Virginia M Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, Ph.D., Commissioner</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara J. Sullivan</u> Director, On: <u>3-4-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>2/26/15</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

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, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("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.

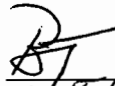
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

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. 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.

Contractor Initials 
Date 1/15/2015

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 consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written 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 \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance 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 fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

Contractor Initials *BF*
Date *7/13/2013*

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) 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.

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

Beginning with Governor and Council approval September 18, 2013, through June 30, 2015, Richard J. Farrell will implement the protocols for the investigation of teacher misconduct complaints as outlined in Education Rule 511.05. www.gencourt.state.nh.us/rules/ed500.html

1. At the request of the Director, Division of Program Support, initiate investigations of complaints that come to the attention of the Director.
2. Coordinate with agencies that are involved in the local, state, and federal investigation of educator misconduct.
3. After a thorough investigation, develop a report for review by the Division Director.
4. Maintain an accurate, confidential secure file management system including computer applications on investigations and disciplinary actions against certified educators.
5. Collaborate with the New Hampshire Department of Safety, Division of State Police, Central Repository of Criminal Records on issues related to school employment background investigations.

Contractor Initials

RF

Date

2/2/2015

EXHIBIT B

Investigator

Investigator's Office Operations	FY 2014	FY 2015	Total
902 hours @\$50.00 per hour 1 st year	\$45,100.00	\$55,000.00	\$100,100.00
1100 hours @\$50.00 per hour 2 nd year			
Miscellaneous	\$2,000.00	\$2,000.00	\$4,000.00
Total Budget	\$47,100.00	\$52,000.00	\$104,100.00

This contract, from Governor and Council approval, September 18, 2013, through June 30, 2015, will not exceed \$104,100.

Funds will come from the following account:

06-56-56-563510-61560000-046-500464

Method of Payment:

Payment to be made on the basis of bi-weekly or monthly invoices which are supported by a summary of activities that have taken place in accordance with the terms and conditions of the contract as stated in Exhibit A. If otherwise correct and acceptable, payment will be made for 100% of the expenditures listed.

Invoices will be submitted to:

Marjorie Schoonmaker
Division of Program Support
NH Department of Education
101 Pleasant Street
Concord, NH 03301

Contractor Initials RT
Date 2/2/2015

EXHIBIT C

Authorize waiver of the insurance provision 14.1.1-14.3.

Contractor will carry appropriate levels of automobile insurance during the term of this contract.

Contractor Initials 
Date 

AMENDMENT TO CONTRACT FOR SERVICES

HEREBY RESOLVED THAT the Department of Education, hereinafter referred to as "the Agency" and Richard Farrell, Sole Proprietor (vendor # 252014) hereinafter referred to as "the Contractor", pursuant to an agreement between the parties that was approved by Governor and Council on September 18, 2013, item #54, hereby agree to retroactively amend the same as follows:

- I. To increase the price limitation by \$5,000.00 from \$99,100.00 to \$104,100.00.

This amendment of an existing agreement is hereby incorporated by reference to the existing agreement by the parties and must be attached to the said agreement. No other provisions of the existing agreement are otherwise amended.

IN WITNESS WHEREOF, the parties, hereto, have set their hands as of the day and year first above written.

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION

By: Virginia M. Barry, Ph.D.
Commissioner of Education

And: Richard Farrell
(Contractor)

By: Richard Farrell

STATE OF NH

County of Merrimack

On this the 19th day of February, 2015, before me, Dawn M. Laflam, the undersigned officer, personally appeared, Richard Farrell, as The Contractor, who has satisfactorily proven to be the person identified above as in the foregoing contract and as being authorized to do so has executed the foregoing amendment for the purposes therein contained.

In witness whereof, I hereto set my hand and official seal.

Dawn M. Laflam, Dawn M. LAFLAM, Justice of the Peace
Notary Public/Justice of the Peace (sign and print name) My Commission Expires March 20, 2018
My commission expires

Approved as to form, substance and execution by the Attorney General this 2nd day of February, 2015

By: [Signature]

Approved by Governor and Council this day of , 2013 item number



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
1/14/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Foy Insurance Group - Nashua 350 Main St Nashua NH 03060	CONTACT NAME: Teri Davis PHONE (A/C No. Ext): (603) 883-1587 FAX (A/C No): (603) 883-0997 E-MAIL ADDRESS: teri.davis@foyinsurance.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED Richard Farrell Jr 30 Arrow Lane Nashua NH 03060	INSURER A: Scottsdale	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** Master 1/2015-2016 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY		[REDACTED]	[REDACTED]	[REDACTED]	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 5,000
						PERSONAL & ADV INJURY \$ 1,000,000
						GENERAL AGGREGATE \$ 2,000,000
						PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident) \$
						\$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR				EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Contracted Investigator for Educator Misconduct

