

STATE OF NEW HAMPSHIRE PROPOSAL TRANSMITTAL LETTER

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To: Point of Contact: **Karen Rantamaki**  
Telephone: (603)-271-2698  
Fax: (603) 271-7564  
Email: prchweb@nh.gov

RE: **Proposal Invitation Name: Firm Electric Supply**  
**Proposal Number: PROPOSAL 2016-181**  
**Proposal Opening Date and Time: September 22, 2015 @ 12:00 NOON (EST)**

Dear **Ms. Rantamaki**:

[Insert name of signor] \_\_\_\_\_, on behalf of \_\_\_\_\_ [insert name of entity submitting Proposal (collectively referred to as "Vendor") hereby submits an offer as contained in the written Proposal submitted herewith ("Proposal") to the State of New Hampshire in response to PROPOSAL # 2016-181 for Firm Electric Supply Services Contract(s) at the price(s) quoted herein in complete accordance with the Proposal.

\_\_\_\_\_ is authorized to legally obligate \_\_\_\_\_  
Print Signor Name Print Company Name

Vendor attests to the fact that:

1. The Vendor has reviewed and agreed to be bound by the terms of the Request for Proposal.
2. The Vendor has not altered any of the language or other provisions contained in the Proposal document.
3. The Proposal is effective for a period of 180 days from the Opening date as indicated above.
4. The prices Vendor has quoted in the Proposal were established without collusion with other vendors.
5. The Vendor has read and fully understands this Request for Proposal.
6. Further, in accordance with RSA 21-I:11-c, the undersigned Vendor certifies that neither the Vendor nor any of its subsidiaries, affiliates or principal officers (principal officers refers to individuals with management responsibility for the entity or association):
  - a. Has, within the past 2 years, been convicted of, or pleaded guilty to, a violation of RSA 356:2, RSA 356:4, or any state or federal law or county or municipal ordinance prohibiting specified proposalding practices, or involving antitrust violations, which has not been annulled;
  - b. Has been prohibited, either permanently or temporarily, from participating in any public works project pursuant to RSA 638:20;
  - c. Has previously provided false, deceptive, or fraudulent information on a vendor code number application form, or any other document submitted to the state of New Hampshire, which information was not corrected as of the time of the filing a proposal, proposal, or quotation;
  - d. Is currently debarred from performing work on any project of the federal government or the government of any state;
  - e. Has, within the past 2 years, failed to cure a default on any contract with the federal government or the government of any state;
  - f. Is presently subject to any order of the department of labor, the department of employment security, or any other state department, agency, board, or commission, finding that the applicant is not in compliance with the requirements of the laws or rules that the department, agency, board, or commission is charged with implementing;
  - g. Is presently subject to any sanction or penalty finally issued by the department of labor, the department of employment security, or any other state department, agency, board, or commission, which sanction or penalty has not been fully discharged or fulfilled;
  - h. Is currently serving a sentence or is subject to a continuing or unfulfilled penalty for any crime or violation noted in this section;
  - i. Has failed or neglected to advise the division of any conviction, plea of guilty, or finding relative to any crime or violation noted in this section, or of any debarment, within 30 days of such conviction, plea, finding, or debarment; or
  - j. Has been placed on the debarred parties list described in RSA 21-I:11-c within the past year.

**Authorized Signor's Signature** \_\_\_\_\_ **Authorized Signor's Title** \_\_\_\_\_

**NOTARY PUBLIC/JUSTICE OF THE PEACE**

**COUNTY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 2015, personally appeared before me, the above named \_\_\_\_\_, in his/her capacity as authorized representative of \_\_\_\_\_, known to me or satisfactorily proven, and took oath that the foregoing is true and accurate to the best of his/her knowledge and belief.

In witness thereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
(Notary Public/Justice of the Peace)

My commission expires: \_\_\_\_\_ (Date)

**REQUEST FOR PROPOSAL FOR A CONTRACT(S) TO  
PROVIDE FIRM ELECTRIC SUPPLY SERVICES FOR  
THE STATE OF NEW HAMPSHIRE**

**PURPOSE:**

The purpose of this Request for Proposals (RFP) is to purchase firm electrical supply for certain electrical accounts for the State of New Hampshire (State), from a Competitive Electric Power Supplier (CEPS), certified as such with the New Hampshire Public Utilities Commission (NH-PUC). It is the intent of the State to enter into the **State of New Hampshire Power Supply Agreement** (Exhibit A) for a term of twelve, twenty-four, or thirty-six months. The State will commit a load consisting of: **534 (and 3)** accounts now serviced by the Local Distribution Company (LDC) listed in Attachment A with a combined annual usage of **92,649 (and 13,444)** MWh.

It is the intent of the State to receive electric supply offers from CEPS based only on the accounts included in this RFP.

**GENERAL PROVISIONS:**

This RFP does not commit the State of New Hampshire to award a contract, pay any costs incurred in preparing a response, or procure or contract for services. Furthermore the State's listed loads are intended to demonstrate usage history only; the indicated annual load is an approximation. Actual usage history may be obtained by submitting an Interval Data Request. Any resulting contracts from this RFP will be for kWh equivalent to the actual past twelve months, depending on contract term, with at least a 20-percent swing provision built in. Should the total combined usage for the listed accounts differ by more than 20-percent, the State agrees to purchase additional needed electricity at the market price as determined by ISO-NE on an hourly basis for the duration of the contract. Any resulting contracts will explicitly state the number of kWh to be purchased.

CEPS responding to this request will bear all expenses incurred in the preparation of their responses. Furthermore, any cost to investigate usage profiles or provide oral or written clarification of their proposals shall be borne by the suppliers. The State of New Hampshire assumes no responsibility for these costs. All responding CEPS are instructed to submit one original and three copies of their bids. The State has published its "CURRENT FINANCIALS" posted on the NH Bureau of Administrative Services website: <http://admin.state.nh.us/accounting/reports.asp>. Any proposal stating "subject to credit approval," shall be deemed noncompliant. The State's credit worthiness must be based on the documents posted on the abovementioned website.

