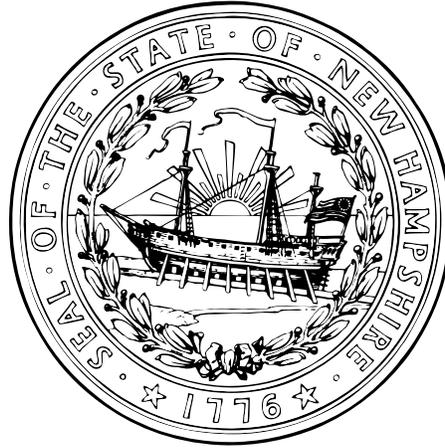


**STATE OF NEW HAMPSHIRE**  
**Public Employees Deferred Compensation Plan**



**Request for Proposals # 2017-186**

**457(b) Plan**  
**Audit Services**

**Issue Date:** May 25, 2016  
**Deadline for Questions:** June 10, 2016  
**Deadline for Submissions:** June 30, 2016 (3:30 PM EST)

**Submit proposals to:**  
State of New Hampshire  
Department of Administrative Services  
Bureau of Purchase & Property  
C/O Leonard J. Rautio  
25 Capitol Street Room 102  
Concord, NH 03301

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## **I. BACKGROUND**

The State of New Hampshire Deferred Compensation Commission (the "Commission") is seeking an auditing firm (Auditor) to conduct annual financial audit services for the New Hampshire Deferred Compensation Plan (the "Plan" in accordance with generally accepted auditing standards. The audits are to be performed in conformity with Generally Accepted Governmental Auditing Standards (GAGAS) and in accordance with accounting principles as promulgated by the Governmental Accounting Standards Board (GASB).

### **PUBLIC EMPLOYEES DEFERRED COMPENSATION PLAN OVERVIEW**

The State of New Hampshire offers a deferred compensation plan to state employees and any political subdivision in the state as outlined in Section 457 of the Internal Revenue Code. The authority to provide this plan is outlined in New Hampshire RSA 101-B, "Public Employees Deferred Compensation Plan" (the "Plan"). The Commission, which oversees the Plan, is established in this statute and includes nine (9) members. Among a variety of tasks, the Commission is responsible for selecting and hiring the plan administrator/record keeper, investment consultants, and auditing services. The Commission also employs a full-time Executive Director for contract management, daily Plan operations, and Commission support.

The Commission has contracted with Great-West Life & Annuity Company / Empower Retirement ("GWLA") as administrator/recordkeeper to provide Plan administration activities including participant recordkeeping, education and communication of the investment options to participants and provide fund commentary/review to the Commission. The contract with GWLA began when assets were transferred from the previous administrator/record keeper on 2/01/2010. The original contract was for five (5) years, with GWLA securing a second contract for five (5) years, after a competitive bid in 2015. The new contract runs from January 1, 2016, until December 31, 2020. The current contract does have an option for one (1), two (2) year extension, before a new competitive bid. Advised Assets Group ("AAG"), an affiliate, is responsible for the management of the NH Custom Stable Value Fund. Wells Fargo Bank serves as the Custodian for the Plan.

The Commission has contracted with NFP Retirement, Inc. for investment consulting services. The current contract is for five (5) years beginning April 1, 2016, through March 31, 2021. Segal Advisors, the prior firm, provided contracted investment advisory services for the prior ten (10) years. The consultant meets quarterly with the Commission to review previous quarter investment results and advises on the investment lineup, plan design, plan level communications and Commission education.

As of December 31, 2015, Plan assets totaled \$283.9 million. There were 6,580 participant accounts, of which 3,839 are actively deferring. Participating employees made contributions of \$5.23 million in the fourth quarter. The totals above include state employees and those of 29 other political subdivisions. The Plan offers 19 core mutual funds (counting target date series as one fund), the NH Custom Stable Value fund (\$103,153,070.00), and a TD Ameritrade SDBW. The SDBW contains only 0.2% or \$656,090.00 in Plan assets. The Plan offers an In-Plan Roth, Loans, and Hardship/Unforeseen Emergency Withdrawals. Additional information on the Plan offerings can be found at [www.nhdcp.com](http://www.nhdcp.com).

Beginning in 2000, Whittlesey & Hadley, PC Hartford, CT. was retained by ING, completing annual audits up to December 31, 2009. The Commission issued an RFP for audit services in 2013 for calendar years 2010, 2011, 2012, 2013 and 2014. The contract was awarded to CliftonLarsenAllen, LLP ("CLA") Baltimore, MD after the competitive RFP process for the five (5) audit years beginning work in March 2014, and ending on December 31, 2015. The 2014 CY audit was priced at \$33,500.00. A copy of the full contract is available upon request.

