

State of New Hampshire Department of Energy



U.S. Department of Energy

**Preventing Outages and Enhancing the Resilience of the Electric
Grid Grant Program**

Funding Local Outage Reduction Advancements Program (FLORA)

ALN 81.254

FAIN: DE-GD0000030

REQUEST FOR PROPOSALS (RFP)

RFP #2024-011

Release Date: September 20, 2024

Proposals Due: January 9, 2025, at 12:00 p.m. (Noon) EST

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EXECUTIVE SUMMARY

The New Hampshire Department of Energy (Department) issues this Request for Proposals (RFP) seeking proposals for the first round of funding under the Funding Local Outage Reduction Advancements (FLORA) program.

Proposals must present a comprehensive plan that clearly demonstrates and quantifies how the awardee’s project will invest in disadvantaged communities, reduce the frequency and/or duration of disruptive events¹, advance projects that go beyond current resilience planning, and leverage existing workforce development/training opportunities in New Hampshire. Funding for this round of FLORA is available as a subaward pursuant to Section 40101(d) of the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (“BIL”) – Preventing Outages and Enhancing the Resilience of the Electric Grid Formula Grants to States and Indian Tribes. Woman-owned and/or minority-owned businesses are strongly encouraged to apply.

Total funding available under this RFP will be \$3,000,000, with a 50% match requirement.

Electronic proposals must be received at the Department no later than 12:00 p. m. (Noon) EST on January 9, 2025. If the Department decides to award a contract at the conclusion of this RFP process, any contract is contingent upon the approval by the Governor and Executive Council of the State of New Hampshire, as well as the United States Department of Energy (USDOE).

I. PERTINENT DATES AND INFORMATION

A. Schedule of Events

EVENT	DATE/DEADLINE	TIME
RFP Issued	09/20/24	
Close of Question Period	10/04/24	4:30 PM
Responses to Questions Posted	10/14/24	12:00 PM (Noon)
Letter of Intent Due	10/18/24	4:30 PM
Proposal Due Date and Time	01/09/25	12:00 PM (Noon)

B. Written Inquiries

All inquiries concerning this RFP must be submitted by e-mail to the following RFP Point of Contact:

Susan Gagne, Program Specialist III
New Hampshire Department of Energy
RFP@Energy.NH.Gov

Inquiries must be received by e-mail no later than Close of Question Period as specified in the Schedule of Events, above. No phone calls. The subject of the e-mail should state the following: **RFP #2024-011, Funding Local Outage Reduction Advancements**

¹ Per BIL section 40101(a)(1),17, a “disruptive event” is an event in which the operations of the electric grid are disrupted, preventatively shut off, or cannot operate safely due to extreme weather, wildfire, or natural disaster.

Program Question Period. It is highly recommended that prospective proposers review the RFP as soon as possible and submit any questions promptly. Please note that responses to questions are carefully considered and may require several days. Responses to questions received before the Close of Question Period as noted above will be posted by the deadline in the Schedule of Events, above. Responses to questions can be found at: [Requests for Proposals | NH Department of Energy](#).

C. Letter of Intent Requirement

A letter of intent is required before submitting a proposal to this RFP and must be submitted by email to RFP@energy.nh.gov no later than the date stated in the Schedule of Events, above. The letter of intent is non-binding and does not commit the filer to submit a full proposal in response to this RFP; however, a proposer must submit a letter of intent by the deadline or its proposal will not be considered. The subject of the email should state the following: **RFP #2024-011, Funding Local Outage Reduction Advancements Letter of Intent – (Name of Proposer)**.

D. Proposal Submission Instructions

Proposals submitted in response to this RFP must be received no later than the Proposal Due Date and Time as specified in the Schedule of Events, above. Late submissions will not be accepted, nor will extensions be given. Delivery of the proposal shall be the proposer's responsibility. The Department accepts no responsibility for damaged, mislabeled, or undeliverable e-mailed proposals. Proposals that are incomplete will not be considered. Faxed or physical proposals will not be accepted.

Proposals must be submitted electronically to RFP@Energy.NH.Gov. Proposals must be submitted electronically in PDF format as a file attachment to an e-mail and must be searchable. In no event should a proposal be provided through a link embedded in the submitted e-mail. The file will be considered received when it is successfully submitted to the mailbox associated with the e-mail address above, and the time of submittal will be based on the time stamp in the receiver's e-mail. The Department can accept electronic files no larger than 25 MB in any one e-mail. Proposals may consist of multiple PDF attachments or one PDF with all attachments combined. The subject of the e-mail should state the following: **RFP #2024-011, Funding Local Outage Reduction Advancements Program Proposal – (name of proposer)**.

To guard against proposals being overlooked due to being quarantined by the Department's spam protection software, it is strongly recommended that an e-mail with no attachment be sent to RFP@Energy.NH.Gov initially stating the e-mail(s) containing a proposal are to follow. The subject of the e-mail should state the following: **RFP #2024-011, Funding Local Outage Reduction Advancements Program Intention to Submit – (name of proposer)**.

The Department shall assess completeness and responsiveness of the proposal to eliminate nonconforming proposals. The Department may waive or offer a limited opportunity to cure immaterial deviations from RFP requirements if it is determined to be in the best interests of the State. Any proposal submitted in response to this RFP shall be

valid for not fewer than 150 days following the deadline for submission of proposals, or until the effective date of any resulting contract, whichever is later.

E. Restriction on Contact with State Employees

From the date of the release of this RFP until awards are made and announced regarding the selection, all communications with personnel employed by or under contract with the State regarding this RFP are forbidden, unless first approved by the Point of Contact, Susan Gagne, Program Specialist III, or as otherwise outlined in Section IV below. Department employees have been, and Evaluation Team members will be, directed not to hold conferences or discussions concerning this RFP with any potential proposer or contractor during the selection process, unless otherwise authorized by the RFP Point of Contact, or as otherwise outlined in Section IV below.

II. OVERVIEW

A. Background and Purpose

The Infrastructure Investment and Jobs Act (IIJA), commonly known as the Bipartisan Infrastructure Law (BIL), is a United States federal statute enacted on November 15, 2021, that included funds to invest in a clean, yet resilient and equitable, energy future for the United States. Section 40101(d) of the BIL established the Preventing Outages and Enhancing the Resilience of the Electric Grid Grant Program which provide \$2.3 billion in formula funding to states (including U.S. Territories) and Indian tribes to improve the resilience of their electric grids. The program's funding is set to be disbursed over a period of five years with allocation amounts determined by a formula that includes many factors such as population size, probability, and severity of disruptive events, among others.

Under this USDOE formula program, New Hampshire has received approximately \$9 million to date to be allocated over a five-year period. It is anticipated, although not guaranteed, that US DOE will make additional funding available to states in future years. For this round of funding, the Department will make available \$3,000,000 to award to projects under this program. The Department will reserve the right to grant either full or partial funding to projects chosen as a result of this RFP based on available funds. It is anticipated that subsequent rounds of funding will be made available on an annual basis.

The Department will prioritize grid infrastructure projects that:

- a. Invest in disadvantaged communities.
 - i. Disadvantaged communities will be identified using the [USDOE's Energy Justice Mapping Tool - Disadvantaged Communities Reporter](#) (DCR).
 - ii. The Department will provide flexibility for proposers to develop projects for the benefit of "nearly" disadvantaged communities since electric infrastructure does not easily conform to census tracts and the mapping tool does not necessarily encompass all New Hampshire communities that are disadvantaged.²
- b. Reduce the frequency and/or duration of disruptive events.

² Refer to RFP section B (4)(a)(i) for further information.