Qualification Statements (Phase I) must be submitted as directed per Proposal Format & Content Description, and Bid Submission must be received on the forms supplied in Exhibit A (including all appendices). Qualification Statements must be typewritten and mailed or delivered in person; however, Bid Forms (Phase II) can be faxed or emailed. Qualification Statements must be signed to be considered. All proposals become the property of the State after the bid deadline.

The State of New Hampshire will cooperate with the suppliers to obtain load profiles, from the LDC, on the accounts listed in Attachment A. CEPS must submit Interval Data Requests to the Department of Administrative Services for signature and approval. It is then the responsibility of the CEPS to forward the request to the LDC. All costs incurred for the request of interval data are the responsibility of the CEPS. DAS will not pay any costs associated with these requests. Electronic copies of current electric bills for the accounts included in this RFP will be posted to DAS's FTP site. A password to access this site will be provided upon request.

If an award is made, the CEPS will be notified by the State's lock-in deadline. A contract will be transmitted via fax or email, signed by the appropriate State and CEPS parties. A final contract with original signatures will be submitted to the State within three business days of the contract award.

**CONTRACT PERIOD/TERM:**

The selected CEPS shall supply electricity to the State at an 'All Inclusive Fixed Price' starting on the LDC's next scheduled meter reading on or after October 1, 2015; at the bid pricing structure established from this RFP for a period of twelve, twenty-four, or thirty-six months as dictated by the **State of New Hampshire Power Supply Agreement** (Agreement). Adjustments to the term and/or the start/end dates must be in accordance with Section 3.2 of the Agreement. The contract may be extended for a period up to the length of the original period with terms and conditions agreed upon by both parties.

**CONTRACTOR POINT OF CONTACT:**

The Contractor shall assign a Contractor Point of Contact. The Contractor's selection of the Contractor Point of Contact shall be subject to the prior written approval of the State. The State's approval process may include, without limitation, review of the proposed Contractor Point of Contact resume, qualifications, references, and an interview. The State may require removal or reassignment of this Contractor Point of Contact who, in the sole judgment of the State, is unacceptable to the State or is not performing to the State's satisfaction.

The Contractor Point of Contact shall have full authority to make binding decisions under this Contract, and shall function as the Contractor's representative for administrative and management matters. The Contractor Point of Contact shall be available to promptly respond to inquiries from the State during Normal Business Hours. The Contractor Point of Contact shall work diligently and use his/her best efforts on the Contract. The Contractor Point of Contact shall be qualified to perform the obligations required of the position under this Contract.

The Contractor shall not change its assignment of this Contractor Point of Contact without providing the State with written notice. The replacement Contractor Point of Contact shall have comparable or greater skills than the Contractor Point of Contact replaced, and meet the requirements of this Contract.

**INSURANCE:**

Prior to award of this contract, the contractor shall furnish a Certificate of Insurance as evidence of existence of broad form comprehensive general liability (CGL) in minimum amount of not less than \$250,000.00 per claimant, and \$2,000,000.00 per incident.

The CEPS shall, at its sole expense, obtain said insurance and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, both for the benefit of the State. The certificates shall contain a clause prohibiting cancellations or modifications of the policy for the duration of the contract.

The policies described above shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State.

**PUBLIC DISCLOSURE:**

Generally, all proposals (including all materials submitted in connection with them, such as attachments, exhibits and addenda) become public information upon the effective date of a resulting contract or purchase order. However, to the extent consistent with applicable state and federal laws and regulations, as determined by the State, including, but not limited to, RSA Chapter 91-A (the "Right-to-Know" Law), the State will attempt to maintain the confidentiality of portions of a proposal that are clearly and properly marked by a Vendor as confidential. Any and all information contained in or connected to a proposal that a Vendor considers confidential must be clearly designated in a manner that draws attention to the designation. The State shall have no obligation to maintain the confidentiality of any portion of a proposal or related material, which is not so marked. Marking an entire proposal, attachment or sections thereof confidential without taking into consideration the public's right to know will neither be accepted nor honored by the State. Notwithstanding any provision of this RFP to the contrary, pricing will be subject to public disclosure upon the effective date of all resulting contracts or purchase orders, regardless of whether or not marked as confidential. If a proposal results in a purchase order or contract, whether or not subject to approval by the Governor and Executive Council, all material contained in, made part of, or submitted with the contract or purchase order shall be subject to public disclosure.

If a request is made to the State by any person or entity to view or receive copies of any portion of a proposal and if disclosure is not prohibited under RSA 21-I: 13-a, Vendors acknowledge and agree that the State may disclose any and all portions of the proposal or related materials which is not marked as confidential. In the case of proposals or related materials that contain portions marked confidential, the State will assess what information it believes is subject to release; notify the Vendor that the request has been made; indicate what, if any, portions of the proposal or related material will not be released; and notify the Vendor of the date it plans to release the materials. The State is not obligated to comply with a Vendor's designation regarding confidentiality.

By submitting a proposal, the Vendor agrees that unless it obtains and provides to the State, prior to the date specified in the notice described in the paragraph above, a court order valid and enforceable in the State of

New Hampshire, at its sole expense, enjoining the release of the requested information, the State may release the information on the date specified in the notice without any liability to the Vendor.

### **PROJECTED SCHEDULE OF EVENTS:**

The process of soliciting qualification statements and bids, and ultimately selecting a CEPS for the State of New Hampshire, will be a two-phased process. The following schedule has been developed to ensure proper evaluation of the vendors' qualifications as required under RSA 21-I:17b.