The audit reports for 2010, 2011, 2012, 2013 and 2014 are posted online at [www.nhdcp.com](http://www.nhdcp.com). Go to the top of the page and click: About Your Plan>Commission Information>Financial Information, then the audit year you wish to view to see the PDF. Management letters are available to interested proposers upon request. All audits from 2010 - 2014 have resulted in "clean audit opinions."

The audit services contract is being rebid as the original contract could not be extended and the State of New Hampshire requires contracts of this nature to be competitively bid. CliftonLarsenAllen, LLP is invited to submit a

proposal for this RFP.

The Commission invites proposals from qualified proposers for annual financial auditing services for the Plan. By requiring annual audits of the Plan, the Commission also seeks to:

- Ensure the completeness and accuracy of financial statement disclosures, and at a minimum independently confirm the existence, value and ownership of Plan's assets as of the balance sheet dates for the years ended December 31, 2015, 2016, 2017, 2018 and 2019.
- Determine the strength of third party service providers' control procedures and compliance support regarding matters of potential significance to the Plan.
- Confirm that Commission members, the Executive Director, and other fiduciaries are fulfilling their duties to safeguard the Plan's assets and the participants' future retirement benefits through fiduciary monitoring procedures over plan assets and related recordkeeping.
- Obtain the auditor's perspective and expertise in "best practices" of plan administration and financial reporting.

We are seeking a skilled auditing firm, with a strong record and applicable experience to provide formal annual opinions about whether the Plan's financial statements comply, in all material aspects, with Governmental Accounting Standards Board (GASB) accounting principles. Each audit to be performed by the auditor should include tests of the accounting records of the New Hampshire Deferred Compensation Plan and other procedures deemed necessary to enable the generation of an opinion.

#### Additional Information –

Empower Retirement, the plan administrator, does not keep a General Ledger or prepare the Financial Statements for the Plan and the State of New Hampshire does not account for or include the Plan in the State's Comprehensive Annual Financial Report (CAFR). However, the Plan prepares the Trial Balance and Financial Statements, for use by the auditors. The Executive Director prepares the reports; the Plan does not employ accounting professionals.

Effective September 17, 2013, the Commission appointed a full-time Executive Director to the Plan. While the position of executive director is a state employee, the state is reimbursed for all costs from the plan revenue share/expense account, which is held within the NH Stable Value fund. These costs are accounted for in the State operating budget. There have been no significant changes in plan operations since the CY 2014 audit.

## **II. SCOPE OF SERVICES**

### **AUDITING SERVICES**

Under the proposed five (5) year contract, the Auditor will be expected to audit the Financial Statements, comprised of the statements of net position, related statements of changes in net position, and the related notes to the Financial Statements of the Deferred Compensation Plan for each of the five (5) years ending 12/31/2015, 12/31/2016, 12/31/2017, 12/31/2018 and 12/31/2019.

All proposers are required to submit a proposed work schedule for the audit work expected to be performed in 2016.

The proposer should submit to the Commission with their proposal a typical list of documents/data that it expects to receive from the Commission, Plan Administrator (GWLA/Empower Retirement), Investment

Consultant (Segal Rogerscasey/NFP Retirement, Inc., if needed) as well as from State and Municipal payroll offices so the Commission can judge how comprehensive the audit services will be for the price proposed. The scope of the audit must be sufficient to take into account the goals of the Commission as outlined in 1.

## **BACKGROUND.**

The Commission reserves the right to request clarification from any proposer during the process. The Commission also reserves the right to supplement this Scope of Work to ensure the goals of the RFP are met.

The Administrator (GWLA) has had a Statement on Auditing Standards SSAE 16 audit, for 2015 which is available upon request. To the extent possible, it is expected that the auditor will rely upon control work completed for the SSAE 16 audit work. The SSAE 16 (SOC 1) report covers both design and operational effectiveness of controls. We do not contemplate travel by the auditor to GWLA or any service providers.

The Commission will be able to provide a conference room for brief on-site meetings, interviews, etc. When working at the State, the Auditor will be expected to limit questioning of State staff to agreed-upon time frames (e.g., dedicated interviews and/or twice a day at specified times) to prevent unnecessary disruptions of other State workflows.