- i. Proposers must provide current and post-project projected Customer Average Interruption Duration Index (CAIDI) and Customer Average Interruption Frequency Index (CAIFI) data to demonstrate how their proposed projects will reduce the likelihood or length of disruptive events.
- c. Advance projects that go beyond current resilience planning.
 - i. Proposers must demonstrate that the award would represent a total increase in total resiliency spending by submitting a current resiliency funding plan and a proposed resiliency funding plan.
- d. Leverage existing workforce development/training opportunities in the state.
 - i. Proposers are encouraged to demonstrate in their proposals that they will incorporate an active New Hampshire-based vocational or apprenticeship program throughout the lifetime of the proposed project.

Total funding available under this RFP will be \$3,000,000. All grant awards are contingent upon final grant agreement approval by the New Hampshire Governor and Executive Council, as well as the USDOE.

B. Basic Project Eligibility Requirements

To be eligible for funding, projects must meet the following minimum requirements:

1. This program is only open to the following eligible proposers:
 - a. A transmission owner or operator.
 - b. A distribution provider.
2. Proposed projects must be physically located entirely in New Hampshire.
3. Proposed projects must be intended to mitigate the impact of disruptive events and should specifically include one or more of the following:
 - a. Weatherization technologies and equipment;
 - b. Fire-resistant technologies and fire prevention systems;
 - c. Monitoring and control technologies;
 - d. Undergrounding of electrical equipment;
 - e. Utility pole management;
 - f. Relocation of power lines or the reconductoring of power lines with low-sag, advanced conductors;
 - g. Vegetation and fuel-load management;
 - h. Use or construction of distributed energy resources for enhancing system adaptive capacity during disruptive events, including:
 - i. Microgrids; and
 - ii. Battery-storage subcomponents;
 - i. Adaptive protection technologies;
 - j. Advanced modeling technologies;
 - k. Hardening of power lines, facilities, substations, of other systems;
 - l. Replacement of old overhead conductors and underground cables;
 - m. Training, recruitment, retention, and reskilling of skilled and properly credentialed workers to perform the work proposed in the project.

NOTE: Cybersecurity measures, construction of new electric generating facilities, and new large-scale battery-storage facility that are not used for enhancing system adaptive capacity during disruptive events **are not eligible** for funding under this program. **While cyber security projects are not funded under this award, the implementation of the proposed project will adhere to any applicable cybersecurity requirements, and where possible, best practices in deploying technologies.**

4. Proposed projects should occur in or directly benefit a disadvantaged community. A “disadvantaged community” is defined as a census tract labeled as disadvantaged based on the USDOE’s [Energy Justice Mapping Tool - Disadvantaged Communities Reporter](#).
 - a. To provide flexibility, the Department will also consider projects occurring or benefitting a “nearly” disadvantaged community.
 - i. A community is considered “nearly” disadvantaged if it is in a census tract that, in the tracking tool, has a state ranking of 60% AND has a DAC score of 14 or greater, or is in a municipality that has a public school where 35% or greater of the enrolled students are eligible for free or reduced lunch according to the most recent [Free/Reduced School Lunch Eligibility statistics](#) released by the New Hampshire Department of Education.
5. Proposed projects must reduce the number and/or length of disruptive events in a defined area. Proposers must include in their proposal the Customer Average Interruption Duration Index (CAIDI) and Customer Average Interruption Frequency Index (CAIFI) for the circuit(s) both before the proposed improvement and a projection of what the CAIDI and CAIFI will be after project completion.
6. Proposed projects cannot currently be under consideration in the proposer’s current year resilience planning. Grant funds cannot replace or supplant funding for an existing or past project. However, accelerating a planned project **is not** considered replacing or supplanting. The proposer should be able to demonstrate that if awarded, the funding would represent an increase in total resiliency spending through submitting a current resiliency funding plan and a proposed resiliency funding plan, should the proposed application be awarded funding.
7. Proposed projects are encouraged to incorporate an active New Hampshire vocational/apprenticeship program throughout the lifetime of the proposed project to train an active, skilled workforce.
8. Proposed projects are encouraged to provide additional benefits to the electric grid beyond resiliency, such as allowing for a greater number of interconnections of distributed energy resources or enabling electric vehicle charging infrastructure.
9. Grantee’s will be required to provide a 50.00% cost match of the total award amount.
 - a. The Department will require that all grantees provide the federally required match of 1/3 of the amount of their grant as well as an excess cost match funds to cover the Department’s requirement to match 15% of the total Federal grant allocation provided.

- b. Allowable types of matches are cash cost share and in-kind cost share as set forth in the Budget Justification excel sheet.
10. Grantees will be required to conduct a public informational session in the municipality where the project will occur and publish a document detailing the project and its estimated benefits on the municipality's website.
11. Grantees will be required to provide proof of active registration in the Federal System of Award Management (SAM) website in their application and have an active Unique Entity Identifier (UEI) number (entities that are actively registered in SAM will automatically be given a UEI). Registration can take 7-10 days barring any delays, should an applicant not be currently registered. Grantees will be required to maintain an active SAM registration with current information at all times during the term of the grant agreement.

NOTE: Due to the high demand of UEI requests and SAM registrations, entity legal business name and address validations are taking longer than expected to process. Entities should start the UEI and SAM registration process as soon as possible.

12. All grantees will be required to provide:
 - a. Quarterly progress reports, due 15 calendar days after the end of each quarter in provided progress report form template.
 - b. Annual reports on project progress that highlight specific, pre-defined metrics for the project for five years from the implementation of the project or until the project is completed, due 15 calendar days after the end of the reporting year (October 1 – September 30).

The grant agreement will have a completion date approximately two year following the effective date. Subject to Governor and Executive Council, and US Department of Energy approvals, completion dates may be extended to span the amount of time necessary for grantees to complete all project work.

C. Federal Compliance Requirements

To be eligible for funding, projects must comply with the following Federal acts:

1. [Build America, Buy America Act](#) (BABA) - BABA, enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021, established a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022. The domestic content procurement preference requires that all iron, steel, manufactured products, and construction materials used in covered infrastructure projects are produced in the United States.
 - a. Proposers shall indicate in their proposal whether they believe their proposed project will require a waiver from the Buy America requirement.

2. [Davis-Bacon Act](#) (DBA) – Under the Davis-Bacon and Related Acts and Reorganization Plan No. 14 of 1950, the U. S. Department of Labor is responsible for determining prevailing wages, issuing regulations and standards to be observed by federal agencies that award or fund projects subject to Davis-Bacon labor standards, and overseeing consistent enforcement of the Davis-Bacon labor standards.

The Davis-Bacon and Related Acts apply to contractors and subcontractors performing on federally funded or assisted contracts more than \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the “Related Acts,” under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.

For prime contracts more than \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

- a. Grantees will be required to submit weekly payroll monitoring information via USDOE’s online system (LCPtracker) to comply with DBA standards.

3. [National Environmental Policy Act](#) (NEPA) – NEPA is a procedural statute intended to ensure Federal agencies consider the environmental impacts of their actions in the decision-making process. Section 101 of NEPA establishes the national environmental policy of the Federal Government to use all practicable means and measures to foster and promote the general welfare, create, and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. Section 102(2) of NEPA establishes the procedural requirements to carry out the policy stated in section 101 of NEPA. It requires Federal agencies to provide a detailed statement on proposals for major Federal actions significantly affecting the quality of the human environment. The purpose and function of NEPA is satisfied if Federal agencies have considered relevant environmental information, and the public has been informed regarding the decision-making process. NEPA does not mandate results or substantive

outcomes. NEPA's purpose is not to generate paperwork or litigation, but to provide for informed decision making and foster excellent action.

Because IJA Section 40101(d), Preventing Outages and Enhancing the Resilience of the Electric Grid grant program, is a federally funded program, grantees will be required to maintain NEPA compliance throughout the timeline of the project.

- a. Proposers will be required to submit a completed NEPA Environmental Assessment Questionnaire with their proposal.
4. [Disclosure of Lobbying Activities](#) (SF-LLL) – Grantees will be required to complete and submit SF-LLL, “Disclosure of Lobbying Activities” to ensure that non-federal funds have not been paid and will not be paid to any person for influencing or attempting to influence any of the following in connection with the application:
- a. An officer or employee of any federal agency;
 - b. A Member of Congress;
 - c. An officer or employee of Congress; or
 - d. An employee of a Member of Congress.

