

State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

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Concord, New Hampshire 03301
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Charles M. Arlinghaus
Commissioner

Catherine A. Keane
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Sheri L. Rockburn
Assistant Commissioner

February 5, 2025

DAS Commissioners Office
State House Annex
25 Capitol Street
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Administrative Services to enter into a contract with WEX Bank (VC#176090), Sandy, UT in an amount up to and not to exceed \$190,857.22 for fuel card services, with the option to renew for an additional two years, through a Participating Agreement (PA) with the National Association of State Procurement Officials (NASPO) Value Point Master Agreement (MA) # 00819, effective upon the Commissioner of the Department of Administrative Services approval through December 31, 2025.

Funding shall be provided through individual agency expenditures, none of which shall be permitted unless there are sufficient appropriated funds to cover the expenditure.

EXPLANATION

The purpose of this request is to obtain approval to enter into a contract with WEX Bank for fuel card services supporting all State agencies needs for fueling fleet vehicles. This contract, upon approval for fuel card services, will provide nationwide access for the fueling of state-owned vehicles needed by agencies to perform daily job functions. The absence of this contract would result in both administrative and operational burdens related to the purchase of fuel for vehicles.

The Department of Administrative Services, through the Bureau of Purchase and Property, issued request for information (RFI) 2024-379 to assess available pricing and competition for similar services. This RFI reached seventy-two vendors through the NIGP electronic sourcing platform with an additional nine directly sourced. There were three compliant responses. It was determined that the three responses were all priced higher than if the State were to use an existing NASPO contract with WEX Bank.

There were significant delays in negotiating the terms of the NASPO participating addendum, often with the vendor requiring several weeks to return revised addendum versions. This was attributed to a large turnover in their legal team. Additionally, there was an extended amount of time required to obtain supporting documentation.

The agreement with NASPO using WEX Bank charges a 0.00% fixed fee percentage. The lowest cost received through the RFI was offered by Element at a cost of \$0.75 per transaction. On average the State has 3,755 fuel card transactions per year. By using the NASPO agreement it would save the State \$2,816.25 over the remaining eleven months of the NASPO agreement.

This is a no cost contract to the State. WEX Bank charges a 0% fee for this service, in addition to a discount for early payment. The requested price limitation of \$190,857.22 is a pass-through cost for the charges of the actual fuel being pumped by State agencies. This price limitation was reached by using the Business Intelligence reported average monthly fuel charges of \$14,458.88 for January 1, 2024, through December 31, 2024, accounting for the eleven months of the remaining NASPO agreement.

A twenty percent fuel increase allowance was added for potential market volatility. There is also the possibility of a future geopolitical event that may cause crude oil/gasoline prices to increase without notice. Although there is a predicted decline in gasoline prices by the Consumer Price Index and the U.S. Energy Information Administration for the remainder of 2025, the allowance will provide adequate funding in the price limitation in the event of unforeseen circumstances.

Contract Financials	
Estimated annual spend	\$159,047.68
Estimated term spend – 1 year	\$159,047.68
Add allowance for increased need	\$31,809.54
Recommended price limitation	\$190,857.22

Based on the foregoing, I am respectfully recommending approval of the contract with WEX Bank.

Respectfully submitted,



Gary S. Lunetta
Director Division of Procurement & Support
Services



RFI Bid Summary

Bid Description	Request for Information Relative to the Process of Fleet Fuel Credit Card Services		Agency	Statewide
RFI#	2024-379	Requisition#	N/A	
Agent Name	Lincoln Adams	Bid Closing	8/28/2023 @ 10:00 AM	

Product Description	NASPO w/WEX Bank		Element		U.S. Bank		WEX Bank	
	Cost		Cost		Cost		Cost	
Fixed Fee Percentage/Per Transaction Fee	0.00 % fixed fee		\$0.75 per transaction		\$1.00 per transaction		1.35 % fixed fee	
Estimated annual spend Estimated (1 year) term spend Add 20 % allowance for fuel price increases Recommended price limitation Indicates apparent low	\$159,047.68		Expiring contract annual		\$147,983.39			
	\$159,047.68		Expiring (4 year contract term)		\$591,933.57			
	\$ 31,809.54		Increase		\$42,873.83			

Recommendation Summary			
Statewide Contract or Amendment	Statewide		
Term of Contract	11 months- Remaining term of NASPO agreement - With extension options through 2027		
Price Limitation	\$190,857.22		
Number of Solicitations Received	3		
Number of Sourced bidders	9		
Number of NIGP Vendors Sourced	72		
Number of non-responsive bidders	78		
P-37 Checklist Complete	Yes		
D&B Report Attached	Yes		
Method of Payment (P-card/ACH)	P-card/ACH		
FOB Delivered	Yes		
Expiring Contract Price Limitation	\$591,933.57		
Total Cost Increase (\$)			Increase