The State of NH has a Lawson/InFor payroll system, which went online in early 2013. The State maintains 65 agency payroll offices where deferral data is entered into the central payroll system. Contributions are uploaded every two weeks, corresponding with payroll dates. The 29 political subdivisions remit contributions directly to GWLA/Empower Retirement in Denver via check, wire or ACH. For both State and political subdivisions, the deferral forms are submitted to the local Empower Retirement office in Concord, NH. The vast majority of the agency payroll offices are located locally in Concord, NH. The Commission and/or GWLA/Empower Retirement will provide participant and deferral information for the agencies and the political subdivisions so the auditor can propose an information request to support a statistically valid sampling of data. The Scope of Services is not a request for the auditor to perform site visits or data review for all or even a majority of payroll offices or political subdivisions.

Additional information about the Plan, Investments, Audits, and Commission meeting minutes can be found at [www.nhdcp.com](http://www.nhdcp.com).

## **CONTRACT AND TIME REQUIREMENTS**

The Commission requests a proposal for a five (5) year contract, covering plan years ending 12/31/2015, 12/31/2016, 12/31/2017, 12/31/2018 and 12/31/2019, with an additional two (2) year extension option. The contract and any extensions are subject to favorable negotiations and approval by the NH Governor and Executive Council.

It is the Commission's intent that the CY 2015 draft audit report will be completed by March 1, 2017, subject to the contract approval by the Governor and Executive Council. Subsequent year fully completed audit reports will be due on September 30<sup>th</sup> of the following year.

The auditor shall retain working papers and reports for a minimum of six (6) years from the date of the audit or longer if requested by the Commission.

## **MEETINGS AND REPORTS**

The auditor shall be available for an audit entrance conference with the Executive Director, members of the Commission, State Department of Administrative Services staff and possibly the Plan Administrator GWLA/Empower Retirement. Additional meetings with Plan and State staff may be necessary during the conduct of the audit services, but will be kept to a minimum. The auditor will present the draft audit report, including audit findings, recommendations and the Administrator's responses to the Commission, before finalizing the audit. Teleconferences and/or WebEx are encouraged to reduce travel costs.

The work shall, at all times, be subject to the Commission's general review and approval, and the auditor is expected to confer with the Commission via the Executive Director periodically. The final contract shall have an agreed upon schedule of periodic reports and meetings. If requested, the auditor shall prepare a progress report to the Commission if the work fails to meet milestones and goals outlined in the agreed upon Audit Schedule contained in the contract.

Work should be scheduled to allow for review of the draft audit report, first by the Executive Director and Commission and then the Plan Administrator. A minimum of 30 calendar days should be included to allow for the parties' responses to audit findings and recommendations. The Executive Director shall be kept informed during the conduct of the audit.

The auditor shall provide the Commission with twelve (12) copies of the finalized audit report, management letter and all disclosures required by generally accepted auditing standards by a mutually agreed upon date following the audited year.

### **III: MINIMUM QUALIFICATIONS**

#### **MINIMUM QUALIFICATIONS**

All proposers must meet all of the following:

1. Have a minimum of five years continuous experience providing auditing services;
2. Demonstrate that they provide auditing services to at least five deferred compensation plans; 457(b), 401(a), or 401(k) plans; of which two plans have more than \$100 million in account assets; and
3. Successful audit experience with at least two 457(b) governmental deferred compensation plans to demonstrate to the Commission they have the expertise and full understanding of government accounting practices relevant to such plans.

#### **ADDITIONAL REQUIREMENTS**

All proposers must attest that they and their key professionals *meet applicable independence standards and do not have or anticipate a potential conflict of interest with the State of New Hampshire, the Commission, its members, Segal Rogerscasey, NFP Retirement, Inc. or Great-West Life & Annuity Company/Empower Retirement, AAG and any other of its affiliates.*

All proposers must be able to meet the State of NH licensing requirements as set out by the NH Board of Accountancy. Prior to contract award, the firm will be required to be registered/licensed with the NH Board of Accountancy.

#### **STAFFING**

Using all information contained in or referenced in this RFP and their prior experience, proposers must provide a staffing plan identifying key personnel and their qualifications.

#### **IV. TERMS AND CONDITIONS FOR SUBMISSION OF PROPOSALS**

The purpose of this section is to state the terms and conditions that will govern the submission of responses to the Commission in response to this Request for Proposals.

##### **PROPOSAL SUBMITTAL:**

All proposals must be typed, and must be received on or before the date and time specified on page 1 of this proposal. Interested parties may submit a proposal to the State of New Hampshire per the submission instructions of this RFP. All proposals must be clearly marked with proposal number, date due and Contact Name (Leonard Rautio).

In preparation of your RFP response, you shall:

- Complete the pricing submittal as specified in the Cost Proposal section of this RFP; and
- Complete all other required information for your offer; and
- Complete the company information on the "Transmittal Letter" page, and sign the proposal in the space provided on that page. The Transmittal Letter page must be notarized to be an official submission.

