

**FORM E**  
**CONTRACT ACCEPTANCE AND AWARD**



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)


NJPA Contract #: 012418-TER

Proposer's full legal name: Terex Utilities Inc.

**Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.**

The effective date of the Contract will be March 14, 2018 and will expire on March 14, 2022 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

**NJPA Authorized Signatures:**

  
\_\_\_\_\_  
NJPA DIRECTOR OF COOPERATIVE CONTRACTS  
AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz  
(NAME PRINTED OR TYPED)

  
\_\_\_\_\_  
NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coquette  
(NAME PRINTED OR TYPED)

Awarded on March 12, 2018

NJPA Contract # 012418-TER

**Vendor Authorized Signatures:**

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Terex Utilities

Authorized Signatory's Title Vice President

  
\_\_\_\_\_  
VENDOR AUTHORIZED SIGNATURE

James M. Lohan  
\_\_\_\_\_  
(NAME PRINTED OR TYPED)

Executed on March 15, 2018

NJPA Contract # 012418-TER

**Form C**

**EXCEPTIONS TO PROPOSAL TERMS, CONDITIONS,  
AND SOLUTIONS REQUEST**



Company Name: Terex Utilities Inc.

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by NJPA or included in the final contract. NJPA will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	NJPA ACCEPTS
G	6.23.1.1	Added - In accordance with ISO standard forms	NJPA accepts.
G	6.26	Added - except for the negligence and willful misconduct	NJPA accepts.
B	8.8	Added - No party shall be liable hereunder for incidental, indirect or consequential Damages, even if advised of the possibility thereof.	NJPA accepts.

Proposer's Signature: *Stephen E. [Signature]*

Date: 1/23/2015

**NJPA's clarification on exceptions listed above:**

Review and Approved:  
*[Signature]* 3-1-15  
 NJPA Legal Department



## National Joint Powers Alliance®

### REQUEST FOR PROPOSAL

for the procurement of

### PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES

#### RFP Opening

JANUARY 25, 2018 |

8:30 a.m. Central Time

At the offices of the

National Joint Powers Alliance®

202 12<sup>th</sup> Street Northeast, Staples, MN 56479

#### **RFP #012418**

The National Joint Powers Alliance® (NJPA), on behalf of NJPA and its current and potential member agencies, which includes all governmental, higher education, K-12 education, not-for-profit, tribal government, and all other public agencies located in all fifty states, Canada, and internationally, issues this Request For Proposal (RFP) to result in a national contract solution for the procurement of #012418 PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES. Details of this RFP are available beginning December 7, 2017. Details may be obtained by letter of request to Chris Robinson, NJPA, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479, or by e-mail at [RFP@njpacoop.org](mailto:RFP@njpacoop.org). Proposals will be received until January 24, 2018 at 4:30 p.m. Central Time at the above address and opened January 25, 2018 at 8:30 a.m. Central Time.

#### RFP Timeline

- |                                  |  |
|----------------------------------|--|
| December 7, 2017                 | <b>Publication of RFP</b> in the print and online version of <i>USA Today</i> , in the print and online version of the <i>Salt Lake News</i> within the State of Utah, in the print and online version of the <i>Daily Journal of Commerce</i> within the State of Oregon (note: OR entities this pertains to: <a href="http://www.njpacoop.org/oregon-advertising">http://www.njpacoop.org/oregon-advertising</a> and also RFP Appendix B), in the print and online version of <i>The State</i> within the State of South Carolina, the NJPA website, MERX, Noticetobidders.com, PublicPurchase.com, Biddingo, and Onvia. |
| January 9, 2018<br>10:00 a.m. CT | <b>Pre-Proposal Conference</b> (the webcast/conference call). The connection information will be sent to all inquirers two business days before the conference.  |
| January 17, 2018                 | <b>Deadline for RFP questions.</b>   |
| January 24, 2018<br>4:30 p.m. CT | <b>Deadline for Submission of Proposals.</b> Late responses will be returned unopened.   |
| January 25, 2018<br>8:30 a.m. CT | <b>Public Opening of Proposals.</b>  |

Direct questions regarding this RFP to: Chris Robinson at [chris.robinson@njpacoop.org](mailto:chris.robinson@njpacoop.org) or (218) 895-4168.

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## **1. DEFINITIONS**

### **A. CONTRACT**

Contract means this RFP, current pricing information, fully executed Forms C, D, F, & P from the Proposer's response pursuant to this RFP, and a fully executed Form E ("Acceptance and Award") with final terms and conditions. Form E will be executed after a formal award and will provide final clarification of terms and conditions of the award.