CERTIFICATE HOLDER State of New Hampshire Department of Education 101 Pleasant St Concord, NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Teri Davis, AAI, ACSR

FOR INFORMATION ONLY

G & C Letter # _____

G & C Date 9-18-13

APPROVED:

Page # _____

Item # 54

Virginia M. Barry, Ph.D.
Commissioner of Education
Tel. 603-271-3144



Paul Leather
Deputy Commissioner of Education
Tel. 603-271-3801

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
101 Pleasant Street
Concord, N.H. 03301
FAX 603-271-1953
Citizens Services Line 1-800-339-9900

July 29, 2013

Her Excellency, Governor Margaret Wood Hassan
And the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Education to secure the services of Richard J. Farrell, Nashua, New Hampshire (Vendor code 252014) to provide investigative services regarding complaints of educator misconduct. The total amount not to exceed \$99,100.00 upon Governor and Council approval for the period effective from September 4, 2013 through June 30, 2015.

These funds are available from and are 100% Other Funds:

Account number and amount	FY 2014	FY 2015
06-56-56-564510-62040000-073-502657	\$47,100	\$52,000

EXPLANATION

The NH Department of Education is an executive branch agency of the State of New Hampshire. It is responsible for providing regulatory direction, consulting services, and technical assistance to the State's elementary and secondary schools.

The administrative rule governing the investigation of educator misconduct (Ed 511.05) stipulates that "the state board of education shall conduct such investigations as it deems necessary to examine acts of possible misconduct that come to its attention through complaints or other means." The administrative responsibility is assigned to the Director, Division of Program Support.

PROPOSAL REVIEW SCORE SHEET

Name	Score 1	Score 2	Score 3	Total Average
Richard J. Farrell	93	95	97	95
Arthur Gerringer	66	69	26	54
Brian Sanvidge	64	64	28	52
Francis Sullivan	87	94	99	93
Tom Walsh	84	80	91	85

100 points

- a. (zero to 50 points) a concise abstract of the candidate's experiences that explain the background brought to the role of Trainer;
- b. (zero to 35 points) a description of the services to be provided; and
- c. (zero to 15 points) an itemized budget of cost per hour times the number of hours of contracted service to be provided.

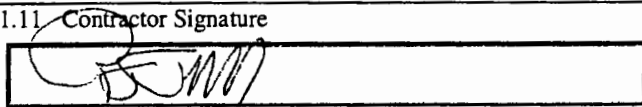
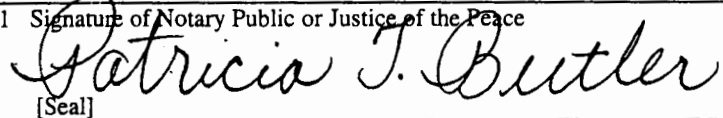
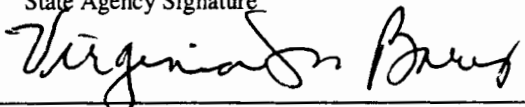
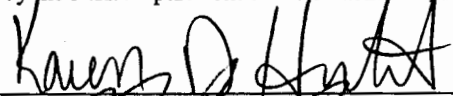
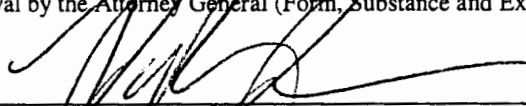
Contractor Initials RS
Date 7/31/2013

Subject: Richard Farrell FORM NUMBER P-37 (version 1/09)

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name <u>Department of Education</u>		1.2 State Agency Address <u>101 Pleasant Street, Concord, NH 03301</u>	
1.3 Contractor Name <u>Richard J. Farrell</u>		1.4 Contractor Address <u>36 Arrow Lane, Nashua, NH 03060</u>	
1.5 Contractor Phone Number <u>603-880-7278</u>	1.6 Account Number <u>See Exhibit B</u>	1.7 Completion Date <u>June 30, 2015</u>	1.8 Price Limitation <u>\$99,100.00</u>
1.9 Contracting Officer for State Agency <u>Virginia M. Barry, Ph.D., Commissioner</u>		1.10 State Agency Telephone Number <u>(603) 271-3142</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>Richard J. Farrell, Sole Proprietor</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>7/2/13</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]		PATRICIA T. BUTLER NOTARY PUBLIC - NEW HAMPSHIRE My Commission Expires February 6, 2018	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Patricia T. Butler, Notary Public</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, Ph.D., Commissioner</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By:  Director, On: <u>8-13-13</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>8/16/13</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

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, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("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. 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.