III. PROPOSAL SUBMISSION REQUIREMENTS

To be eligible to submit a proposal for the FLORA Grant Program, proposer(s) must first submit a Letter of Intent by the Due Date listed in Section I. Proposers must also complete and submit a Completed FLORA Application, which can be found under RFP 2024-011 at [Requests for Proposals | NH Department of Energy](#), and submit all required documentation listed below:

- a. FLORA application must have all required sections filled out and signed to be considered complete.
- b. A copy of the applicant’s active registration in the Federal System for Award Management (SAM).
- c. Detailed project timeline including the required public informational session, publishing a document detailing the project and its estimated benefits on the municipality’s website, and a list of all permits and approvals required.
- d. Detailed Budget Explanation and Breakdown of Expenses.
- e. Current & Proposed Resiliency Funding Plans.
- f. NETL Form 451. 1-1/3 (NEPA).
- g. SF-LLL Disclosure of Lobbying Activities.
- h. A signed copy of the Department’s Davis-Bacon assurance Letter. The letter must be signed by the proposer’s authorized representative. A template of the Davis-Bacon assurance letter can be found under RFP 2024-011 at [Requests for Proposals | NH Department of Energy](#).
- i. Statement of Disclosure: Identification and description of any existing or potential conflicts of interest, including those that arise as a result of relationships or affiliations with utility companies under the jurisdiction of the PUC, other industry participants, trade associations, or advocacy

- organizations or groups that participate in, or represent stakeholders who participate in, proceedings before the Commission or Department.
- j. An explicit statement that the proposer shall comply with the requirements of G-1 (version 11/2021). See Appendix A.

NOTE: In order for documents to upload correctly, the FLORA application must be completed in Adobe. It will not format correctly in any other PDF reading software or web browser.

IV. EVALUATION PROCEDURES AND SELECTION CRITERIA

A. Proposal Evaluation Procedure

Proposals will be reviewed and evaluated in a multi-step review process, followed by a contracting phase and contract approval. The evaluation will be based solely on the proposal. Therefore, insufficient or unclear information may result in a lower score. The procedure for proposal evaluation and award selection will be as follows:

Step 1 – Proposal Screening: The Department shall assess compliance with the submission requirements set forth in this RFP. The Department shall assess completeness and responsiveness of proposals to eliminate non-conforming proposals. The Department may waive or offer a limited opportunity to cure immaterial deviations from RFP requirements if it is determined to be in the best interests of the State.

Proposals shall be deemed incomplete, nonconforming, and ineligible if information required under this RFP is not included in the proposal. Proposals that fail to meet the following criteria will be deemed ineligible:

- Letter of Intent received by the Due Date and Time in Part I, Section A.
- Received by the Proposal Due Date and Time in Part I, Section A
- Meets all basic eligibility requirements found in Part II, Section B.
- Meets all proposal submission requirements found in Part III.

In accordance with the New Hampshire Executive Order No. 2023-5, any proposer that is determined by the Department to be boycotting Israel shall be disqualified, and its proposal deemed ineligible. More information on Executive Order 2023-05 can be found at: <https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/2023-05.pdf>.

Ineligible projects will not be scored. All projects deemed ineligible will receive notification of that determination.

Step 2 – Evaluation, New Hampshire Department of Energy: An Evaluation Team consisting of New Hampshire state agency staff shall evaluate and score conforming proposals and information submitted by each proposer based upon the scoring criteria and weight as detailed in Section IV, Part B. and shall generate consensus scores for each proposal. The Evaluation Team will score the proposals and create a “ranked” list of proposals with proposals awarded until the funding has been exhausted. The Department reserves the right to offer partial awards and/or the entire funding amount to one proposal

based on the strength of the proposal and scoring. In no event shall any proposal with a consensus score of 65 or below be considered eligible.

If determined to be appropriate by the Evaluation Team, proposers may be invited to interviews. The Evaluation Team retains the sole discretion to determine whether to conduct interviews, with which proposers, and the number of interviews. Proposers are advised that interviews may be conducted with fewer than all proposers. Interviews may be conducted in person or via remote access.

The purpose of the interviews is to clarify and expound upon information provided in the proposer's proposal. Proposers are prohibited from altering the basic substance of their proposal or submitting new information. The Evaluation Team and Department staff may ask the proposer(s) to provide written clarifications of elements in the proposal, regardless of whether the Evaluation Team intends to conduct oral interviews. Information gained from interviews or written clarifications will be used to refine scores assigned during the evaluation process.

Step 3 – Contract Negotiation: The Department shall negotiate with the recommended proposer(s), if necessary, and develop a contract and related documents consistent with this RFP, then submit the completed contract to the Commissioner of the Department for approval and execution. This does not include negotiation of the General Provisions of the Standard Form G-1.

Step 4 – Evaluation, United States Department of Energy: USDOE has final approval of all projects under this grant award. Following the selection of projects by the Department, pursuant to program requirements, the Department is required to notify USDOE in writing prior to executing any new awards. USDOE will undertake a review of the provided documentation. Following their review, USDOE will inform the Department, in writing, that the provided information is adequate, and the project may proceed. This required written determination by USDOE may take considerable time and will be impacted by factors such as National Environmental Policy Act (NEPA) considerations. This process could take at least 60 days. The selected proposer(s) may be required to provide additional information to the Department to meet the requirements of the USDOE review process.

Step 5 – Contract Execution: Upon receiving written approval to proceed by the USDOE, the Department shall finalize grant agreements and related contract documents with selected proposers.

Step 6 – Contract Approval: The Department shall submit completed grant agreements to the Governor and Executive Council for approval. After Governor and Executive Council approval, work can begin on the proposed project. The proposed project must be completed within 24 months following Governor and Executive Council approval.

Notwithstanding any other provision of this RFP, this RFP does not commit the Department to make an award. The Department reserves the right, at its sole discretion, to reject any or all proposals, or any portions thereof, for any reason, at any time, including, but not limited to, canceling the RFP, and to solicit new proposals under a new

procurement process. If, for any reason, negotiations with the top scorer(s) do not result in a contract(s), despite reasonable efforts made in good faith, the Department may go to the next highest scorer(s) and seek to negotiate with that proposer(s).

B. Scoring Criteria and Weight

The Department will consider the following criteria and assign a corresponding point score. A maximum score for all criteria would be 150 points. The table is a summary of the scoring criteria and maximum points for each area. Please review the details below the table for more information on the scoring criteria.

Scoring Criteria	Weight (max points)
Disadvantaged Community or Nearly Disadvantaged Community	30
Reduces Frequency and/or Duration of Disruptive Events	30
Undertakes Efforts Beyond Current Resilience Planning	20
Creates Workforce Development/Training Opportunities	20
Confidence in Proposer’s Ability to Meet General Requirements and Conditions	20
Proposed Project Budget	15
Other Benefits of the Project	10
Overall Responsiveness to RFP	5
Maximum Point Total	150

Disadvantaged Communities:

- Proposer’s Project Benefits a Disadvantaged Community: The proposer demonstrates that its proposed project would occur in or to the benefit of a disadvantaged community (DAC). For the purpose of Department’s RFP, a “disadvantaged community” is defined as a census tract labeled as disadvantaged based on the US Department of Energy’s Energy Justice Mapping Tool - Disadvantaged Communities Reporter
(Maximum Point Score: 30)

or

- Proposer’s Project Benefits a “Nearly” Disadvantaged Community: The proposer’s project is not in or does not directly benefit a census tract identified as a disadvantaged community based on the US Department of Energy’s Energy Justice Mapping Tool but
 - Is in a census tract that in said tracking tool has a state ranking of 60% or AND has a DAC score of 14 or greater, or
 - Is in a municipality that has a public school where 35% or greater of the enrolled students are eligible for free or reduced lunch according to the most recent Free/Reduced School Lunch Eligibility statistics released by the New Hampshire Department of Education.
(Maximum Point Score: 15)