### **B. PROPOSER**

A Proposer is a company, person, or entity delivering a timely response to this RFP. This RFP may also use the terms "respondent" or "proposed Vendor," which is interchangeable with Proposer as the context allows.

### **C. SOURCED GOOD or OPEN MARKET ITEM**

A Sourced Good or Open Market Item is a product within the RFP's scope 1) that is not currently available under the Vendor's NJPA contract, 2) that a member wants to buy under contract from an awarded Vendor, and 3) that is generally deemed incidental to the total transaction or purchase of contract items.

### **D. VENDOR**

A Proposer whose response has been awarded a contract pursuant to this RFP.

## **2 ADVERTISEMENT OF RFP**

**2.1** NJPA advertises this solicitation: 1) in the hard copy print and online editions of the USA Today; 2) once each in Oregon's Daily Journal of Commerce, South Carolina's The State and Utah's Salt Lake Tribune; 3) on NJPA's website; and 4) on other third-party websites deemed appropriate by NJPA. Other third-party advertisers may include Onvia, PublicPurchase.com, MERX, and Biddingo.

**2.2** NJPA also notifies and provides solicitation documentation to each state-level procurement departments for possible re-posting of the solicitation within their systems and at their option for future use and to meet specific state requirements.

## **3 INTRODUCTION**

### **A. ABOUT NJPA**

**3.1** The National Joint Powers Alliance® (NJPA) is a public agency serving as a national municipal contracting agency established under the Service Cooperative statute by Minnesota Legislative Statute §123A.21 with the authority to develop and offer, among other services, cooperative procurement services to its membership. Eligible membership and participation includes states, cities, counties, all government agencies, both public and non-public educational agencies, colleges, universities and non-profit organizations.

**3.2** Under the authority of Minnesota state laws and enabling legislation, NJPA facilitates a competitive solicitation and contracting process on behalf of the needs of itself and the needs of current and potential member agencies nationally. This process results in national procurement contracts with various Vendors of products/equipment and services which NJPA Member agencies desire to procure. These procurement contracts are created in compliance with applicable Minnesota Municipal Contracting Laws. A complete listing of NJPA cooperative procurement contracts can be found at [www.njpacoop.org](http://www.njpacoop.org).

**3.3** NJPA is a public agency governed by publicly elected officials that serve as the NJPA Board of Directors. NJPA's Board of Directors oversees and authorizes the calls for all new proposals and holds those resulting Contracts for the benefit of its own and its Members use.

**3.4** NJPA currently serves over 50,000 member agencies nationally. Both membership and utilization of NJPA contracts continue to expand, due in part to the increasing acceptance of Cooperative Purchasing throughout the government and education communities nationally.

### **B. JOINT EXERCISE OF POWERS LAWS**

**3.5** NJPA cooperatively shares those contracts with its Members nationwide through various Joint Exercise of Powers Laws or Cooperative Purchasing Statutes established in Minnesota, other states and Canadian provinces. The Minnesota Joint Exercise of Powers Law is Minnesota Statute §471.59 which states "Two or more governmental units...may jointly or cooperatively exercise any power common to the contracting parties..." This Minnesota Statute allows NJPA to serve Member agencies located in all other states. Municipal agencies nationally can participate in cooperative purchasing activities under their own state law. These laws can be found on our website at <http://www.njpacoop.org/national-cooperative-contract-solutions/legal-authority/>.

**3.5.1** For Members within the Commonwealth of Virginia, this RFP is intended to be a "joint procurement agreement" as described in Vir. Code § 2.2-4304(A), and those Virginia Members identified in Appendix C may agree to be a Joint Purchaser under this RFP.

### **C. WHY RESPOND TO A NATIONAL COOPERATIVE PROCUREMENT CONTRACT**

**3.6 National Cooperative Procurement Contracts create value for Municipal and Public Agencies, as well as for Vendors of products/equipment and services in a variety of ways:**

**3.6.1** National cooperative contracts potentially save time and effort for municipal and public agencies, who otherwise would have to solicit vendor responses to individual RFPs, resulting in individual contracts, to meet the procurement needs of their respective agencies. Considerable time and effort is also potentially saved by the Vendors who would have had to otherwise respond to each of those individual RFPs. A single, nationally advertised RFP, resulting in a single, national cooperative contract can potentially replace thousands of individual RFPs for the same equipment/products/services that might have been otherwise advertised by individual NJPA member agencies.