##### **REQUIRED TERMS AND CONDITIONS:**

The vendor's signature on a proposal submitted in response to this RFP guarantees that all of the State of New Hampshire's Terms and Conditions are accepted by the Vendor.

The term of the contract shall be from the date of award through December 31, 2020, a period of approximately five (5) years. The contract may be extended for an additional two (2) years thereafter subject to favorable negotiations and upon the mutual agreement between the successful Vendor and the Commission with the approval of the NH Governor and Council. The maximum term of the contract (including all extensions) cannot exceed seven (7) years.

The form contract(s) P-37 attached hereto shall be part of this Proposal and the basis for the contract. The successful Vendor and the State, following notification, shall promptly execute this form of contract, which is to be completed by incorporating the service requirements and price conditions established by the vendor's offer. In addition to the fully and properly executed P-37, the successful vendor shall promptly provide the required documentation needed for Governor and Council approval. Such documents shall include, but may not be limited to, a Certificate of Authority/Vote, an original Certificate of Good Standing, and a Certificate of Insurance.

- **NEW HAMPSHIRE SECRETARY OF STATE REGISTRATION:** A proposal award, in the form of a contract(s), will **ONLY** be awarded to a Vendor who is registered to do business **AND** in good standing with the State of New Hampshire. Please visit the following website to find out more about the requirements for registration with the NH Secretary of State: [http://sos.nh.gov/corp\\_div.aspx](http://sos.nh.gov/corp_div.aspx)
- The Certificate of Insurance shall contain coverage limits in accordance with sections 14 and 15 of Form P-37.

Unless the successful vendor returns the above mentioned documents to the State within the time allotted by the State, the State reserves the right to award the contract to the next conforming vendor.

##### **VENDOR CERTIFICATIONS:**

The successful vendor shall be duly registered as a Vendor authorized to conduct business in the State of New Hampshire. The Vendor shall comply with the certification below prior to contract.

- **STATE OF NEW HAMPSHIRE VENDOR APPLICATION:** Vendor **SHALL** have a completed Vendor Application and Alternate W-9 Form which **SHALL** be on file with the NH Bureau of Purchase and

Property. See the following website for information on obtaining and filing the required forms (no fee): <http://das.nh.gov/purchasing>.

## PROPOSAL INQUIRIES

All inquiries, questions and requested changes concerning this RFP shall be made in writing or via email, citing the RFP Title, Page, Section, and Paragraph, and shall be submitted to:

Leonard J. Rautio, Administrator  
Department of Administrative Services  
Bureau of Purchase and Property  
25 Capitol Street – Room 102  
Concord, NH 03301  
Leonard.Rautio@nh.gov

Furthermore, no other individual employee or representative of the State of New Hampshire is authorized to provide any information or respond to any question or inquiry concerning this RFP other than as described herein. Failure to observe this rule may result in disqualification.

All inquiries related to the substance of this RFP must be received no later than **June 10, 2016**, as specified below. Inquiries received after this date and time will be addressed only if they are deemed by the Commission to be critical to the competitive selection process. An official written answer will be provided to all questions meeting these requirements.

In order to provide a fair process and complete information, all written questions and the responses will be summarized in a fact sheet that will be available online at <http://www.admin.state.nh.us/purchasing/> by the date listed below. Similar inquiries may be consolidated into one question. The name(s) of the firms submitting the questions will not be listed. Answers will be posted as soon as possible, but no later than **June 17, 2016**.

Any proposal determined to be non-responsive to the specifications or other requirements of this RFP, including instructions governing format, may be disqualified without evaluation. The Commission shall reserve the right to clarify and seek supplemental information to any proposal submitted. The proposal is limited to **20 pages** in length, not including attachments/exhibits. Additional information may be provided in Appendices to the proposal as needed.

## SCHEDULE CALENDAR

The following is the tentative schedule for the selection of a vendor to provide the services described herein. All dates are subject to modification by the Commission, with notice.

|  |   |
|--|---|
| <b>Issuance of RFP</b>                             | <b>May 25, 2016</b>   |
| <b>Deadline for Questions</b>                      | <b>June 10, 2016 (4:30 PM ET)</b>                           |
| <b>Commission Response to Questions Deadline</b>   | <b>June 17, 2016</b>  |
| <b>RFP Proposal Submission Deadline</b>            | <b>June 30, 2016 (3:30 PM ET)</b>                           |
| <b>Approximate* Notification to Highest Scorer</b> | <b>July 22, 2016</b>  |
| <b>Approximate** Award Date</b>                    | <b>September 21, 2016</b> -Upon Governor & Council Approval |

The Commission shall review all of the submitted proposals and score them after the submission deadline. The Commission may choose the highest scoring proposer, based on the **VI. EVALUATION CRITERIA** (Page 14). The Commission will advise the highest scoring proposer as soon as possible of the Intent to Award and begin exclusive negotiations with that proposer.