#### **PHASE I**

Release of RFP	August 31, 2015
Deadline for receiving questions/Interval Data Requests	September 11, 2015 4:00 PM
Deadline for State's response/addendum	September 15, 2015 4:00 PM
Deadline for Qualification Statements	September 17, 2015 11:00 AM

#### **PHASE II**

Deadline for bid submissions	September 22, 2015 Noon
Deadline for State's lock-in	September 22, 2015 3:00 PM
Anticipated Start of contract term (next meter read after)	October 1, 2015
Anticipated end of contract term	September 30, 2016/17/18

### **INQUIRIES, REQUESTS FOR CLARIFICATIONS AND /OR SPECIFICATION CHANGES:**

All questions regarding this RFP, including clarifications and proposed specification changes or modifications to the terms and conditions of the form contract P-37, must be submitted to Karen Rantamaki, Department of Administrative Services, at karen.rantamaki@nh.gov. All questions or request for modifications must be submitted in writing via e-mail no later than September 11, 2015 at 4:00 PM. Vendors must include complete contact information including the vendor's name, telephone number, fax number, and e-mail address. Any modifications will be issued in the form of a written addendum or addendums that will be posted on the State's website.

### **REGISTRATION REQUIREMENTS:**

The following items **must** be included in the CEPS Qualification Statement (Phase I) in order to be approved to participate in Phase II of this RFP.

**NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION REGISTRATION:** Prior to supplying a proposal under this RFP, the vendor must be duly registered as an authorized "Competitive Electric Power Supplier" (CEPS) with the New Hampshire Public Utilities Commission (PUC). The selected vendor must remain registered with the PUC through the duration of this contract indicating that they are approved to supply electrical power in the LDC territory corresponding to the accounts for which they are bidding. Due to the assignment listed in the State's terms and conditions, any qualification statements/bids received from aggregators/brokers will be rejected. The proper forms and information on PUC certification can be found at: <http://www.puc.state.nh.us/regulatory/rules/puc2000.pdf>

**STATE OF NEW HAMPSHIRE VENDOR APPLICATION:** Prior to award of a contract, the vendor must be duly registered as an authorized vendor to conduct business with the State of New Hampshire. Phase I submittals shall include documentation that the vendor has completed the Vendor Application and that a W-9 Form is on file with the New Hampshire Bureau of Purchase and Property. The following website contains information and the required forms: <http://admin.state.nh.us/purchasing/vendor.asp>

**NEW HAMPSHIRE SECRETARY OF STATE REGISTRATION:** Vendors must be listed as "in-good-standing" with the Secretary of State. Businesses are classified as 'domestic' (in-state) or 'foreign' (out-of-state). The following website has more information about the requirements and filing fees for both classifications: [http://sos.nh.gov/Corp\\_Div.aspx](http://sos.nh.gov/Corp_Div.aspx)

**NEPOOL & ISO NEW ENGLAND:** CEPS satisfying the abovementioned registration requirements must also meet all current requirements of NEPOOL, ISO New England, and the Local Distribution Company (LDC). Suppliers are also required to provide documentation of their ability to provide firm power to these accounts including system reserves for each account.

**BID SUBMITTAL INSTRUCTIONS:**

Each phase of the submittal process (Qualification Statements & Bid forms) may be hand delivered or mailed prior to the respective deadlines listed in the Project Schedule of Events to:

New Hampshire Department of Administrative Services  
Bureau of Purchase and Property  
Room 102, State House Annex  
25 Capitol Street  
Concord, NH 03301

**(Phase II may be faxed to the attention of Karen Rantamaki at (603) 271-7564 or (603) 271-2700, or by email to [prchweb@nh.gov](mailto:prchweb@nh.gov). Submittals sent to any other fax or email address will not be accepted.)**

PHASE I (due 9/17/15, 11:00 AM): Three copies and one original (marked as such) shall be delivered as a hard copy (no faxed or emailed formats will be accepted) in a sealed envelope, clearly labeled:  
FIRM ELECTRIC POWER SUPPLY OFFER IN RESPONSE TO RFP 2016-181

PHASE II (due 9/22/15, Noon): The final section Bid Forms may be sent via mail, fax, email, or hand-delivery for easy insertion into the binders previously received during Phase I. All must be clearly labeled:

BID FORMS (PHASE II) IN RESPONSE TO RFP 2016-181

Should either of these submittals be received later than the designated dates and times listed herein, it will be deemed unacceptable and returned to the vendor.

**PROPOSAL FORMAT & CONTENT DESCRIPTION: All proposals must follow the format outlined below in order to simplify the task of comparison for the evaluators. Three copies and one original (marked as such) shall be included. Each should be presented with section dividers labeled as indicated below. Phase II submissions will be inserted by DAS as part of Appendix I resulting in a complete package.**

PHASE I: It is the intent of the State of New Hampshire to expedite the review process and allow a timely review of the actual offers made in Phase II of this RFP. Therefore, the following sections and content must be included within the Phase I submittal package. **All Phase I documents must be signed at the time of submittal. Failure to sign documents prior to the Phase II deadline will result in disqualification.**

**Cover Page:** entitled *Firm Electric Power Supply Offer in Response to RFP 2016-181*

**Signed Transmittal Letter**

Attach *General Provisions*

Attach *Additional Provisions*

**Table of Contents****Section I – General Information**Company Profile & Contact Information

This section must include the legal name and address of the CEPS as well as any trade names under which it intends to operate. It must include all appropriate website addresses, telephone numbers, facsimile number, and email addresses. Furthermore, it should include the names, titles, and contact information of the principal officers; as well as the local point of contact (independent agents/brokers are unacceptable).

Corporate Resolution or Certificate of Authority

Current documentation identifying the corporate officer with the authority to sign contracts for the vendor must be provided. This person must sign any contracts that result from this RFP.

NHPUC Certification

Current documentation showing that the supplier is duly registered in good standing with the State of New Hampshire Public Utilities Commission must be provided.

State's Vendor Application

Documentation that an application has been submitted to the New Hampshire Bureau of Purchase and Property and that approval is forthcoming must be provided.

Secretary of State Classification

Documentation that the CEPS is in the process of becoming classified must be provided. Contracts may only be issued to classified vendors; approval is required prior to the contract execution.

Financial Ranking

Documentation from Fitch Ratings, Standard & Poor's, Morgan Stanley, Capital International, or equivalent rating system stating financial ranking must be provided.