Reduces Frequency and/or Duration of Disruptive Events: The proposer demonstrates that its proposed project would reduce the number and/or length of disruptive events in a given area. Proposers should include in their proposal the Customer Average Interruption Duration Index (CAIDI) and Customer Average Interruption Frequency Index (CAIFI) for the circuit(s) both before the proposed improvement and a projection of what the CAIDI and CAIFI will be after project completion. **(Maximum Point Score: 30)**

Undertakes Efforts Beyond Current Resilience Planning: The proposed project is not currently under consideration in the proposer's current year resilience planning. Grant funds cannot replace or supplant funding for an existing project. However, accelerating a planned project **is not** considered replacing or supplanting. The proposer should be able to demonstrate that if awarded, the funding would represent an increase in total resiliency spending through submitting a current resiliency funding plan and a proposed resiliency funding plan, should the proposer be awarded funding. **(Maximum Point Score: 20)**

Creates Workforce Development/Training Opportunities: The proposer incorporates an active New Hampshire vocational or apprenticeship program throughout the lifetime of the proposed project to train an active, skilled workforce. **(Maximum Point Score: 20)**

Confidence in Proposer's Ability to Meet General Requirements and Conditions: The proposer shows an ability to meet public disclosure requirements, compliance with reserved Department and USDOE rights and other terms and conditions of the funding. **(Maximum Point Score: 20)**

Proposed Project Budget: Shows fiscal responsibility and understanding of available project funds, proof of match, expects financial audits, and other scrutiny. **(Maximum Point Score: 15)**

Other Benefits of the Project: Project provides additional benefits to the electric grid beyond resiliency, such as allowing for a greater number of interconnections of distributed energy resources or enabling electric vehicle charging infrastructure. **(Maximum Point Score: 10)**

Overall Responsiveness to RFP: Overall responsiveness to the requirements of the RFP, including completeness, clarity, and quality of application. **(Maximum Score: 5)**

V. TERM OF CONTRACT

The term of the contract with any selected proposer(s) will be for a period of two years. Subject to Department, Governor and Executive Council, and US Department of Energy approvals, the term may be extended to span the amount of time necessary for grantees to complete all project work.

VI. GENERAL CONDITIONS

The Department reserves the right to the following: to reject or accept any or all proposals, or any part thereof; to determine what constitutes a conforming proposal; to waive irregularities that it considers non-material to the proposal, solely as it deems to be in the best interests of the State; to negotiate with any selected firm(s) or individual(s) in any manner deemed necessary to best serve the interests of the State, including to negotiate lower fees or a different hourly rate

structure; and to contract for any portion of the proposals submitted and to contract with more than one proposer. In the event that the Department determines to contract with more than one proposer, the Department reserves the right to assign components of the contract according to relevant qualifications and experience, and availability. This RFP and all information relating to this RFP (including, but not limited to, fees, contracts, agreements, and prices), are subject to the laws of the State of New Hampshire regarding public information and state procurement of goods and services.

1. If the Department decides to award a contract as a result of this RFP process, any award is contingent upon approval of the contract by the Commissioner of the Department and, if applicable, the New Hampshire Governor and Executive Council with payment subject to and contingent upon State receipt and acceptance of federal funds for this program. General funds will not be requested to support the contract resulting from this RFP.
2. The Department reserves the right to request additional information from any or all Proposers to assist in the evaluation process.
3. Confidentiality of Proposal and Information Provided to Proposers:

The substance of a proposal must remain confidential until the effective date of any contract resulting from this RFP. A Proposer's disclosure or distribution of proposals other than to the Department may be grounds for disqualification. Each Proposer also agrees to maintain as confidential all information to which it has access in the course of this RFP and contracting process until such time as it is instructed otherwise by the Department.

4. Public Disclosure:

Pursuant to RSA 21-G:37, all responses to this RFP shall be considered confidential until the award of a contract. On the closing date of responses, the Department will post the number of responses received with no further information. No later than five business days prior to submission of a contract to the Department of Administrative Services pursuant to this RFP, the Department will post the name of each Proposer, and rank or score of each proposal eligible to be scored. In the event that the contract does not require New Hampshire Governor and Executive Council approval, the Department shall disclose the name of each Proposer and rank or score of each proposal eligible to be scored at least five business days before final approval of the contract. All such postings may be viewed on the Department's website at: [Requests for Proposals | NH Department of Energy](#).

By submitting a proposal, the Proposer acknowledges that the Department is subject to the Right-to-Know Law, RSA Chapter 91-A. The content of each Proposer's proposal shall become public information upon the award of any resulting contract. Copywritten materials submitted along with a proposal are subject to Chapter 91-A and will be made available to the public unless it appears that the proposer has violated the original copyright. **If a Proposer copyrights**

its proposal materials, then by submitting the copywritten proposal, the Proposer waives any copyright protections as to the state, its employees, and agents, and agrees that the state may copy and distribute the proposal for purposes such as, but not limited to, scoring, contracting, and responding to public information requests. Any information submitted as part of a response to this RFP may be subject to public disclosure unless otherwise exempt. *See* RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP may be made accessible to the public online through the website Transparent NH: (<http://www.nh.gov/transparentnh>). However, business financial information, confidential information, such as personally identifiable information, including, but not limited to, social security numbers, taxpayer identification numbers, employer identification numbers, and account numbers, proprietary information such as trade secrets, financial models and forecasts, and proprietary formulas, may be exempt from public disclosure under RSA 91-A:5, IV.

If any part of its proposal contains information that a Proposer asserts is exempt from public disclosure, **the Proposer must specifically identify all relevant text in a letter to the Department and must mark or stamp each page of the materials claimed to be exempt from disclosure as “confidential,”** and provide support for such assertion(s) as part of Proposer’s response to this RFP. The Proposer shall explain, in writing, what measures it has taken to keep such information confidential, and the personal privacy or competitive business interests that would be harmed if such information were to be publicly disclosed. The explanation shall also identify by page number and proposal section number the specific information the proposer claims to be exempt from public disclosure pursuant to RSA 91-A:5. It is helpful if the text claimed to be confidential is also highlighted, underlined, or otherwise identified in the actual proposal itself. Marking the entire proposal or entire sections of the proposal as “confidential” will neither be accepted nor honored.

The Department shall maintain the confidentiality of information contained in proposals, insofar as doing so is consistent with RSA Chapter 91-A. Any information a proposer identifies as exempt from disclosure shall be kept confidential until the Department has determined, as necessary, whether such information is exempt from public disclosure pursuant to RSA 91-A.

In the event that the Department receives a request to view portions of a proposal that the proposer has properly and clearly marked “confidential,” the Department shall notify the Proposer and specify the date the Department intends to release the requested information, redacting any information the Department independently concludes is exempt, consistent with applicable laws and regulations. Any effort to prohibit or enjoin the release of the information the Department identifies for release shall be the Proposer’s responsibility at the Proposer’s sole expense. If the proposer fails to obtain a court order enjoining the disclosure, the Department may release the information on the date the Department specified in its notice to the Proposer(s), or in its notice to any other relevant parties, without any liability to the Proposer(s).