\*Soliciting proposals and granting of exclusive negotiation rights does not commit the Commission to accept any of the terms of any proposal. We may suspend and terminate negotiations at any time that we determine that additional negotiations would be unproductive.

The Commission will negotiate and, if successful, award a contract to the highest scoring Proposer. Should the Commission not reach a favorable agreement with the highest scoring proposer, at its sole discretion, the Commission shall terminate negotiations and commence negotiations with the second highest scoring proposer and so on until a favorable agreement is reached.

\*\*No contract with the Commission is official until approved by the NH Governor and Executive Council. If negotiations are successful, the proposed contract will be reviewed by the Bureau of Purchase and Property and the Office of the NH Attorney General for compliance. After such review and approval, the contract will be forwarded to the Governor and Executive Council.

## **ADDENDUM**

In the event it becomes necessary to add to or revise any part of this RFP prior to the scheduled Proposal submittal deadline, the State shall post any Addenda on the State's Bureau of Purchase and Property website. **Before submitting your proposal, and periodically prior to the RFP closing, Vendors are required to** check the site for any addenda or other materials that may have been issued affecting the proposal. The web address is [www.admin.state.nh.us/purchasing](http://www.admin.state.nh.us/purchasing).

## **TERMS OF SUBMISSION**

The State assumes no responsibility for understandings or representations concerning conditions made by its officers or employees prior to and in the event of the execution of a contract, unless such understanding or representations are specifically incorporated into this RFP. Verbal discussions pertaining to modifications or clarifications of this RFP shall not be considered part of this RFP unless confirmed in writing. Any information provided by the vendor verbally shall not be considered part of that vendor's response.

## **CHANGE OF OWNERSHIP**

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

## **CANCELLATION**

The State reserves the right to cancel all or any part of this RFP at any time. Cancellation of this RFP, in whole or in part, shall not bar the State from issuing an RFP for the same services or from purchasing the same services through other means.

## **PUBLIC DISCLOSURE**

### **A. Introduction**

The State of New Hampshire has made it a priority through the Right-to-Know law (RSA 91-A), the TransparentNH initiative, and other statutes and practices to ensure that government activity is open and transparent. In general, these requirements allow for public review, disclosure and posting of government and public records. As such, the State is obligated to make public the information submitted in response to this RFP, any resulting contract, and information provided during the contractual relationship. The Right-to-Know law obligates the State to conduct an independent analysis of the confidentiality of the information submitted, regardless of whether it is marked confidential.

In addition, the Governor and Executive Council (G&C) contract approval process more specifically requires that pricing be made public and that any contract reaching the G&C agenda for approval be posted online.

## **B. Disclosure of Information Submitted in Response to RFP**

Information submitted in response to this request for proposal (RFP) is subject to public disclosure under the Right-to-Know law after a contract is actually awarded by G&C. Notwithstanding the Right-to-Know law, no information concerning the contracting process, including but not limited to information related to proposals, communications between the parties or contract negotiations, shall be available until a contract is actually awarded by G&C.

Confidential, commercial or financial information may be exempt from public disclosure under RSA 91-A:5, IV. If you believe any information submitted in response to this request for proposal should be kept confidential, you must specifically identify that information where it appears in your submission in a manner that draws attention to the designation. You must also provide a letter to the person listed as the point of contact for this RFP, identifying the specific page number and section of the information you consider to be confidential, commercial or financial and providing your rationale for each designation. Marking or designating an entire proposal, attachment or section as confidential shall neither be accepted nor honored by the State.

Notwithstanding a bidder's designations, the State is obligated by the Right-to-Know law to conduct an independent analysis of the confidentiality of the information submitted in a proposal. If a request is made to the State by any person or entity to view or receive copies of any portion of your proposal, the State shall first assess what information it is obligated to release. It will then notify you that a request has been made, indicate what, if any, information the State has assessed is confidential and will not be released, and specify the planned release date of the remaining portions of the proposal. To halt the release of information by the State, a bidder must obtain and provide to the State, prior to the date specified in the notice, a court order valid and enforceable in the State of New Hampshire, at its sole expense, enjoining the release of the requested information.