References

Please provide a minimum of three references of past customers (within the last year) including company name and address, contact name and phone number, and the service supplied to that company (similar service to that requested through this RFP).

**Section II – Quality of Service**Statement of Generation Sources & Fuel Types

Where practical, all responding CEPS shall identify the location of the generating plants prepared to satisfy the required load stated herein, and what generation sources they use.

New Hampshire Environmental Disclosure Label

The CEPS shall submit information on the power sources and air emissions associated with its electric supply

Customer Complaints Disclosure

A listing disclosing any and all customer complaints filed with any state consumer protection agency, attorney general and/or licensing bureau, etc. shall be included in the proposal.

**Section III – Reliability of Service**Documentation Meeting the Requirements of NEPOOL & ISO-NE

Responding CEPS must submit evidence of current membership in the New England Power Pool (NEPOOL) and a history identifying that all rules and requirements of the Independent System Operators of New England (ISO-NE) have been met.

Documentation Meeting the Requirements of the LDC

Please provide documentation listing all physical assets (if any) or agreements that will supply electricity should the plants listed above fail to support the State's energy needs.

Contractor Point of Contact

Please provide information on the Contractor Point of Contact as described in this RFP. At a minimum, please provide name, title, phone and fax numbers, and email and mailing addresses. Supporting documentation showing that the Point of Contact meets the requirements stated earlier in this RFP should also be included.

**Section IV – Coordination of Service**Electronic Transfers Documentation

Please provide certification of Electronic Data Interchange (EDI) testing completion from each LDC.

Sample of the Supplier's Customer Base

This sample should include customers who have electrical needs similar to the State's load listed in this RFP, specifically, the State would like to see experience with customers with a large number of individual electric accounts.

**Appendix I – Addendums**

*Signed copies of all addendums*

**PHASE II:** Upon evaluation of Phase I submissions, the selection committee will verify that all items listed above as Phase I requirements have been satisfied. Once the selection committee evaluates Phase I, CEPS will be notified of their eligibility for Phase II. All approved CEPS will be expected to submit, by the date and time listed under the Schedule of Events, a completed and signed Schedule of Rates.

**CONTRACT PRICING FORMAT:** The State understands that certain risks accompany market exposure and the buying format which is chosen. It is for this reason that the State must ask CEPS to respond to this RFP using two types of buying strategies and two targeted term lengths. They are:

**BASE BID – LOW MARKET EXPOSURE** – The CEPS's offer under this program shall be an **all-inclusive fixed price** for all required loads with the objective of providing cost certainty to State agencies for the duration of the term(s). **CEPS must include offers for both the base bid and alternate, and all three term lengths listed or the bid offer will be deemed incomplete and will not be considered.** The submitted electric supply offer shall be stated as \$/kWh (US dollars), with no distinction between on-peak and off-peak power. Furthermore, responses and the ultimate contract will be exempt from connection/service start-up fees, fuel surcharges, disconnect/switching fees, taxes, or misc. fees not stated here. Regulated charges **now imposed** by the FERC and/or ISO-NE, **with the exception of the 2015/16 Winter Reliability Program**, shall be included in the pricing offer. **The 2015/16 Winter Reliability Program Charges shall be**

**billed as a direct pass through, with no mark-up, from the CEPS to the State. Do not include charges associated with the Winter Reliability Program in your pricing response to this RFP.**

ALTERNATE – LOW MARKET EXPOSURE WITH RENEWABLES– In accordance with the Governor’s endorsement of the 25x25 Initiative, the State desires to develop a renewable power portfolio. Therefore, the requirement of this “Alternate” is for 25% of the load to be supplied through renewable sources at an all-inclusive fixed price. The CEPS’s offer under this “Alternate” must be for the same terms and buying strategies as the base bid. The CEPS should be aware that the renewable power offered shall be above and beyond what is currently required for the Renewable Portfolio Standard.

**CHANGES IN TARIFF OR LAW:**

If any existing laws or tariffs are revised, or if any new laws or tariffs are enacted that effect electricity rates, the Vendor shall have the right to pass on the cost increase to the State without any additional mark up. Such additional amounts will be included in subsequent invoices to the State. Any decreases shall be passed onto the State. The State shall be notified in writing 30 days prior to any fee changes.

**CONTRACT INVOICING:**

Billing by the CEPS will be done either through the existing LDC billing method or through separate bills issued by the CEPS. In either instance, a separate invoice shall be required for each account number listed in Attachment A. If billed through the LDC, the CEPS shall be responsible for any cost incurred in the LDC billing statement to avoid late charges imposed in accordance with the LDC’s rules. If billed separately, all costs incurred with preparing statements shall be at the expense of the CEPS. Any statement shall be final unless adjusted or questioned by either party within one year of the issuance of the invoice.

**SELECTION PROCESS:**

The State of New Hampshire, Division of Purchase & Property will evaluate suppliers meeting or exceeding the certification and qualification criteria listed above.

Per New Hampshire Statute RSA 21-I:17-b, the assessment of an electrical power competitive bid must be evaluated on three distinct criteria in addition to price. The criteria are: Quality of Service, Reliability of Service, and Coordination of Service. The responding CEPS **must** include information pertinent to these issues (as stated above) in Phase I submittals.

Furthermore, a completed and signed copy of the Transmittal Letter must be included in the Phase I submittal. All Addendums must be signed and submitted. The final document, Appendix A – Schedule of Rates, must be received as the Phase II submittal in order to fully evaluate the pricing structure. A selection committee consisting of the Director of the Plant & Property Division, the designated Purchasing Agent, and the State Energy Manager will rate responses using the point system below.