5. By submitting a proposal, a Proposer agrees that in no event shall the Department be either responsible for or held liable for any costs incurred by the proposer in preparation of or in connection with the proposal, or for work performed prior to the effective date of any resulting contract.
6. All parties submitting proposals shall be Equal Opportunity Employers. The selected Grantee(s) will be expected to comply with all federal, state, and local laws respecting non-discrimination in employment.
7. The Department reserves the right to amend or cancel this RFP at any time. Proposers should check [Requests for Proposals | NH Department of Energy](#) for any addenda to this RFP before submitting their proposals, and for answers to any questions submitted by others.
8. The selected Grantee(s) will be required to submit their Taxpayer Identification Number (TIN), Employer Identification Number (EIN), or Social Security Number (SSN), active SAM.gov registration with Unique Entity Identification (UEI) Number, and to register as a vendor with the State of New Hampshire.
9. Federal Funding Requirements: Proposers must adhere to all Federal funding requirements, including but not limited to, United States Department of Energy (USDOE) Financial Assistance Rules under 2 CFR Part 200 as amended by 2 CFR Part 910.
10. Grant Agreement General Provisions: The terms and conditions set forth in the State's Form G-1 (version 11/2021) "General Provisions," attached as Appendix A, will apply to the grant award and funding agreement that the Department will enter into with grantees. In addition, each agreement will be supplemented by several exhibits: Exhibit A will include any special provisions, including any additions to or modifications of the General Provisions; Exhibit B will set forth the scope of services and reporting requirements in detail; and Exhibit C will set forth the amount of the grant, any required milestones, preconditions to reimbursement, the amount of grant holdback or retainage, and the documentation requirements for, and conditions of, grant payments.

Several exhibits shall consist of federally required certifications by grantees of federal funds. Upon award, the grantee should be prepared to sign certain assurances and exhibits including Drug Free Workplace; Lobbying; Americans with Disabilities Act (ADA) compliance; Environmental Tobacco Smoke; Federal Funding Accountability and Transparency Act (FFATA); Build America, Buy America Act (Buy America); Davis Bacon and Related Acts; National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) compliance.

In addition, in accordance with New Hampshire Executive Order No. 2023-05, any grant agreement entered into as a result of this RFP shall include a provision permitting the Department to immediately terminate the agreement and withhold

funding upon deciding that the grantee is boycotting Israel and permitting the Department to withhold payment of any and all funding pending that determination.

More information on New Hampshire Executive Order No. 2023-05 at: <https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/2023-05.pdf>.

11. Once a grant agreement becomes effective, any subsequent material changes or modifications to the project or agreement terms, including, but not limited to, changes in project site plan, design, equipment, or other major components, overall project budget, key project personnel, project funding or financing model, project administration, management, or communications, or proposed technical details, must be submitted for review and prior approval by the Department and, if applicable, the New Hampshire Governor and Executive Council.
12. This RFP is not an offer. Neither the Department nor this RFP shall create any commitment on the part of the State or confer any rights on the part of the Proposer unless and until a binding written contract is executed between the Department and the Proposer, and if applicable, approved by the New Hampshire Governor and Executive Council.
13. Property of the State: All materials and data submitted or received in response to this RFP will become the property of the State and will not be returned to the Proposer(s). Upon contract award, the State reserves the right to use any information presented in any proposal, provided that its use does not violate any copyrights, or other provisions of law, including RSA 91-A.
14. Non-Collusion: The Proposer's signature on a proposal submitted in response to this RFP guarantees that the prices, terms and conditions, and work quoted have been established without collusion with other Proposers and without effort to preclude the Department from obtaining the best possible competitive proposal. Proposers who wish to submit joint proposals with others must clearly identify that the proposal is a "joint proposal" and must identify all Proposers in the first instance.
15. Challenges on Form or Process of the RFP:

Any challenge regarding the validity or legality of the form and procedures of this RFP, including, but not limited to, the evaluation and scoring of proposals, shall be brought to the attention of the Department at least 10 business days prior to the proposal submission deadline, by sending written notice to the RFP Point of Contact, Ms. Susan Gagne, Program Specialist III. By submitting a proposal, the Proposer is deemed to have waived any challenges to the Department's authority to conduct this procurement and the form and procedures of this RFP.
16. Reporting, Notification, and Inspection: The Department and the USDOE reserve the right to conduct the following: inspect and monitor financial and payroll

records and transactions; inspect project/program sites and interview workers; approve RFPs for sub-recipients and provide input on programs; issue periodic notices, memos, and updated reporting forms and information; request notification about media inquiries, responses, and copies of published clippings; participate in meetings and publicize progress of the Funding Local Outage Reduction Advancements; pull back Funding Local Outage Reduction Advancements funding, if appropriate.

All electronic or physical program and financial records pertaining to a grantee's project shall be securely stored and retained by the grantee for three years from the date of project completion.

17. Reimbursement of Project Costs: Payment to grantees under this program is on a cost-reimbursable basis, unless otherwise approved. Disbursement shall be made in accordance with the procedures established by the State and 2 CFR 200.305(b). Costs incurred prior to final grant agreement approval by the Governor and Executive Council are not eligible for reimbursement. Reimbursement may be contingent on the occurrence of specified milestone events and the satisfaction of other conditions as set forth in the approved grant agreement. In accordance with the terms of the grant agreement, a grantee is required to submit requests for reimbursement together with supporting documentation of the paid expenditures. The Department will withhold payment of 10% of any grant award until the final completion of the project and all reporting requirements have been met.

VII. GENERAL PROVISIONS, FORM G-1, AND CERTIFICATES

The selected proposer(s) will be expected to enter into a contract with the State of New Hampshire. The terms and conditions set forth in Form G-1 Grant Agreement (version 11/2021) General Provisions (available at: [Requests for Proposals | NH Department of Energy](#)) are mandatory and will apply to any contract awarded to the Proposer. In addition, project specific terms and conditions will be negotiated with the Proposer and included in the final contract. For the convenience of the Proposers, Form G-1 (version 11/2021) has been included as Appendix A.

When responding to this RFP, each proposer must explicitly indicate that the proposer shall comply with the requirements of Form G-1. To the extent a proposer believes that an exception to the standard form will be necessary for the proposer to enter into a contract, the proposer should raise that issue during the proposer question period. The Department will review the question regarding the requested exception(s) and respond that the exception is accepted, rejected, or note that the Department is open to negotiation regarding the requested exception(s) at the Department's sole discretion. If a Proposer's exception is accepted, or is open to negotiation, the Department will, by means of posting the answer to the Proposer's question, and prior to the conclusion of the question response period, provide notice to all potential Proposers of the exception(s) which has been accepted, or is open to negotiation, and indicate that exception is available to all potential proposers. Any exceptions to the standard form contract that are not received before the Close of Question Period as specified in the Schedule of Events are waived. In no event is a Proposer to submit its own standard contract terms and conditions as a replacement for the State's terms in response to this RFP. The question period begins when the RFP is posted and ends at the Close of Question Period as

specified in the Schedule of Events. All inquiries must be in writing and must be sent to the RFP Point of Contact identified above.

With regard to Form G-1 (11/2021) General Provisions, Paragraph 17, “Insurance,” please note that excess liability insurance in an equal amount may be substituted for up to \$1,000,000 of the per occurrence comprehensive general liability coverage. The State reserves the right to consider further waiving or modifying the insurance requirements in Paragraph 17 based on inquiries and proposals submitted, consistent with the procedure described above.

A Proposer will be required to fill in the G-1 Form (version 11/2021) ONLY upon the Department’s selection of its proposal, and prior to submission of the final contract for review and approval by the Commissioner of the Department and, if applicable, the New Hampshire Governor and Executive Council.