Special Notes:	This is a no cost contract to the State. WEX Bank charges a 0% fee for this service, in addition to a discount for early payment. The requested price limitation of \$190,857.22 is a pass-through cost for the charges of the actual fuel being pumped by State agencies. This price limitation was reached by using the current contracts monthly fuel charges of \$14,458.88 multiplying by 11 months of the remaining NASPO agreement and adding a twenty percent fuel increase allowance due to the current volatility of the fuel market. Although this is a cost increase there is a cost avoidance of \$2,816.25 for the remaining 11 months of the remaining NASPO agreement.
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PARTICIPATING ADDENDUM

This Participating Addendum (the "Participating Addendum") is entered into by and between the STATE OF NEW HAMPSHIRE, acting by and through its Department of Administrative Services ("Participating State"), and WEX BANK, a Utah corporation with a principal office address located at 111 East Sego Lily Drive, Suite 250, Sandy, Utah 084070 ("Contractor"). Participating State and Contractor are sometimes referred to herein singularly as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the State of Washington, acting on behalf of the member states of the NASPO ValuePoint Purchasing Program, and Contractor entered into the NASPO ValuePoint Master Agreement (Master Agreement No. 00819) dated October 1, 2020 (the "Master Agreement"), attached hereto as Schedule 1 and made a part hereof by reference, wherein Contractor agreed to furnish Fleet Card services to said member states upon the terms and conditions set forth in the Master Agreement;

WHEREAS, Participating State is a member of the NASPO ValuePoint Purchasing Program; and

WHEREAS, Participating State desires to participate in Contractor's offering of its Fleet Card services under the Master Agreement, as amended, subject to the terms and conditions of this Participating Addendum;

NOW, THEREFORE, in consideration of the foregoing recitals, the receipt and sufficiency of which are hereby conclusively acknowledged, the Parties hereby agree as follows:

1. Incorporation of Master Agreement; Definitions. The terms and conditions of the Master Agreement, as amended, are made a part of this Participating Addendum as if set out in full herein. All undefined capitalized terms used herein shall have the same meanings assigned to them in the Master Agreement. Certain other capitalized terms are defined elsewhere within the text of this Participating Addendum and, throughout this Participating Addendum, those terms shall have the meanings respectively ascribed to them.

2. Participation. The Master Agreement may be used by any departments, divisions, other executive agencies, and political subdivisions eligible to use statewide contracts within the State of New Hampshire (each, a "Purchasing Entity"), subject to underwriting and credit approval by Contractor. All determinations of eligibility to participate in the Master Agreement through this Participating Addendum are solely within the authority of Participating State's Chief Procurement Officer identified in Section 8(b) below.

3. Scope. This Participating Addendum governs Participating State's use of the Fleet Card services offered by Contractor under the Master Agreement. All Fleet Card services under Section 3 of the Master Agreement may be used by Participating State, subject to the terms and conditions of this Participating Addendum.

4. Effective Date of Participating Addendum. Notwithstanding any terms and conditions in the Master Agreement to the contrary, this Participating Addendum is subject to the approval of the Governor and Executive Council of the State of New Hampshire, and Participating State shall not be bound by the terms and conditions of this Participating Addendum or the Master Agreement until the date of such approval (the "Participating Addendum Effective Date").

5. Non-Exclusivity. This Participating Addendum is not exclusive, and Participating State may acquire the same services available under the Master Agreement and this Participating Addendum from other third parties.

6. Statements and Purchases. See Section 6 of the Master Agreement, which is incorporated herein and made a part hereof by reference.

7. Term.

a. Initial Term. The term of this Participating Addendum shall begin on the Participating Addendum Effective Date and shall be co-terminus with the Master Agreement, unless terminated earlier in accordance with the terms and conditions of the Master Agreement or this Participating Addendum.

b. Extension of Term. In the event that Lead State and Contractor agree to extend the term of the Master Agreement, then Participating State shall have the option to extend the term of this Participating Addendum for an additional term not to exceed the extended term of the Master Agreement.

8. Primary Contacts. The Parties' respective primary points of contact for this Participating Addendum are the individuals named below as follows:

a. Contractor.

Name:	Ryan Paul
Address:	1 Hancock Street, Portland, Maine 04101
Telephone:	(207) 318-3743
Email:	ryan.paul@wexinc.com

b. Participating State.

Name:	Lincoln Adams
Address:	25 Capitol Street, Concord, New Hampshire 03301
Telephone:	(603) 271-0580
Email:	Lincoln.J.Adams@das.nh.gov

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted to be given pursuant to this Participating Addendum shall be in writing and shall be deemed to be delivered when sent by U.S. mail, postage prepaid, or by email to each Parties' respective primary contracts identified above. Each Party may change its respective primary contacts by providing written notice of such change to the other Party in the manner specified by this Section 8.