<b>QUALIFICATION STATEMENTS – AWARD CRITERIA (Phase I)</b>		
<u>Quality of Service</u> <b>0-15 points</b>	<u>Reliability of Service</u> <b>0-15 points</b>	<u>Coordination of Service</u> <b>0-15 points</b>
<b>PROPOSAL CHARACTERISTICS POINT STRUCTURE DETAILS</b>		
<b>15 points – Outstanding</b> The proposal is satisfactory in all aspects and contains many significant desirable characteristics beyond the satisfactory level.		
<b>12 points – Above Average</b> The proposal is satisfactory in all aspects and contains one or more significant desirable characteristics beyond the satisfactory level.		
<b>9 points – Average</b> The proposal is satisfactory in all aspects.		
<b>3 points – Below Average</b> The proposal is deficient in several characteristics.		
<b>POWER SUPPLY OFFER – AWARD CRITERIA (Phase II)</b>		
<u>Unit Price (\$\$/kWh)</u>		<b>10-55 points</b>
<b>55 points – the lowest cost offer</b>		
<b>40 points – the second lowest cost offer</b>		
<b>25 points – the third lowest cost offer</b>		
<b>10 points – all offers more costly than the third lowest cost offer</b>		

*Results of the evaluation of the Qualification Statements and Power Supply Offers will become public record only after an award of contract.*

**NON-COMMITMENT:**

Notwithstanding any other provisions of this RFP to the contrary, the State does not commit to award any contracts. The State reserves the right; at any time, at its sole discretion, and without any obligation or liability to any vendor; to reject any and all bids or any portions thereof, to cancel this bid, and to solicit new bids under a new acquisition process.

**PRIORITY OF DOCUMENTS:**

In the case of any conflict among documents, the following is the order in which they shall prevail: 1.) Exhibits B and C Contract General Provisions and Special Provisions (pages 13-17 of this RFP); 2.) Exhibit A, New Hampshire Power Supply Agreement (with all appendices); 3.) Attachment A (with respect to the accounts listed on such schedule); 4.) RFP 2016-181; and 5.) CEPS response to aforementioned RFP. Applicable provisions will continue in effect, to the extent necessary, after termination or expiration of any contracts for the purposes of final billing, billing adjustments and payments, and any indemnification obligations. The section headings used herein are for reference purposes only and will in no way affect the meaning of the provisions of this document.

**AWARD:**

It is the intent of the State of New Hampshire to award one or two contracts by the Groups indicated in Appendix A- Schedule of Rates and Attachment A - Accounts with the qualified supplier(s) who will assume responsibility for all aspects of the electrical supply for the accounts listed within this RFP. Pricing Offers (numbered 1 through 6 in Appendix A) will be scored individually. The State will choose the term length and renewable energy option that best meets the needs of the State. The State may choose to combine Groups A and B into one contract if it is in the best interest of the State. Joint venture and cooperative proposals will not be considered.

The State's purchasing agent will initiate the award of a contract by re-submitting to the selected supplier an executed State of New Hampshire contract including the State's standard signature sheet accompanied by an executed State of New Hampshire Power Supply Agreement.

The State reserves the right to cancel all or any parts of the RFP at any time. Cancellation of the RFP, in whole or in part, shall not bar the State from issuing another RFP for the same services.

In Accordance with ADM 604.03, no material changes can be made to the specifications and or terms and conditions after the vendor inquiry period. Any material modifications to the specifications and or terms and condition will result in bid rejection.

**RFP RESULTS:**

Beyond the selected supplier, results or notice of selection will not be given over the telephone. Suppliers are encouraged to visit the Purchase & Property website after the response date to monitor any postings listed there in reference to this RFP. [http://www.admin.state.nh.us/purchasing/bids\\_posteddte.asp](http://www.admin.state.nh.us/purchasing/bids_posteddte.asp)

**EXHIBIT A - ADDITIONAL PROVISIONS**  
**STATE OF NEW HAMPSHIRE POWER SUPPLY AGREEMENT**

This Power Supply Agreement ("Agreement") is made as of \_\_\_\_\_, 2015 between **The State of New Hampshire** ("State") and \_\_\_\_\_ ("**Vendor**" or "**Contractor**") both of which enter into this Agreement, which includes the attached General Terms and Conditions, making each ("Party/Parties") legally bound to agree as follows:

**1. SCOPE OF AGREEMENT**

The Vendor shall sell and provide Firm Power, hereby referred to as, Electric Power Supply ("**EPS**") to the Point(s) of Delivery, and the State shall exclusively purchase (solely for consumption of the accounts) and cause to be received from the Vendor, all required EPS during the Term. All future transactions shall be in accordance with this Agreement, RFP 2016-181, and the Vendor's Schedule of Rates, including, without limitation, all Exhibits and Appendices hereto, in the priority listed in the RFP.

During the Term, the Vendor reserves the right to manage State's load on a wholesale basis under applicable rules and regulations of ISO-NE, including, without limitation, the supplying and/or settling of such load. The State shall also agree to execute and deliver any documents or instruments requested by Vendor for submission to ISO-NE or the LDC in connection with such load management.