Successful proposers will also be required to provide the following certificates prior to entering into a grant agreement with the Department:

Certificate of Good Standing (CGS)	<p>Domestic business entities shall provide a certificate of good standing from the Secretary of State for the State of New Hampshire.</p> <p>Foreign business entities shall provide a certificate of good standing, or the equivalent, from the entity’s state of formation as well as a certificate of authority to transact business in New Hampshire from the Secretary of State of the State of New Hampshire.</p>
Certificate of Vote/Authority (CVA)	<p>Business entities shall provide a corporate resolution or other similar document that substantiates its authority to enter into the transactions contemplated by the contract awarded hereunder. Individuals contracting in their own name do not need a CVA.</p>
Certificate of Insurance (COI)	<p>Certificate of Insurance form attached with insurance coverage required under the grant agreement. Modifications of insurance coverage required will be specified in Exhibit A to the agreement.</p>
Workers’ Compensation	<p>Grantee must demonstrate compliance with or exception from RSA 281-A (and, if applicable, RSA 228:4-b and RSA 21-I:80, and any other applicable laws or rules).</p>
Proof of active SAM registration	<p>Proposers must obtain a UEI from SAM and provide proof of active SAM registration and a valid UEI number throughout the lifetime of the project.</p> <p>All contractors and subcontractors involved in a proposer’s project must also obtain a UEI from SAM and provide the UEI to the proposer during contract negotiation.</p> <p>Proposers, contractors, and subcontractors must not be debarred from working on projects with Federal funds.</p>

With the exception of proof of active and valid SAM registration, proposers will be required to provide these certificates ONLY upon selection of the proposer to receive Funding Local Outage Reduction Advancements funding by the Department.

VIII. BUILD AMERICA, BUY AMERICA

Pursuant to the provisions of the Build America, Buy America Act, Pub. L. No. 117-58, §§ 70901-52 under the Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58, federally assisted projects that involve infrastructure work undertaken by applicable recipient types require that all iron, steel, manufactured products, and construction materials used in the infrastructure work are produced in the United States. For this RFP, all projects are considered “infrastructure” and are subject to the Build America, Buy America provision of the Infrastructure Investment and Jobs Act. More information regarding this requirement can be found below and on the USDOE’s website at: <https://www.energy.gov/management/build-america-buy-america>.

A. Definitions

For purposes of the Buy America Requirement, the following definitions apply:

Components are defined as the articles, materials, or supplies incorporated directly into the end manufactured product(s).

Construction Materials are articles, materials, or supplies – other than an item primarily of iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives – that are used in an infrastructure project and is or consists primarily of non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber, drywall, coatings (paints and stains), optical fiber, clay brick; composite building materials; or engineered wood products.

Domestic Content Procurement Preference Requirement means a requirement that no amounts made available through a program for federal financial assistance may be obligated for an infrastructure project unless

- (A) all iron and steel used in the project are produced in the United States.
- (B) the manufactured products used in the project are produced in the United States; or
- (C) the construction materials used in the project are produced in the United States.

Also referred to as the **Buy America Requirement**.

Grantee means the eligible recipient awarded Funding Local Outage Reduction Advancements funding.

Infrastructure includes, at a minimum, the structures, facilities, and equipment located in the United States, for: roads, highways, and bridges; public transportation; dams, ports,

harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and generation, transportation, and distribution of energy - including electric vehicle (EV) charging.

The term “infrastructure” should be interpreted broadly, and the definition provided above should be considered as illustrative and not exhaustive.

Manufactured Products are items used for an infrastructure project made up of components that are not primarily of iron or steel; construction materials; cement and cementitious material aggregates such as stone, sand, or gravel; or aggregate binding agents or additives.

Primarily of iron or steel means greater than 50% iron or steel, measured by cost.

Project means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Public – The Buy America Requirement does not apply to non-public infrastructure. For purposes of this guidance, infrastructure should be considered “public” if it is: (1) publicly owned, or (2) privately owned but utilized primarily for a public purpose. Infrastructure should be considered to be “utilized primarily for a public purpose” if it is privately operated on behalf of the public or is a place of public accommodation.

B. Buy America Requirement for Infrastructure Projects (Buy America Requirement)

None of the award funds (including federal share and recipient cost share) may be used for a project for infrastructure unless:

- (1) all iron and steel used in the project is produced in the United States – this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) all manufactured products used in the project are produced in the United States - this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. See 2 CFR 184.5 for determining the cost of components for manufactured products; and
- (3) all construction materials are manufactured in the United States – this means that all manufacturing processes for the construction material occurred in the United States. See 2 CFR 184.6 for construction material standards.

The Buy America Requirement only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does the Buy America Requirement apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

The Buy America Requirement only applies to an article, material, or supply classified into one of the following categories* based on its status at the time it is brought to the work site for incorporation into an infrastructure project:

- (i) Iron or steel products;
- (ii) Manufactured products; or
- (iii) Construction materials;

The Buy America Requirement only applies to the iron or steel products, manufactured products, and construction materials used for the construction, alteration, maintenance, or repair of public infrastructure in the United States when those items are consumed in, incorporated into, or permanently affixed to the infrastructure. An article, material, or supply incorporated into an infrastructure project should not be considered to fall into multiple categories, but rather must meet the Buy America Preference Requirement for only the single category in which it is classified.

All iron and steel, manufactured products, and construction materials used in the infrastructure project must be produced in the United States.

* Section 70917(c) of the BABA states that “construction materials” do not include cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. Section 70917(c) materials are excluded from Construction materials. Asphalt concrete pavement mixes are typically composed of asphalt cement (a binding agent) and aggregates such as stone, sand, and gravel. Accordingly, asphalt is also excluded from the definition of Construction materials.

Section 70917(c) materials, on their own, are not manufactured products. Further, Section 70917(c) materials should not be considered manufactured products when they are used at or combined proximate to the work site—such as is the case with wet concrete or hot mix asphalt brought to the work site for incorporation. However, when certain Section 70917(c) materials (such as stone, sand, and gravel) are used to produce a manufactured product, such as is precast concrete processed into a specific shape or form, and is in such state when brought to the work site, then that product is subject to the BABA requirements.

Further clarification is provided in 2 CFR 184 on the circumstances under which a determination is made that Section 70917(c) materials should be treated as components of a manufactured

product. That determination is based on consideration of: (i) the revised definition of the “manufactured products” at 2 CFR 184.3; (ii) a new definition of “section 70917(c) materials” at 2 CFR 184.3; (iii) new instructions at 2 CFR 184.4(e) on how and when to categorize articles, materials, and supplies; and (iv) new instructions at 2 CFR 184.4(f) on how to apply the Buy America preference by category.

The grantee is responsible for flowing the Buy America Requirement down to all sub-awards, all contracts, subcontracts, and purchase orders for work performed under the proposed infrastructure project, including to For-Profit Entities when the For-Profit Entity is a sub-recipient or sub-grantee. Grantees must certify or provide equivalent documentation for proof of compliance that a good faith effort was made to solicit bids for domestic products used in the infrastructure project under this award. Grantees must also maintain certifications or equivalent documentation for proof of compliance that those articles, materials, and supplies that are consumed in, incorporated into, affixed to, or otherwise used in the infrastructure project, not covered by a waiver or exemption, are produced in the United States. The certification or proof of compliance must be provided by the suppliers or manufacturers of the iron, steel, manufactured products and construction materials and flow up from all sub-grantees, contractors and vendors to the Department and grantees. The Department and the grantee must keep these certifications with the award/project files and be able to produce them upon request from the USDOE, auditors, or Office of Inspector General.

C. Buy America Resources

Federal guidance and resources on the Buy America Requirement continue to evolve. To assist Funding Local Outage Reduction Advancements grantees, find products that satisfy the Buy America Requirement, grantees are encouraged to utilize the New Hampshire Manufacturing Extension Partnership (NHMEP). The Manufacturing Extension Partnership, part of the U.S. Department of Commerce’s National Institute of Standards and Technology, seeks to enhance the productivity and technological performance of U.S. manufacturing. More information on the NHMEP may be found at: <https://www.nhmep.org/>.

In an effort to overcome supply chain challenges and to enhance U.S. manufacturing, the Manufacturing Extension Partnership National Network utilizes a supplier scouting service that can be applied on a national, regional, or local scale. This service identifies manufacturers with production and technical capabilities and connects them with larger and more diverse supply chains of larger companies and government agencies. Additionally, the supplier scouting service identifies and connects suppliers with purchasers, responding to the specific needs of agencies and funding recipients to meet the Buy America Requirement.