9. Funds Available and Authorized; Non-Appropriation. Participating State's obligations under this Participating Addendum are conditioned upon Participating State receiving sufficient funds, allotments, or other expenditure authority to allow Participating State to meet its obligations hereunder. In the event of any state or federal action that reduces, eliminates, or otherwise modifies the appropriation or availability of funding for this Participating Addendum, in whole or in part, Participating State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate any Transactions under this Participating Addendum immediately upon written notice to Contractor. Notwithstanding the foregoing the Participating State will remain liable for all completed Transactions.

10. Participating State's Set-Off Rights. Notwithstanding any terms and conditions contained herein to the contrary, Participating State shall have and retain all of its common law, equitable, and statutory rights of set-off. These set-off rights shall include, but not be limited to, Participating State's option to withhold any monies due to Contractor under this Participating Addendum up to any amounts due and owing to Participating State with regard to this Participating Addendum, or any other contracts or agreements between Contractor and Participating State, plus any amounts due and owing to Participating State for any other reason, including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto.

11. Access to Records. See Section 11 of Master Agreement, which is incorporated herein and made a part hereof by reference.

12. Insurance. See Section 12 of Master Agreement, which is incorporated herein and made a part hereof by reference.

13. Public Information. For the purposes of this Participating Addendum, this Section 13 shall supersede and replace Section 13 of the Master Agreement.

a. Application of Right-to-Know Law. Participating State's obligations of confidentiality, if any, under the Master Agreement and this Participating Addendum are subject to disclosure pursuant to the New Hampshire Right-to-Know Law, RSA 91-A. Notwithstanding the terms and conditions set forth in Section 13(b) below, Participating State shall have the sole and final authority as to whether the disclosure of any information relating to the transactions contemplated in this Participating Addendum or the Master Agreement is required under RSA 91-A.

b. Contractor's Designation of Trade Secrets and Confidential Information. If Contractor considers any portion of the materials disclosed to Participating State to be confidential or protected as a trade secret, Contractor must clearly designate that portion of the material as "CONFIDENTIAL," "TRADE SECRET," or any other language of similar import when submitted to Participating State. In the event that Participating State receives any request made pursuant to RSA 91-A that seeks the disclosure of materials designated by Contractor as being confidential or protected as a trade secret, and Participating State determines that the provisions of 91-A require the disclosure of the materials so designated, Participating State will notify Contractor of the following:

- i. The scope of the information sought through the request;
- ii. A description of the materials that Participating State will disclose in response to the request;
- iii. A description of the materials, if any, that are exempt from disclosure under the Right-to-Know Law pursuant to RSA 91-A:5; and
- iv. The date upon which Participating State will disclose the materials to the RSA 91-A requestor.

If Participating State concludes that the disclosure of materials designated by Contractor as being confidential or protected as a trade secret is required under RSA 91-A, Contractor shall be responsible for taking whatever appropriate legal action it deems necessary to prevent such disclosure to the RSA 91-A requestor.

14. Indemnification. See Section 14 of the Master Agreement, which is incorporated herein and made a part hereof by reference.

15. Dispute Resolution. See Section 15 of the Master Agreement, which is incorporated herein and made a part hereof by reference.

16. Defaults and Remedies; Termination. See Section 16 of the Master Agreement, which is incorporated herein and made a part hereof by reference. Participating State's termination rights and other remedies under this Participating Addendum shall be the same as those applicable to Lead State under Section 16 of the Master Agreement.

17. Assignment. Contractor will not sell, assign, or transfer any of its rights, duties, or obligations under this Participating Addendum without the prior written consent of Participating State. In the event of any assignment, Contractor shall remain responsible for the full and complete performance under this Participating Addendum, unless such responsibility is expressly waived by Participating State. However, nothing in this section shall prevent an assignment of this Participating Addendum by Contractor, in the event that Contractor is wholly or substantially purchased or acquired. Such assignment gives the participating entity the right to immediately terminate the addendum in its discretion

18. Independent Contractor. Contractor and its employees, agents, and subcontractors are independent contractors and not agents or employees of the Participating State. Contractor shall not have any authority to legally bind Participating State nor shall Participating State be bound by any actions or other conduct of Contractor and its employees, agents, and subcontractors. Contractor agrees to include the language of this Section 18 provision in all its subcontracts relating to this Participating Addendum.

19. Sovereign Immunity Preserved. Notwithstanding any terms and conditions set forth herein to the contrary, this Participating Addendum shall not be construed as a waiver of Participating State's sovereign immunity, which is hereby reserved by Participating State. The terms and conditions of this Section 19 shall survive the expiration or termination of this Participating Addendum.