**2. DEFINITIONS**

- **Account(s)** - The accounts listed within the Attachment A of RFP 2016-181
- **Agreement** - The legally binding contract made up of this Power Supply Agreement, all Exhibits and Appendices listed in RFP 2016-181 and/or existing or future Amendments mutually agreed upon by all Parties
- **Business Meter(s)** - The billing meter(s) of the LDC located at the States' Facilities as listed in Attachment A
- **Buyer** - The State Of New Hampshire (various agencies)
- **Competitive Electric Power Supplier (CEPS)** - A certified (registered with the NH Public Utilities Commission as such) vendor approved to conduct business within the Local Distribution Company's territory which the Business Meters are located
- **Contract Price** - The unit cost, expressed in \$\$/kWh as set forth in the Vendors Schedule of Rates submitted as part of this agreement. This shall include the energy costs and all regulated charges as defined within RFP 2016-181.
- **Distribution Services** - The delivery of Electric Power Supply to the State by the LDC
- **Distribution Tariff or Charges** - Those charges payable to the LDC by the State (outside of this contract) for the delivery of the Electric Power Supply (EPS)
- **Electric Power Supply** - The firm, full requirements electric power supply including energy, capacity and ancillary services, herein referred to as EPS. The expected quantity of EPS is stated on Appendix A - Schedule of Rates.
- **Expiration Date** - The date set forth as the End of the Term
- **FERC** - The Federal Energy Regulatory Commission
- **Firm Power** - Power or power producing capacity intended to be available at ALL times during the term covered by this agreement, except as prevented by Force Majeure or the other Party's default under this agreement
- **Force Majeure** - Events or circumstances which prevent a Party from performing and are not within the reasonable control of either party or result of the negligence of either Party including but not be limited to, acts of God; strikes; black outs; riots; acts of war; civil disturbance; sabotage; facility failure; curtailment, disruption, or interruption of distribution, transmission, or supply; declaration of emergency by the Utility or ISO; regulatory or legislative action; action or restraint by court order of governmental authority; epidemics; acts of Government; fire; nuclear accidents; earthquakes; and unusually severe weather.
- **ISO-NE** - Independent System Operator of New England, Inc. or its successor
- **kWh** - Kilowatt hour, a unit of energy equal to 1 kilowatt (kW) of power used for one hour
- **Law** - any law; rule; regulation; ordinance; statute; judicial decision; administrative order; ISO operating guideline or protocol; Utility or ISO tariff; rule of the public utilities commission, public service commission, or similar state commission or agency having jurisdiction over Utilities and the electricity distribution system of the state in which the Accounts are located
- **LDC or Utility and or Distribution Company** - the local electricity distribution company owning and /or controlling and maintaining the distribution system required for delivery of electricity to the Accounts
- **NEPOOL** - The New England Power Pool or its successor

- **Point of Delivery** - The point(s) of interconnection between the NEPOOL Pool Transmission Facilities (PTF) and the non-PTF facilities of the LDC in the NEPOOL zone in which the Business Meter is located
- **Regulated Charges** - Those charges imposed by ISO-NE and/or FERC which are out of the Vendors' control. They shall include, but not be limited to, pertinent capacity charges, congestion charges, reserve margin adjustments to these charges are permitted per Section 4.3.
- **Schedule of Rates** - The agreed upon tariffs Contract Price and Term identified in Appendix A
- **Start Date** - The date set forth as the commencement of the Term
- **Taxes** - Any and all *ad valorem*, energy, transmission, utility, gross receipts, sales, use, consumption, excise, transaction, and other taxes, including new taxes which become applicable to this Agreement after the commencement of the Term, governmental charges, fees, or assessments, or increases therein, other than taxes based on Vendor's income or taxes levied on Seller's real or personal property
- **Term** - The duration, beginning on the Start Date and ending on the Expiration Date, during which Vendor delivers Electric Power Supply to State under this Agreement, as set forth in accordance with Section 3.1 and/or adjusted pursuant of Section 3.2
- **Vendor** - The Competitive Electric Supplier, registered with NH PUC as such, which through a request-for-bid process, has been asked to execute this agreement with the State of New Hampshire

### 3. TERM

**3.1 START / END DATE:** The Agreement and all obligations of the Parties there under, shall become effective on the first meter-read date on or after October 1, 2015 ('Start Date') and shall be completed in their entirety on ('Expiration Date') the first meter-read date on or after September 30, 2016/2017/2018 unless the extension provision is executed. The contract may be extended for a period up to the length of the original period with terms and conditions agreed upon by both Parties. Any services or work undertaken by the Vendor prior to the start date shall be at his sole risk and, in the event that the agreement shall not become effective, the State shall be under no obligation to reimburse the Vendor for any such work or services.

**3.2 TERM ADJUSTMENTS:** The EPS deliveries pursuant to this Agreement will begin on the Start Date and will end on the Expiration Date pursuant to Section 3, provided that all requirements of this agreement are met. Unless termination of this Agreement occurs before the Expiration Date in accordance with the Section 8: Terms and Conditions, Events of Default, both parties will agree to the following expectations:

(a) The Term shall commence on the Start Date, providing the LDC reads the Business Meter(s) on that date, and the Vendor shall arrange transfer of EPS responsibilities from the LDC to the Vendor. If the LDC does not read the Business Meter(s) on the Start Date, the Term of this agreement shall commence on the first LDC meter reading after the Start Date and an Amendment adjusting the Start Date (mutually acceptable to both Parties) shall be executed and incorporated into this Agreement.

(b) If the Start Date is delayed by more than five (5) days after that stated in Section 3.1, the State shall have the option to either extend the Expiration Date accordingly, or reduce the Term by the amount of the delay. An Amendment, also mutually acceptable to both Parties will be executed within thirty (30) days of the signing of this agreement.

(c) The Term shall end on the Expiration Date stated within, providing the LDC reads the Business Meter(s) on that date, at which time the State will choose to extend the Term as provided in Section 3.2b, or agree to purchase its EPS from another source. Should the LDC fail to read the Business Meter(s) on the Expiration Date; the Term for such Business Meter(s) under this agreement, shall end on the first LDC meter reading thereafter. The Vendor shall agree to hold its contract price, indicated within Appendix A, for that extended time, not to exceed thirty (30) days.

If the Vendor fails to provide the EPS in accordance with this Agreement, the State may re-purchase the EPS from any other source and the original Vendor may be liable to the State for any excess costs.

**3.3 TRANSFER OF SERVICE:** The State and Vendor agree to initiate a Transfer of Service Confirmation, for all Business Meters included within this Agreement. Three originals of any documents shall be executed: one (1) for the State's records, one (1) for the Vendor's records and one (1) to be forwarded to the LDC to initiate any arrangements necessary for a flawless Transfer of Service.

**3.4 TRANSFER OF OWNERSHIP:** The Vendor will be responsible to deliver the EPS, in compliance with

the requirements of ISO-NE and NEPOOL, to the PTF to the non-PTF "Point of Delivery" for distribution to the State. The distribution beyond the "Point of Delivery" shall be the responsibility of the LDC under the LDC's applicable tariffs. Ownership of, and risk of loss with respect to the EPS will transfer to State at the Point of Delivery(s).