By submitting a proposal, you acknowledge and agree that:

- The State may disclose any and all portions of the proposal or related materials which are not marked as confidential and/or which have not been specifically explained in the letter to the person identified as the point of contact for this RFP;
- The State is not obligated to comply with your designations regarding confidentiality and must conduct an independent analysis to assess the confidentiality of the information submitted in your proposal; and
- The State may, unless otherwise prohibited by court order, release the information on the date specified in the notice described above without any liability to you.

## **C. Electronic Posting of Resulting Contract**

RSA 91-A obligates disclosure of contracts resulting from responses to RFPs. As such, the Secretary of State provides to the public any document submitted to G&C for approval, and posts those documents, including the contract, on its website. Further, RSA 9-F:1 requires that contracts stemming from RFPs be posted online. By submitting a proposal you acknowledge and agree that, in accordance with the above mentioned statutes and policies, (and regardless of whether any specific request is made to view any document relating to this RFP), any contract resulting from this RFP that is submitted to G&C for approval will be made accessible to the public online via the State's website.

Additionally, RSA 21-G:37 requires that RFP scoring results be posted online a minimum of 5 business days prior to submitting the contract to Administrative Services to be included on the G&C agenda.

## **VENDOR'S RELATION TO THE STATE**

In the performance of the contract, the vendor is in all respects an independent contractor, 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.

## **FINANCIAL RESPONSIBILITY**

Bidders understand and agree that the State shall have no financial responsibility for any costs incurred by the bidders responding to this RFP. The successful bidder shall be solely responsible for meeting all terms and conditions specified in the RFP, its proposal, and any resulting contract. The apparent successful bidder may be required to attend a Governor and Council meeting to address any questions that may be asked and to avoid any possible delay in the contract award. The Commission must approve any subcontractor in advance. Disclosure of any use of a subcontractor must be made in the proposal.

The bidder's signature on a proposal submitted in response to this RFP guarantees that the prices quoted have been established without collusion with other eligible bidders and without effort to preclude the Commission from obtaining the best possible competitive proposal.

## **NUMBER OF RESPONSE COPIES**

Please submit two (2) hard and 5 electronic (CD) copies of your response to:

Mr. Leonard J. Rautio  
457b Plan Audit Services RFP# 2017-186  
Bureau of Purchase & Property  
State House Annex - Room 102  
25 Capitol Street  
Concord, NH 03301-6312

All responses must be delivered to the above office on or before **June 30, 2016, 3:30 PM ET**. Responses received after the above date and time will not be considered. Include the Title: **457b Plan Audit Services RFP # 2017-186** on the outside of the submission package.

All material received in response to this RFP shall become the property of the Commission. In the event of a discrepancy in the proposal between the hard copy and the electronic version, the electronic version shall be regarded as the official proposal of record. Regardless of the bidder selected, the Commission reserves the right to use any information presented in any proposal. The content of each bidder's proposal shall become public information pursuant to RSA 91-A once a contract has been awarded.

## **EFFECTIVE PERIOD OF RESPONSES**

Response proposals must remain in effect for at least 180 days from the submission deadline, and thereafter until either the bidder withdraws the response in writing, a contract is executed, or the RFP is canceled, whichever occurs first.

## **DISQUALIFICATION OF PROPOSALS**

- A. **Late Proposals:** Proposals that are received after the deadline date and time shall be automatically disqualified.
- B. **Non-responsive Proposals:** Proposals that are not responsive or that fail to comply with mandatory requirements of the RFP shall be deemed non-responsive and shall be disqualified. Non-responsive proposals shall include, but not be limited to, those that fail to address or meet any mandatory item, and those submitted in insufficient number or in incorrect format.

**V. ESSENTIAL ELEMENTS OF THE PROPOSAL**

The purpose of this section is to identify the information, which should be submitted in response to this RFP and the order in which it should appear in the proposal. The response is limited to **20 pages** in length, not including attachments/exhibits. Additional information may be provided in Appendices to the response as needed.

**A. PART I. COVER LETTER**

A fully executed State of New Hampshire Transmittal Letter (Appendix A) shall serve as the cover letter for your proposal.

**B. PART II: TECHNICAL PROPOSAL:**

The bidder must include a narrative outlining the bidder's qualifications and capacity to provide the requested services. This response must include the following:

1. Describe your relevant experience and background in meeting all of the services outlined in the scope of work above.
2. Provide an overview of your firm's services and management approach. The narrative should demonstrate the bidder's ability to customize services to the client's needs.
3. Provide a proposed work plan for the project.
4. Please identify the individuals who would perform the work on the Plan audit. Describe their assigned responsibilities and provide resumes. Please provide an organizational chart illustrating where in the organization the audit team is positioned and whom they report to. Please provide the following information:
  - Name.
  - Title.
  - Proposed Role with the Plan audit.
  - Total years of audit consulting experience with 457(b), defined contribution, 401(k) or similar plans.
  - Years of audit experience with the firm.
  - Number and size of assigned accounts.