The NHMEP’s Supplier Scouting and Matching Program connects businesses with sources that manufacture or distribute products across the country to meet demand. The Department encourages grantees that may have difficulty finding iron, steel, manufactured products, or construction materials that satisfy the Buy America Requirement to use NHMEP’s Supplier Scouting and Matching Program. This is a free referral program and there is no cost to manufacturers or participants. More information

on the NHMEP's Supplier Scouting and Matching Program can be found at:
<https://www.nhmep.org/supplierscouting/>.

To use this program, grantees must contact the NHMEP by e-mail at briank@nhmep.org. The NHMEP will supply a Supplier Scouting template to collect required information from a grantee and open a supplier scouting opportunity through the Supplier Scouting and Matching Program. Manufacturers connected with the Manufacturing Extension Partnership may respond and indicate if they offer products that satisfy the open supplier scouting opportunity.

The Department makes no guarantee that the NHMEP will connect grantees with manufacturers who offer iron, steel, manufactured products, or construction materials that satisfy the Buy America Requirement. In the event grantees are unable to find products through their own due diligence or through the NHMEP's Supplier Scouting and Matching Program, grantees may need to apply for a waiver from the Buy America Requirement.

D. Waivers

When necessary, a grantee may apply for, and the USDOE may grant, a waiver from the Buy America Requirement. Requests to waive the application of the Buy America Requirement must be made in writing to the Department for submission to the USDOE. The Department will require grantees to complete the Federal Financial Assistance Waiver Submission Form posted under RFP 2024-006: [Requests for Proposals | NH Department of Energy](#). All grantees will be responsible for completing the Federal Financial Assistance Waiver Submission Form. Once completed, the grantee will submit the form to the Department for submission to the USDOE.

Grantees will be required to demonstrate a good faith effort to procure Buy America-compliant materials. Grantees are encouraged to conduct extensive outreach with local and nationwide manufacturers and should provide written evidence (e-mail, mail correspondence, etc.) of that outreach. Verbal correspondence is not preferred.

Waiver requests are subject to review by the USDOE and the Office of Management and Budget, as well as a public comment period of no less than 15 calendar days. Waiver requests may take up to 120-180 calendar days to process.

Waivers must be based on one of the following justifications:

- (1) applying the Buy America requirements would be inconsistent with the public interest (Public Interest).
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (non-Availability); or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (Unreasonable Cost).

The Department and the USDOE will only process waiver requests after an award has been made and for which the requests have been submitted in accordance with the terms and conditions of the award. Waiver requests must be reviewed by the Department before submission to the USDOE.

The Department, the USDOE, or the Office of Management and Budget may request additional information for consideration of the waiver. The USDOE may reject or grant waivers in whole or in part depending on its review, analysis, and/or feedback from the Office of Management and Budget or the public. The USDOE's final determination regarding approval or rejection of the waiver request may not be appealed by the Department or the grantee.

The following principles should be incorporated as minimum requirements in any waiver request:

- **Time-limited:** Consider a waiver constrained principally by a length of time, rather than by the specific project/award to which it applies. Waivers of this type may be appropriate, for example, when an item that is “non-available” is widely used in the project. When requesting such a waiver, the grantee should identify a reasonable, definite time frame (e.g., no more than one to two years) designed so that the waiver is reviewed to ensure the condition for the waiver (“non-availability”) has not changed (e.g., domestic supplies have become more available).
- **Targeted:** Waiver requests should apply only to the item(s), product(s), or material(s) or category(ies) of item(s), product(s), or material(s) as necessary and justified. Waivers should not be overly broad as this will undermine domestic preference policies.
- **Conditional:** The grantee may request a waiver with specific conditions that support the policies of IJJA/Buy America and Executive Order 14017.

IX. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Funding Local Outage Reduction Advancements grantees must agree to comply with the provisions of the National Environmental Policy Act (NEPA) 42 U.S.C. § 4321 et seq., rules promulgated thereunder (40 CFR Parts 1500-1508), guidance documents issued by the Office of Management and Budget or the US Department of Energy (USDOE)

The Department's decision whether to and how to distribute Funding Local Outage Reduction Advancements funding is subject to NEPA. NEPA requires federal agencies and recipients of federal funding to integrate environmental values into their decision-making processes by considering the potential environmental impacts of their proposed actions.

Please be aware that NEPA allows an expedited approval process for all projects that fall under the Categorical Exclusions list. Please see section B4 - CATEGORICAL EXCLUSIONS APPLICABLE TO ELECTRICAL POWER AND TRANSMISSION, B4.1- B4:14 are applicable to the activities of this funding opportunity <https://www.energy.gov/nepa/categorical-exclusion-cx-determinations-cx>.

For additional background on NEPA, please see the USDOE's NEPA website at: <https://www.energy.gov/nepa>.

All proposers will be required to submit an environmental questionnaire (NETL Form 451.1-1-3P1) for each work location proposed in their proposal. A NEPA representative will review these documents and any other pertinent information to determine the likely level of NEPA documentation required for qualified projects. Computer modeling, data analysis and classroom training are examples of actions typically covered by NEPA categorical exclusions (CX's).

If any projects are likely to require an environmental assessment (EA) or environmental impact statement (EIS), the NEPA representative will provide further documentation.

While NEPA compliance is a Federal agency responsibility and the ultimate decisions remain with the Federal agency, all recipients selected for an award will be required to assist in the timely and effective completion of the NEPA process in the manner most pertinent to their proposed project. If US DOE determines certain records must be prepared to complete the NEPA review process (e.g., biological evaluations or environmental assessments), the costs to prepare the necessary records may be included as part of the project costs.

X. FLOOD RESILIENCE

Proposers should indicate whether the proposed project location(s) is within a floodplain, how the floodplain was defined, and how future flooding will factor into the project's design. The base floodplain used for planning has been the 100-year floodplain, that is, a floodplain with a 1.0 percent chance of flooding in any given year. As directed by Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (2015), Federal agencies, including US DOE, continue to avoid development in a floodplain to the extent possible. When doing so is not possible, Federal agencies are directed to "expand management from the current base flood level to a higher vertical elevation and corresponding horizontal floodplain to address current and future flood risk and ensure that projects funded with taxpayer dollars last as long as intended." The higher flood elevation is based on one of three approaches: climate-informed science (preferred), freeboard value, or 0.2 percent annual flood change (500-year floodplain). EO 13690 and related information is available at <https://www.energy.gov/nepa/articles/eo-13690-establishing-federal-flood-risk-management-standard-and-process-further>.

XI. DAVIS-BACON PREVAILING WAGE REQUIREMENTS

Compliance with the [Davis-Bacon Wage Act](#) and Related Acts (DBRA) is required, and it applies to contracts in excess of \$2,000 for the construction, alteration, and/or repair of public buildings or public works, including painting and decorating. DBRA is applicable to all laborers and mechanics, subrecipients, contractors, or subcontractors who must be paid wages at rates not less than those prevailing on similar projects in the locality. If a project involves work at multiple sites, with a different DBRA wage determination, the DBRA wage determination appropriate for each locality must be inserted in each contract. The prevailing wage rates are determined by the Secretary of Labor in accordance with subchapter [IV of chapter 31 of title 40, United States Code](#) and published by the US Department of Labor (USDOL).

Cost shall include payroll costs for employees in the direct employ of a contractor in the performance of the work under schedules of job classifications agreed upon by Grantee and Contractor. Such employees shall include, without limitation, superintendents, foremen, and

other personnel employed full time on the work. Payroll costs for employees not employed full time on the Work shall be apportioned based on their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Grantee.