#### **4. PRICING – SCHEDULE OF RATES**

**4.1 CONTRACT PRICE:** The State shall pay to Vendor for the EPS, the applicable fixed Contract Price (unit cost), expressed in \$\$ / kWh, as stated on Appendix A– Schedule of Rates. The Contract Price shall include physical line losses associated with the delivery of energy to State on the PTF and on the transmission and distribution system of the LDC. The monthly payment by the State, as described in Section 5, shall constitute complete reimbursement for the EPS supplied by the Vendor during the billing period stated on the LDC's and/or the CEPS's monthly statement.

In the event the State's use of electricity exceeds 120% of the contracted amount over the contract term, the State shall pay the Vendor for the incremental cost of electricity as determined on an hourly basis from the fixed contract amount to the market price at the time of the required purchase. If the amount of electricity does not reach 80% of the contracted amount over the contract term, the Vendor shall liquidate the incremental amount of electricity on the market and the State will pay the incremental difference in cost from the fixed electricity cost per kWh at the time of the liquidation. If the Vendor liquidates the amount of underutilized electricity at a market price greater than the State's contract price, the Vendor shall credit the State for the incremental difference between the fixed contract rate and the market rate at the time of the liquidation.

**4.2 DISTRIBUTION SERVICES AND TARIFFS:** The State shall be responsible for all charges associated with the local transmission or distribution costs of the EPS. These costs are not included in the Contract Price from the Vendor, are not part of this agreement. Only fees imposed on the supply of the EPS during the term shall be the responsibility of the State under this contract.

**4.3 CHANGES IN TARIFF OR LAW:** If any existing Laws are revised, or if there is a change to the way such Laws are interpreted by the Utility, ISO-NE, FERC, or other state or governmental agency or court having jurisdiction, or if any new Laws are enacted that effect electricity rates, the Vendor shall have the right to pass on the cost increase to the State without any additional mark up. Such additional amounts will be included in subsequent invoices to the State. Any decreases shall be passed onto the State. The State shall be notified in writing 30 days prior to any fee changes.

**2015/16 Winter Reliability Program Charges will be treated as a straight pass-through to the State. These charges shall not be included in the Contract Price.**

#### **5. BILLING, PAYMENT, AND REPORTING REQUIREMENTS**

**5.1 METERING:** Metering of Electric Power Supply sold to the State pursuant to this Agreement shall be the responsibility of the LDC in accordance with the LDC's terms and conditions applicable to delivery of the EPS. All consumption-related billing under this Agreement shall be based on the meter readings generated by the Business Meters (or estimates of such readings by the LDC, when necessary). The State shall execute any documentation required by the Vendor to obtain information from the LDC regarding the State and/or the Business Meter.

The Vendor and the LDC will participate in electronic data transfer if necessary to provide information for monthly billing.

**5.2 LDC BILLING:** The billing of Vendor's charges will take place either through the LDC or directly by the CEPS. If billed through the LDC, the Vendor shall be responsible for the cost, if any, of such LDC billing services. The State shall attempt to pay the LDC by the due date indicated on the LDC billing statement to avoid late charges imposed in accordance with the LDC's rules. If billed directly by the CEPS, the CEPS will be responsible for all costs associated with preparing and delivering statements. Regardless of billing method, statements for multiple account numbers shall not be combined. The state expects to receive individual statements for each electric account number. If it is determined that the State has overpaid Vendor any amount(s), Vendor shall promptly refund such amount to State or provide a credit for such

amount on State's next invoice. Any statement shall be final unless adjusted or questioned by either party within one (1) year after the issuance of the invoice.

**5.3 REPORTING:** The Vendor shall make a reasonable effort to supply the State with a monthly report providing actual usage. The report shall be available either via web access or electronically to The State Energy Manager within 30 days of the end of the period being monitored. The report shall include: all enrolled electric account numbers and kWh purchased for each account for the period covered by the report. It may also include kWh purchased year to-date for each account, total kWh year-to-date, projected kWh year-to-date based on full contract amount, and total cost year-to-date.

## **6. MISCELLANEOUS**

**6.1 WARRANTIES:** Seller warrants (i) it has good title to all Electricity delivered, (ii) it has the right to sell the Electricity, and (iii) the Electricity will be free from all liens, encumbrances, and all applicable Taxes that are imposed prior to passage of title. All other warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, are disclaimed.

**6.2 LIMITATION ON LIABILITY:** Neither party will be liable to the other under the agreement for consequential, indirect or punitive damages, or specific performance, except as expressly provided herein.

## **7. STATEMENT OF CONFIRMATION**

**7.1 AGREEMENT TO TERMS AND CONDITIONS:** The Parties, indicated by the signatures below, affirm that they have read this Agreement in its entirety and agree to the terms and conditions contained herein. If an ambiguity or question of intent or interpretation arises; this Agreement will be construed as if drafted jointly by the Parties, and no presumption or burden of proof will arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement. Except to the extent otherwise explicitly provided in this Agreement, no amendment to this Agreement, including the Schedule of Rates, will be valid or allowed, except by way of an Amendment executed by both Parties. The priority of documentation will be as listed in the RFP.