Contractor Initials JS
Date 1/31/2013

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 consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written 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 \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance 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 fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

Contractor Initials *BT*
Date *7/31/03*

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) 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.

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

Beginning with Governor and Council approval September 4, 2013, through June 30, 2015, Richard J. Farrell will implement the protocols for the investigation of teacher misconduct complaints as outlined in Education Rule 511.05. www.gencourt.state.nh.us/rules/ed500.html

1. At the request of the Director, Division of Program Support, initiate investigations of complaints that come to the attention of the Director.
2. Coordinate with agencies that are involved in the local, state, and federal investigation of educator misconduct.
3. After a thorough investigation, develop a report for review by the Division Director.
4. Maintain an accurate, confidential secure file management system including computer applications on investigations and disciplinary actions against certified educators.
5. Collaborate with the New Hampshire Department of Safety, Division of State Police, Central Repository of Criminal Records on issues related to school employment background investigations.

Contractor Initials

Date

RF
7/31/2013

EXHIBIT B

Investigator

Investigator's Office Operations	FY 2014	FY 2015	Total
902 hours @\$50.00 per hour 1 st year	\$45,100.00	\$50,000.00	\$95,100.00
1000 hours @\$50.00 per hour 2 nd year			
Miscellaneous	\$2,000.00	\$2,000.00	\$4,000.00
Total Budget	\$47,100.00	\$52,000.00	\$99,100.00

This contract, from Governor and Council approval, September 4, 2013, through June 30, 2015, will not exceed \$99,100.

Funds will come from the following account:

06-56-56-563510-61560000-046-500464

Method of Payment:

Payment to be made on the basis of bi-weekly or monthly invoices which are supported by a summary of activities that have taken place in accordance with the terms and conditions of the contract as stated in Exhibit A. If otherwise correct and acceptable, payment will be made for 100% of the expenditures listed.

Invoices will be submitted to:

Marjorie Schoonmaker
Division of Program Support
NH Department of Education
101 Pleasant Street
Concord, NH 03301

Contractor Initials

RT

Date

7/31/2013

EXHIBIT C

Authorize waiver of the insurance provision 14.1.1-14.3.

Contractor will carry appropriate levels of automobile insurance during the term of this contract.

Contractor Initials
Date 7/31/2013

RICHARD J. FARRELL, JR.

36 Arrow Lane • Nashua, New Hampshire 03060 • (603) 880-7278 •

EMPLOYMENT HISTORY

April, 2013-to Present

**Bail Commissioner (9th Circuit Court-Nashua)
Justice of the Peace (2007-Current)**

May, 2012-to-Present

**Nashua School District
Substitute Teacher
High School/Middle School**

March 1, 2012

New Hampshire State Police Retirement

2001-to-March 1, 2012

N.H. STATE POLICE (Narcotics Investigations Unit)

New Hampshire Drug Task Force (Department of Justice)

Operations Officer

- Coordinate/Supervise all Task Force Criminal Investigations (2010: 1,044 Cases).
Two (2) Task Force Title III Federal Intercept Investigations
- Supervise/Manage four (4) "Off-Site" facilities.
 1. Concord
 2. Portsmouth
 3. Newport
 4. Twin Mountain
- Supervise/Manage twenty-four (24) "Undercover Police Investigators."
- Coordinate/Supervise two (2) civilian support staff and one (1) National Guard Analyst (USAAF Counter-Drug Mission)
- Coordinate/Manage Task Force Operations with New Hampshire State Police, DEA, HIDTA, FBI, ATF, and Local/County Law Enforcement.
- Manage Task Force vehicle fleet (Twenty-Eight unmarked police vehicles).
- Manage Task Force Communications Systems inclusive of Vehicle radios Portable radios, and Unit telecommunications.
- Manage/Supervise Overtime Accounts and "Purchase of Evidence" Accounts (\$100,000.00).
- Supervise/Manage all Task Force Criminal Reports, Grand Jury Presentations, Probable Cause Hearings, and Arraignments.
- Coordinate Grant Management site inspections.

N. H. STATE POLICE (Narcotics Investigation Unit)

New Hampshire Drug Task Force

Administrative Officer -

N.H. STATE POLICE - TROOP B

Sergeant (Patrol Supervisor)

- Managed 8 - 25 Troopers
- State Police Prosecutors School
- Adjunct Training Instructor responsible for completing yearly evaluations for subordinates and conducting "Troop Level" Internal Affairs investigations.
- Maintained and administered automotive fleet (35 vehicles).
Supervised and approved all motor vehicle accident investigations inclusive of all fatal motor vehicle incidents (approximately 1,250 investigations).
- Supervised all first-responses to State Police criminal investigations for individual platoon.
- Liaison with wrecker operators regarding all State Police tow issues.

Corporal (Midnight Patrol Supervisor) -