**3.6.2** NJPA contracts offer our Members nationally leveraged volume purchasing discounts. Our contract terms and conditions offer the opportunity for Vendors to recognize individual member procurement volume commitment through additional volume based contract discounts.

**3.7** State laws that permit or encourage cooperative purchasing contracts do so with the belief that cooperative efficiencies will result in lower prices, better overall value, and considerable time savings.

**3.8** The collective purchasing power of thousands of NJPA Member agencies nationwide offers the opportunity for volume pricing discounts. Although no sales or sales volume is guaranteed by an NJPA Contract resulting from this RFP, substantial volume is anticipated and volume pricing is requested and justified.

**3.9** NJPA and its Members desire the best value for their procurement dollar as well as a competitive price. Vendors have the opportunity to display and highlight value-added attributes of their company, equipment/products and services without constraints of a typical individual proposal process.

#### **D. THE INTENT OF THIS RFP**

**3.10. National contract awarded by NJPA:** NJPA seeks the most responsive and responsible Vendor relationship(s) to reflect the best interests of NJPA and its Member agencies. Through a competitive proposal and evaluation process, the NJPA Proposal Evaluation Committee recommends vendors for a national contract awarded by the action of the NJPA Chief Procurement Officer. NJPA's primary intent is to establish and provide a national cooperative procurement contract that offer opportunities for NJPA and our current and potential Member agencies throughout the United States and Canada to procure quality product/equipment and services as desired and needed. The contracts will be marketed nationally through a cooperative effort between the awarded vendor(s) and NJPA. Contracts are expected to offer price levels reflective of the potential and collective volume of NJPA and the nationally established NJPA membership base.

**3.11** Beyond our primary intent, NJPA further desires to:

**3.11.1** Award a four-year contract with a fifth-year contract option resulting from this RFP. Any fifth-year extension is exercised at NJPA's discretion and results from NJPA's contracting needs or from Member requests; this extension is not intended merely to accommodate an awarded Vendor's request. If NJPA grants a fifth-year extension, it may also terminate the contract (or cause it to expire) within the fifth year if the extended contract is replaced by a resolicited or newly solicited contract. In exigent circumstances, NJPA may petition NJPA's Board of Directors to extend the contract term beyond five years. This rarely used procedure should be employed only to avoid a gap in contract coverage while a replacement contract is being solicited;

- 3.11.2** Offer and apply any applicable technological advances throughout the term of a contract resulting from this RFP;
- 3.11.3** Deliver "Value Added" aspects of the company, equipment/products and services as defined in the "Proposer's Response";
- 3.11.4** Deliver a wide spectrum of solutions to meet the needs and requirements of NJPA and NJPA Member agencies; and
- 3.11.5** Award an exclusive contract to the most responsive and responsible vendor when it is deemed to be in the best interest of NJPA and the NJPA Member agencies.

**3.12 Exclusive or Multiple Awards:** Based on the scope of this RFP and on the responses received, NJPA may award either an exclusive contract or multiple contracts. In some circumstances, a single national supplier may best meet the needs of NJPA Members; in other situations, multiple vendors may be in the best interests of NJPA and the NJPA Members and preferred by NJPA to provide the widest array of solutions to meet the member agency's needs. NJPA retains sole discretion to determine which approach is in the best interests of NJPA Member agencies.

**3.13 Non-Manufacturer Awards:** NJPA reserves the right to make an award under this RFP to a non-manufacturer or dealer/distributor if such action is in the best interests of NJPA and its Members.

**3.14 Manufacturer as a Proposer:** If the Proposer is a manufacturer or wholesale distributor, the response received will be evaluated on the basis of a response made in conjunction with that manufacturer's authorized dealer network. Unless stated otherwise, a manufacturer or wholesale distributor Proposer is assumed to have a documented relationship with their dealer network where that dealer network is informed of, and authorized to accept, purchase orders pursuant to any Contract resulting from this RFP on behalf of the manufacturer or wholesale distributor Proposer. Any such dealer will be considered a sub-contractor of the Proposer/Vendor. The relationship between the manufacturer and wholesale distributor Proposer and its dealer network may be proposed at the time of the submission if that fact is properly identified.

**3.15 Dealer/Reseller as a Proposer:** If the Proposer is a dealer or reseller of the products and/or services being proposed, the response will be evaluated based on the Proposer's authorization to provide those products and services from their manufacturer. When requested by NJPA, Proposers must document their authority to offer those products and/or services.