5. Please provide the following information pertaining to your current clients:

**List the governmental 457(b) plans your firm has audited in the last five (5) years.**

| <b>Name of Sponsor</b> | <b>Asset Size</b> | <b>Number of Participants</b> | <b>When Audited</b> |
|------------------------|-------------------|-------------------------------|---------------------|
|                        |                   |                               |                     |
|                        |                   |                               |                     |
|                        |                   |                               |                     |
|                        |                   |                               |                     |
|                        |                   |                               |                     |
|                        |                   |                               |                     |

List the 401(k), 457(b) or 403(b) plans which your firm has audited in the past 5 years that are similar to the State's Deferred Compensation Plan in asset size and number of participants.

| Name of Sponsor | Asset Size | Number of Participants | When Audited |
|-----------------|------------|------------------------|--------------|
|                 |            |                        |              |
|                 |            |                        |              |
|                 |            |                        |              |
|                 |            |                        |              |
|                 |            |                        |              |
|                 |            |                        |              |

**C. PART III: DESCRIPTION OF FIRM:**

**1. HISTORY**

- a. What is your firm's complete name, address, voice telephone, e-mail, and fax numbers? Include the name and title of your proposed primary contact person and the location from which the auditing work will be done.
- b. Briefly, what is your firm's corporate history? Within the past three years, have there been any significant developments in your organization, such as changes in ownership, restructuring, or personnel reorganizations? Do you anticipate future significant changes in your organization? If yes, please describe.

**2. OWNERSHIP**

- a. Describe the ownership structure of your firm, giving specific details with regard to any parent or affiliates.
- b. Include an ownership organizational chart. Show and describe, if any, the distinct lines of business of your firm that are in addition to your audit consulting business.

**3. ORGANIZATION**

- a. Describe the line(s) of business of your firm, any parent organization, and any affiliated companies.
- b. Within the last five years, has your firm or any officer or principal been involved in any business litigation or other legal proceedings relating to your audit service activities? If so, provide an explanation and indicate the current status or disposition along with the caption of the case, the court it was in and the docket number.
- c. Please describe the level of coverage for errors and omissions insurance and any fiduciary or professional liability insurance your firm carries. List the insurance carrier(s) supplying the coverage. The Commission requires, in addition to the requirements in Appendix C; P-37 Form Contract, Section 14 Insurance, a minimum of \$1 million in professional liability/errors and omissions insurance.

**4. EMPLOYEES**

- a. List senior staff hires and departures over the last three years.
- b. Provide data relating to turnover ratios of your auditing and technical staff over the last three years.

**5. CURRENT CLIENTS**

Please provide a minimum of two and a maximum of five references for clients providing defined

contribution governmental 457(b), or similar plans. After first informing you of our intentions, the Commission may contact any of these clients as references.

## **6. FORMER CLIENTS**

Please provide the names of all clients who have terminated your firm's services in the last three years. In each case, detail the reason for termination.

## **7. NEW CLIENTS**

Please provide the names of all new client relationships gained in the last three years.

## **D. PART IV – COST PROPOSAL**

The Cost Proposal shall provide a fully loaded firm fixed price for the full scope of service of the engagement by plan year for the five years covered by the RFP. The Vendor must assume all direct expenses, travel and related expenses in the fully loaded firm fixed price including all travel and related expenses including but not limited to meals, hotel, airfare, car rentals, car mileage and out of pocket expenses.

In addition, the Cost Proposal shall detail, for informational purposes only:

- Staff rates per hour and estimated total hours for each person assigned to the engagement;
- Other expenses or costs associated with the performance of this contract.

## **VI. EVALUATION CRITERIA**

The factors to be used by the Commission in evaluating the proposals will include the following:

1. Experience (quantity, quality, timeliness, financial soundness and stability of the firm and its staff with providing auditing services to other states or public entities with similar 457(b) governmental deferred compensation, defined contribution, 401(k) or similarly operated plans. (25%)
2. Qualifications of staff to be assigned to the audit. Particular attention will be paid to relevant experience with government entities. (25%)
3. Quality and conciseness of proposals. (10%)
4. Fees and compensation. (40%)

The proposals will be scored using the above Evaluation Criteria. The highest scoring proposer will be contacted as soon as the scoring is completed. While fees and compensation will be an important part of the proposal, the Commission realizes, as with the audit work schedule, that payment of the deliverables may be a proposal component for firms. So that all proposers have a general outline for planning purposes, the Commission would expect to pay the audit firm within 30 calendar days after the presentation and acceptance of each audited year's financial statement and management letter. Payment of deliverables would, therefore, be linked to the successful completion of each audited plan year. The Commission reserves the right to negotiate with the selected proposer.