By accepting an award as a result of this RFP, the proposer is acknowledging the DBRA requirements and confirming that the laborers and mechanics performing construction, alteration, or repair work on projects funded in whole or in part by awards made as a result of this RFP are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

Grantees shall provide assurance of their compliance with DBRA by signing the Department's Davis-Bacon assurance letter. The assurance letter can be found under RFP 2024-006: [Requests for Proposals | NH Department of Energy](#). By submitting the letter, grantees acknowledge that they will comply with all the Davis-Bacon Act requirements, including but not limited to:

1. Ensuring that the wage determination(s) and appropriate Davis-Bacon clauses and requirements are flowed down to and incorporated into any applicable subcontracts or subrecipient awards.
2. Ensuring that if wage determination(s) and appropriate Davis-Bacon clauses and requirements are improperly omitted from contracts and subrecipient awards, the applicable wage determination(s) and clauses are retroactively incorporated to the start of performance.
3. Being responsible for compliance by any subcontractor or subrecipient with the Davis-Bacon labor standards.
4. Receiving and reviewing certified weekly payrolls submitted by all subcontractors and subrecipients for accuracy and to identify potential compliance issues through LCPtracker.
5. Maintaining original certified weekly payrolls for three years after the completion of the project and must make those payrolls available to the Department, USDOE, or the USDOL upon request, as required by 29 CFR 5.6(a)(2).
6. Conducting payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and subrecipients and as requested or directed by the Department, USDOE, or USDOL.
7. Cooperating with any authorized representative of the Department, USDOE, or USDOL in their inspection of records, interviews with employees, and other actions undertaken as part of a USDOL investigation.

8. Posting in a prominent and accessible place the wage determination(s) and Department of Labor Publication: [WH-1321, Notice to Employees Working on Federal or Federally Assisted Construction Projects](#).
9. Notifying the USDOL Contracting Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from the recipient, subrecipient, contractor, or subcontractor employees; significant labor standards violations, as defined in 29 CFR 5.7; disputes concerning labor standards pursuant to 29 CFR parts 4, 6, and 8 and as defined in FAR 52.222-14; disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this Contract, a subcontract, or subrecipient award.
10. Preparing and submitting to the Contracting Officer, the Office of Management and Budget Control Number 1910-5165, Davis Bacon Semi-Annual Labor Compliance Report, by April 21 and October 21 of each year.

Grantees will also be required to undergo DBRA compliance training and to maintain competency in DBRA compliance. The Contracting Officer will notify grantees of any USDOE, USDOL, or other sponsored DBRA compliance trainings.

The USDOL offers free Prevailing Wage Seminars several times a year that meet this requirement. More information can be found at: <https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events>.

For additional guidance on how to comply with the DBRA provisions and clauses, see the following resources:

1. <https://www.dol.gov/agencies/whd/government-contracts/construction>.
2. <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>.

See Section III for additional DBRA requirements and related compliance.

XII. ETHICAL REQUIREMENTS

From the time this RFP is published until a grant is awarded, no proposer shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who will or has selected, evaluated, or awarded a grant pursuant to a RFP, or contract pursuant to a similar submission. Any proposer that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any proposer, or member of an proposer's board or senior management, who has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or who is subject to a pending criminal charge for such an offense, shall be disqualified from applying for the RFP, or similar requests for submission, and every such proposer shall be disqualified from bidding on any RFP or

similar request for submission issued by any state agency. A proposer that was disqualified under this section because of a pending criminal charge which is subsequently dismissed, results in an acquittal, or is annulled, may notify the Department of Administrative Services, which shall note that information on the list maintained on the State's internal intranet system, except that, in the case of annulment, the information shall be deleted from the list.

APPENDIX A – GRANT AGREEMENT

FORM NUMBER G-1 (version 11/2021)

GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby
Mutually agree as follows:
GENERAL PROVISIONS

1. Identification and Definitions.

1.1. State Agency Name		1.2. State Agency Address	
1.3. Grantee Name		1.4. Grantee Address	
1.5 Grantee Phone #	1.6. Account Number	1.7. Completion Date	1.8. Grant Limitation \$
1.9. Grant Officer for State Agency		1.10. State Agency Telephone Number	
If Grantee is a municipality or village district: "By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Grantee Signature 1		1.12. Name & Title of Grantee Signor 1	
Grantee Signature 2		Name & Title of Grantee Signor 2	
Grantee Signature 3		Name & Title of Grantee Signor 3	
1.13 State Agency Signature(s)		1.14. Name & Title of State Agency Signor(s)	
1.15. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required)			
By:		Assistant Attorney General, On: / /	
1.16. Approval by Governor and Council (if applicable)			
By:		On: / /	

2. **SCOPE OF WORK:** In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as “the State”), the Grantee identified in block 1.3 (hereinafter referred to as “the Grantee”), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT B (the scope of work being hereinafter referred to as “the Project”).

3. AREA COVERED. Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.
4. EFFECTIVE DATE: COMPLETION OF PROJECT.
- 4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire if required (block 1.16), or upon signature by the State Agency as shown in block 1.14 ("the Effective Date").
- 4.2 Except as otherwise specifically provided herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.7 (hereinafter referred to as "the Completion Date").
5. GRANT AMOUNT: LIMITATION ON AMOUNT: VOUCHERS: PAYMENT.
- 5.1 The Grant Amount is identified and more particularly described in EXHIBIT C, attached hereto.
- 5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT C.
- 5.3 In accordance with the provisions set forth in EXHIBIT C, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.
- 5.4 The payment by the State of the Grant amount shall be the only, and the complete payment to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.
- 5.5 Notwithstanding anything 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 Grant limitation set forth in block 1.8 of these general provisions.
6. COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS. In connection with the performance of the Project, the Grantee shall comply with all statutes, laws regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits and RSA 31-95-b.
7. RECORDS and ACCOUNTS.
- 7.1 Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency, the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.
- 7.2 Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency pursuant to subparagraph 7.1, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these provisions.
8. PERSONNEL.
- 8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project and shall be properly licensed and authorized to perform such Project under all applicable laws.
- 8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.
- 8.3 The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.
9. DATA: RETENTION OF DATA: ACCESS.
- 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, paper, and documents, all whether finished or unfinished.
- 9.2 Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.
- 9.3 No data shall be subject to copyright in the United States or any other country by anyone other than the State.
- 9.4 On and after the Effective Date 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, whichever shall first occur.
- 9.5 The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.
10. CONDITIONAL NATURE OR AGREEMENT. Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those 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 Grantee notice of such termination.
11. EVENT OF DEFAULT: REMEDIES.
- 11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):
 - 11.1.1 Failure to perform the Project satisfactorily or on schedule; or
 - 11.1.2 Failure to submit any report required hereunder; or
 - 11.1.3 Failure to maintain, or permit access to, the records required hereunder; or
 - 11.1.4 Failure to perform any of the other covenants and conditions of this Agreement.
- 11.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
 - 11.2.1 Give the Grantee 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 Grantee notice of termination; and
 - 11.2.2 Give the Grantee 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 Grant Amount which would otherwise accrue to the Grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and
 - 11.2.3 Set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and
 - 11.2.4 Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.
12. TERMINATION.
- 12.1 In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.
- 12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.
- 12.3 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.
- 12.4 Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.
13. CONFLICT OF INTEREST. No officer, member of employee of the Grantee, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review

- or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.
14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.
 15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit B without the prior written consent of the State.
 16. INDEMNIFICATION. The Grantee 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 on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or subcontractor, or subgrantee or other agent of the Grantee. 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 shall survive the termination of this agreement.
 17. INSURANCE.
 - 17.1 The Grantee shall, at its own expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:
 - 17.1.1 Statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and
 - 17.1.2 General liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and
 - 17.2 The policies described in subparagraph 17.1 of this paragraph 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 of New Hampshire. Grantee shall furnish to the State, certificates of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy.
 18. 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, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure of waiver 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 default on the part of the Grantee.
 19. 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 first above given.
 20. 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 Council of the State of New Hampshire, if required or by the signing State Agency.
 21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience and are not to be considered a part of this Agreement or to be used in determining the intend of the parties hereto.
 22. 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.
 23. 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.
 24. SPECIAL PROVISIONS. The additional or modifying provisions set forth in Exhibit A hereto are incorporated as part of this agreement.