#### **E. SCOPE OF THIS RFP**

**3.16 Scope:** The scope of this RFP is to award a contract to a qualifying vendor defined as a manufacturer, provider, or dealer/distributor, established as a Proposer, and deemed responsive and responsible through our open and competitive proposal process. Vendors will be awarded contracts based on the proposal and responders demonstrated ability to meet the expectations of the RFP and demonstrate the overall highest valued solutions which meet and/or exceed the current and future needs and requirements of NJPA and its Member agencies nationally within the scope of **PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES**.

**3.17 Additional Scope Definitions:** In addition to **PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES**, this solicitation should be read to include, but not to be limited to:

**3.17.1** Chassis-mounted, trailer-mounted, and self-propelled (wheel or track):

**3.17.1.1** telescopic, articulated, mast, and boom, aerial lifts, towers, buckets, and platforms;  
and,



**3.17.1.2** derricks, diggers, pole jacks, and cable placers, stringers, tensioners, pullers, and reels.

**3.17.2** Chassis-mounted, trailer-mounted, and self-propelled (wheel or track), trenchers, directional drilling, thrust, and boring machines, pipeline drills, and soil piercing tools.

**3.17.3** Equipment offering a combination of the functions described in subsections 3.17.1 and 3.17.2.

**3.17.4** Pumps equal to or exceeding 20HP, such as mud pumps, trash pumps, diesel-driven/hydraulic-driven/electrically-driven centrifugal pumps, and other pumps used in municipal applications such as lift stations, sewage treatment, water treatment, collection systems and dewatering. (A pump proposal may include pump models under 20HP so long as those offerings are incidental to a primary offering of 20HP or higher models.)

**3.17.5** Chassis-mounted, trailer-mounted, or skid-mounted hydro and/or vacuum excavators for the purpose of utility (gas, electric, water or telecom) infrastructure installation, but not for the purpose of sewer cleaning, catch basin cleaning, jet rodding/jet flushing, wet well/lift station cleaning or storm line cleaning (See NJPA RFP #122017).

**3.17.6** NJPA reserves the right to limit the scope of this solicitation for NJPA and current and potential NJPA member agencies.

**3.17.6.1** This solicitation should NOT be construed to include any of the following:

- a. heavy construction equipment (see NJPA RFP #032515);
- b. skid steers or excavators (see NJPA RFP #042815);
- c. trailers (see NJPA RFP #052015);
- d. sewer vacuum, hydro-excavation or street sweeping and broom equipment (See NJPA RFP #122017);
- e. truck chassis-only proposals (see NJPA RFP #081716) or,
- e. ag tractors (see NJPA RFP #021815).

**3.18** **Overlap of Scope:** When considering equipment/products/services, or groups of equipment/products/services submitted as a part of your response, and whether inclusion of such will fall within a "Scope of Proposal," please consider the validity of an inverse statement.

**3.18.1** For example, pencils and post-it-notes can generally be classified as office supplies and office supplies generally include pencils and post-it-notes.

**3.18.2** In contrast, computers (PCs and peripherals) can generally be considered office supplies; however, the scope of office supplies does not generally include computer servers and infrastructure.

**3.18.3** In conclusion: With this in mind, individual products and services must be examined individually by NJPA, from time to time and in its sole discretion, to determine their compliance and fall within the original "Scope" as intended by NJPA.

**3.19** **Best and Most Responsive – Responsible Proposer:** It is the intent of NJPA to award a Contract to the best and most responsible and responsive Proposer(s) offering the best overall quality and selection of equipment/products and services meeting the commonly requested specifications of the NJPA and NJPA Members, provided the Proposer's Response has been submitted in accordance with the requirements of this RFP. Qualifying Proposers who are able to anticipate the current and future needs and requirements of NJPA and NJPA member agencies; demonstrate the knowledge of any and all applicable industry

standards, laws and regulations; and possess the willingness and ability to distribute, market to and service NJPA Members in all 50 states are preferred. NJPA requests proposers submit their entire product line as it applies and relates to the scope of this RFP.

**3.20 Sealed Proposals:** NJPA will receive sealed proposal responses to this RFP in accordance with accepted standards set forth in the Minnesota Procurement Code and Uniform Municipal Contracting Law. Awards may be made to responsible and responsive Proposers whose proposals are determined in writing to be the most advantageous to NJPA and its current or qualifying future NJPA Member agencies.

**3.21 Use of Contract:** Any Contract resulting from this solicitation shall be awarded with the understanding that it is for the sole convenience of NJPA and its Members. NJPA and/or its members reserve the right to obtain like equipment/products and services solely from this contract or from another contract source of their choice or from a contract resulting from their own procurement process.