**Exhibit B**Subject: Firm Electric Supply**1.0 AGREEMENT**

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

**GENERAL PROVISIONS****1. IDENTIFICATION.**

1.1 State Agency Name Department of Administrative Services		1.2 State Agency Address 25 Capitol Street Concord, NH 03301	
1.3 Vendor Name		1.4 Vendor Address	
1.5 Vendor Phone #	1.6 Account Number Multiple	1.7 Completion Date September 30, 2016/17/18	1.8 Price Limitation \$XXX
1.9 Contract(s)ing Officer for State Agency Karen L. Rantamaki		1.10 State Agency Telephone Number (603) 271-2698	
1.11 Vendor Signature		1.12 Name and Title of Vendor Signatory	
1.13 Acknowledgement: State of _____, County of _____  On _____, 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			
1.14 State Agency Signature		1.15 Name and Title of State Agency Signatory Vicki V. Quiram, Commissioner Department of Administrative Services	
1.16 Approval by the N.H. Department of Administration, Division of Personnel ( <i>if applicable</i> )  By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution)  By: _____ On: _____			
1.18 Approval by the Governor and Executive Council  By: _____ On: _____			

**2. EMPLOYMENT OF VENDOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages Vendor identified in block 1.3 ("Vendor") to perform, and the Vendor 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 Vendor commences the Services prior to the Effective Date, all Services performed by the Vendor prior to the Effective Date shall be performed at the sole risk of the Vendor, and in the event that this Agreement does not become effective, the State shall have no liability to the Vendor, including without limitation, any obligation to pay the Vendor for any costs incurred or Services performed. Vendor shall 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 Vendor 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(S) PRICE/PRICE LIMITATION/ PAYMENT.**

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

5.3 The State reserves the right to offset from any amounts otherwise payable to the Vendor 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 VENDOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Vendor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Vendor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Vendor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Vendor 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 Vendor 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 Vendor further agrees to permit the State or United States access to any of the Vendor'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 Vendor shall at its own expense provide all personnel necessary to perform the Services. The Vendor 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 Vendor shall not hire, and shall not permit any subvendor 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 Contract(s)ing 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 Contract(s)ing 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 Vendor 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 Vendor 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 Vendor notice of termination;

8.2.2 give the Vendor 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(s) price which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default shall never be paid to the Vendor;

8.2.3 set off against any other obligations the State may owe to the Vendor 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 Vendor shall deliver to the Contract(s)ing 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(s) 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. VENDOR'S RELATION TO THE STATE.** In the performance of this Agreement the Vendor is in all respects an independent Vendor, and is neither an agent nor an employee of the State. Neither the Vendor 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/SUBCONTRACT(S).** The Vendor 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 subcontract(s)ed by the Vendor without the prior written consent of the State.

**13. INDEMNIFICATION.** The Vendor 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 Vendor. 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 Vendor shall, at its sole expense, obtain and maintain in force, and shall require any subvendor 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 Vendor shall furnish to the Contract(s)ing Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Vendor shall also furnish to the Contract(s)ing 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 attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contract(s)ing 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 Vendor agrees, certifies and warrants that the Vendor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Vendor is subject to the requirements of N.H. RSA chapter 281-A, Vendor shall maintain, and require any subVendor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Vendor shall furnish the Contract(s)ing 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 Vendor, or any subVendor or employee of Vendor, 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 Vendor.

**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 C – SPECIAL PROVISIONS  
STATE OF NEW HAMPSHIRE POWER SUPPLY AGREEMENT**

The following will replace the corresponding provisions in the P-37, General Terms and Conditions:

1. Replace **12 ASSIGNMENT/DELEGATION/SUBCONTRACTS** with the following:

*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. The State shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of the Contractor. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.*

*Any permitted assignment, delegation, transfer, or subcontract shall neither relieve the Vendor of any of its obligations under the Contract nor shall it affect any remedies available to the State that may arise from any breach of the provision of the Contract. The Vendor shall remain wholly responsible for performance of the entire Contract regardless of whether subcontractors, assignees or other delegates are used. The State will consider the Vendor to be the sole point of contract with regard to all contractual matters, including payment of any and all charges resulting from the Contract.*

*In the event the Vendor should change ownership for any reason whatsoever, the State shall have the option of continuing under the contract with the Vendor or its successors or assigns for the full remaining term of the Contract; continuing under the Contract with the Vendor or its successors for such period of time as determined necessary by the State; or immediately terminating the contract.*

2. Provision **14.1.2** does not apply.

3. Replace **16 WAIVER OF BREACH** with the following:

*No failure by a Party 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 other Party.*

**APPENDIX A to the State of New Hampshire Power Supply Agreement**  
**Schedule of Rates**

CONTRACT RATE: This Appendix represents the legally binding rate structure, which the Vendor, \_\_\_\_\_, has agreed to sell the Electric Power Supply (EPS) to the State of New Hampshire for a contract price equal to the "per kWh" price structure below. This agreement is subject to all terms contained in the State of New Hampshire Power Supply Agreement.

SCHEDULE OF RATES: \_\_\_\_\_ agrees to sell at an All Inclusive Fixed Price, and the State of New Hampshire agrees to purchase the EPS for its accounts listed on Attachment A of RFP 2016-181. The Contract Rate shall be multiplied by the metered required portion of the EPS on a monthly basis and billed to the State in a fashion described in Section 5 of the Power Supply Agreement.

ESTIMATED USAGE: The annual quantities (kWh) of EPS included in this offer sheet, Appendix A Schedule of Rates are estimates only, based on 12 months of past history. These quantities are indicated for informational purposes only.

REQUESTED OFFERS: \_\_\_\_\_ respectfully submits this Schedule of Rates for all accounts listed within Attachment A of RFP 2016-181; based on a term of 12, 24, or 36 months; additionally submitted is a renewable energy option as requested.

This schedule of rates is duly submitted as part of the Exhibit A – State of New Hampshire Power Supply Agreement. Please note that it is the understanding of \_\_\_\_\_ that the State of New Hampshire will select the Option and Term that best fit its needs and a final contract reflecting those choices may be executed for the EPS purchase in whole or a portion there of.

**PRICING OFFER**

(All offers based on annual usage of 92,649,000 kWh for Group A and 13,444,000 kWh for Group B)

Base Offer					
<b>(1) Group A</b>		<b>(2) Group B</b>		<b>(3) Groups A+B Combined</b>	
12-month		12-month		12-month	
24-month		24-month		24-month	
36-month		36-month		36-month	
Alternate Offer – 25% Renewable Power					
<b>(4) Group A</b>		<b>(5) Group B</b>		<b>(6) Groups A+B Combined</b>	
12-month		12-month		12-month	
24-month		24-month		24-month	
36-month		36-month		36-month	

Respectfully Submitted: \_\_\_\_\_  
 Representing: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_