## **VI. APPENDICES**

|            |   |
|------------|---|
| Appendix A | State of New Hampshire Transmittal Letter           |
| Appendix B | Sample Certificate of Vote/Certificate of Authority |
| Appendix C | P-37 Form Contract                                  |

**APPENDIX A**  
**STATE OF NEW HAMPSHIRE PROPOSAL TRANSMITTAL LETTER**

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

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

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

To: Point of Contact: **Leonard Rautio**  
Telephone: (603)-271-3235  
Fax: (603) 271-7564  
Email: prchweb@nh.gov

RE: Proposal Invitation Name: **457(b) Plan Audit Services**  
**Proposal Number: RFP # 2017-186**  
**Proposal Opening Date and Time: June 30, 2016 @ 3:30 PM ET**

Dear **Mr. Leonard Rautio**:

[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 # 2017-186 for 457(b) Plan Audit Services 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 RFP.
2. The Vendor has not altered any of the language or other provisions contained in the RFP document.
3. The Proposal is effective for a period of 180 days from the Proposal submission deadline of June 30, 2016.
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 RFP.

Vendor's official point of contact is: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_ Fax: \_\_\_\_\_

Authorized Signor's Name Printed \_\_\_\_\_

Authorized Signor's Signature \_\_\_\_\_

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

NOTARY PUBLIC/JUSTICE OF THE PEACE

On the \_\_\_\_ day of \_\_\_\_\_, 2016, there appeared before me, the state and county foresaid a person who satisfactorily identified \_\_\_\_\_ and acknowledge that he executed this document indicated above.

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

\_\_\_\_\_  
(Notary Public/Justice of the Peace)  
My commission expires: \_\_\_\_\_ (Date)

**APPENDIX B**  
**SAMPLE CERTIFICATE OF VOTE/CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_ hereby certify that I am duly elected  
\_\_\_\_\_ of \_\_\_\_\_

I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors of the Corporation, duly called and held on \_\_\_\_\_, at which a quorum of the Board was present and voting.

VOTED: That \_\_\_\_\_ is duly authorized to enter into a specific contract namely \_\_\_\_\_ with \_\_\_\_\_ and further authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of \_\_\_\_\_, and that \_\_\_\_\_ is duly elected \_\_\_\_\_ of this Corporation.

DATED: \_\_\_\_\_ ATTEST: \_\_\_\_\_  
(Affix Corp. Seal)

**APPENDIX C**

Subject: \_\_\_\_\_

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

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

|  |                    |  |                      |
|--|--------------------|--|----------------------|
| 1.1 State Agency Name  |                    | 1.2 State Agency Address   |                      |
| 1.3 Contractor Name  |                    | 1.4 Contractor Address   |                      |
| 1.5 Contractor Phone Number  | 1.6 Account Number | 1.7 Completion Date  | 1.8 Price Limitation |
| 1.9 Contracting Officer for State Agency   |                    | 1.10 State Agency Telephone Number   |                      |
| 1.11 Contractor Signature  |                    | 1.12 Name and Title of Contractor Signatory                                    |                      |
| 1.13 Acknowledgement: State of _____, County of _____<br><br>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<br><br>[Seal]  |                    |  |                      |
| 1.13.2 Name and Title of Notary or Justice of the Peace  |                    |  |                      |
| 1.14 State Agency Signature<br><br>Date:   |                    | 1.15 Name and Title of State Agency Signatory<br>Vicki V. Quiram, Commissioner |                      |
| 1.16 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i><br><br>By: _____ Director, On: _____  |                    |  |                      |
| 1.17 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i><br><br>By: _____ On: _____  |                    |  |                      |
| 1.18 Approval by the Governor and Executive Council <i>(if applicable)</i><br><br>By: _____ On: _____  |                    |  |                      |

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

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

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

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

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

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

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

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

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

## **8. EVENT OF DEFAULT/REMEDIES.**

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

## **9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.**

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

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

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

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

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

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

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

## **14. INSURANCE.**

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

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

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

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

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

#### **15. WORKERS' COMPENSATION.**

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

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

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

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

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

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

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

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

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

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

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