20. Compliance with Applicable Laws and Regulations. Throughout the term of this Participating Addendum, Contractor and Participating State shall comply with all federal, state, and local laws, rules, and regulations applicable to this Participating Addendum, the Master Agreement, and any Orders made thereunder. In addition, in connection with its performance under this Participating Addendum and the Master Agreement, Contractor and Participating State shall not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

21. Successors and Assigns. The promises and covenants herein contained shall bind, and the benefits and advantages shall inure to, except as herein specifically limited, the respective successors and assigns of the Parties.

22. Governing Law. The Parties acknowledge and agree that this Participating Addendum and the rights, obligations, and liabilities of the Parties hereunder, including matters of construction, validity, and performance, shall be exclusively governed by the laws of the State of New Hampshire without regard to any choice of law or conflict of law, rules, or provisions (whether of the State of New Hampshire or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New Hampshire.

23. Consent to Jurisdiction and Venue. The Parties hereby irrevocably and unconditionally (a) submit to exclusive personal jurisdiction in the Superior Courts of the State of New Hampshire over any suit, action, or proceeding arising out of or relating to this Participating Addendum, and (b) waive any and all personal rights under the laws of any other state to object to jurisdiction within the Superior Courts of the State of New Hampshire. The Parties agree that the only proper venue for any suit, action, or proceeding arising out of or related to this Participating Addendum shall be in the state courts of the State of New Hampshire.

24. Severability. If any term or condition of this Participating Addendum or the application thereof to any party or circumstance shall to any extent be invalid or unenforceable, the remainder of this Participating Addendum, or the application of such term or condition to the parties or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and condition of this Participating Addendum shall be valid and enforceable to the maximum extent permitted by law.

25. Waiver. No delay on the part of Participating State in the exercise of any right or remedy hereunder shall operate as a waiver thereof, and no single or partial exercise by Participating State of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any amendment, modification, or waiver of any of the provisions of this Participating Addendum be binding upon Participating State except as expressly set forth in a writing duly signed and delivered by an authorized agent of Participating State. No action of Participating State permitted hereunder shall in any way affect or impair the rights of Participating State or the obligations of Contractor under this Participating Addendum.

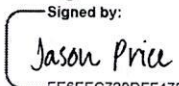
26. Merger. This Participating Addendum, together with the Master Agreement, is intended by the Parties as the final, complete, and exclusive understanding of the Parties hereto. All prior or contemporaneous promises, agreements, and understandings, whether oral or written, are deemed to be superseded by this Participating Addendum, and no Party is relying on any promise, agreement, or understanding not set forth in this Participating Addendum. This Participating Addendum may not be amended or modified except by a written instrument describing such amendment or modification executed by the Parties hereto.

27. Construction. The recitals set forth at the outset of this Participating Addendum are a part of this Participating Addendum, as fully as if set forth in their entirety in the body hereof. The captions or headings in this Participating Addendum are for ease of reference only, and no caption or heading shall affect in any way the interpretation, meaning, or construction of this Participating Addendum. Wherever used, the singular shall include the plural, the plural the singular, and the use of any gender or the neuter shall be applicable to all genders and the neuter. References to a person or entity are, unless the context otherwise requires, also to its owners, members, managers, shareholders, officers, directors, affiliates, heirs, executors, legal representatives, agents, successors, and assigns as applicable. As used in this Participating Addendum, the terms "include," "includes," and "including" shall be deemed to be followed by "without limitation" whether or not they are in fact followed by such word or words of similar import. The words "all" and "each" shall be construed as all and each, and the words "or" and "and" shall be construed either disjunctively or conjunctively, as the context may require. In the event of any conflict between the terms and conditions of this Participating Addendum and the terms and conditions of the Master Agreement, the terms and conditions of this Participating Addendum shall control.

28. Counterparts; Facsimile and Electronic Signatures. This Participating Addendum may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Participating Addendum. A facsimile or portable document format (PDF) signature on this Participating Addendum shall be equivalent to, and have the same force and effect as, an original signature. In accordance with the New Hampshire Uniform Electronic Transactions Act, RSA 294-E:1 *et seq.*, the Parties hereby agree that this Participating Addendum may be signed electronically, including any exhibits, schedules, addenda, or other attachments referenced herein.

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SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date their respective signatures parties below.

Contracting Officer for State Agency Gary Lunetta		State Agency Telephone Number 603-271-3606	
Contractor Signature Signed by:  Date: 1/9/2025		Name and Title of Contractor Signatory Jason Price President	
1.13 State Agency Signature  Date: 2/12/25		1.14 Name and Title of State Agency Signatory Charles Arlinghaus - Commissioner	
Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: _____ On: _____			
Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

[Please email fully executed PDF copy of this document to PA@naspoaluepoint.org to support documentation of participation and posting in appropriate data bases]