**3.22 Awarded Vendor's interest in a contract resulting from this RFP:** Awarded Vendors will be able to offer to NJPA, and current and potential NJPA Members, only those products/equipment and services specifically awarded on their NJPA Awarded Contract(s). Awarded Vendors may not offer as "contract compliant," products/equipment and services which are not specifically identified and priced in their NJPA Awarded Contract.

**3.23 Sole Source of Responsibility-** NJPA desires a "Sole Source of Responsibility" Vendor. This means that the Vendor will take sole responsibility for the performance of delivered equipment/products/ services. NJPA also desires sole responsibility with regard to:

**3.23.1 Scope of Equipment/Products/Services:** NJPA desires a provider for the broadest possible scope of products/equipment and services being proposed over the largest possible geographic area and to the largest possible cross-section of NJPA current and potential Members.

**3.23.2 Vendor use of sub-contractors in sourcing or delivering equipment/product/services:** NJPA desires a single source of responsibility for equipment/products and services proposed. Proposers are assumed to have sub-contractor relationships with all organizations and individuals whom are external to the Proposer and are involved in providing or delivering the equipment/products/services being proposed. Vendor assumes all responsibility for the equipment/products/services and actions of any such Sub-Contractor. Suggested Solutions Options include:

**3.23.3 Multiple solutions to the needs of NJPA and NJPA Members are possible. Examples could include:**

**3.23.3.1 Equipment/Products Only Solution:** Equipment/Products Only Solution may be appropriate for situations where NJPA or NJPA Members possess the ability, either in-house or through local third party contractors, to properly install and bring to operation those equipment/products being proposed.

**3.23.3.2 Turn-Key Solutions:** A Turn-Key Solution is a combination of equipment/products and services that provides a single price for equipment/products, delivery, and installation to a properly operating status. Generally this is the most desirable solution because NJPA and NJPA Members may not possess, or desire to engage, personnel with the necessary expertise to complete these tasks internally or through other independent contractors

**3.23.3.3 Good, Better, Best:** Where appropriate and properly identified, Proposers may offer the choice "of good, better, best" multiple-grade solutions to meet NJPA Members' needs.

**3.23.3.4 Proven – Accepted – Leading-Edge Technology:** Where appropriate and properly identified, Proposers may provide a spectrum of technology solutions to complement or enhance the proposed solutions to meet NJPA Members' needs.

**3.23.4** If applicable, Contracts will be awarded to Proposer(s) able to deliver a proposal meeting the entire needs of NJPA and its Members within the scope of this RFP. NJPA prefers Proposers submit their complete product line of products and services described in the scope of this RFP. NJPA reserves the right to reject individual, or groupings of specific equipment/products and services proposals as a part of the award.

**3.24 Geographic Area to be Proposed:** This RFP invites proposals to provide PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES to NJPA and NJPA Members throughout the entire United States and possibly internationally. Proposers will be expected to express willingness to explore service to NJPA Members located abroad; however the lack of ability to serve Members outside of the United States will not be cause for non-award. The ability and willingness to serve Canada, for instance, will be viewed as a value-added attribute.

**3.25 Contract Term:** At NJPA's option, a Contract resulting from this RFP will become effective either on the date awarded by the NJPA Board of Directors or on the day following the expiration date of an existing NJPA procurement contract for the same or similar product/equipment and services.

**3.25.1** NJPA is seeking a Contract base term of four years as allowed by Minnesota Contracting Law. Full term is expected. However, one additional one-year renewal/extension may be offered by NJPA to Vendor beyond the original four year term if NJPA deems such action to be in the best interests of NJPA and its Members. NJPA reserves the right to conduct periodic business reviews throughout the term of the contract.

**3.26 Minimum Contract Value:** NJPA anticipates considerable activity resulting from this RFP and subsequent award; however, no commitment of any kind is made concerning actual quantities to be acquired. NJPA does not guarantee usage. Usage will depend on the actual needs of the NJPA Members and the value of the awarded contract.

**3.27** [This section is intentionally blank.]

**3.28 Contract Availability:** This Contract must be available to all current and potential NJPA Members who choose to utilize this NJPA Contract to include all governmental and public agencies, public and private primary and secondary education agencies, and all non-profit organizations nationally.

**3.28.1** With respect to Members within the Commonwealth of Virginia, this RFP is intended to be a "joint procurement agreement" as described in Vir. Code § 2.2-4304(A), and those Virginia Members identified in Appendix C must be allowed to use this Contract as a Joint Purchaser.

**3.29 Proposer's Commitment Period:** In order to allow NJPA the opportunity to evaluate each proposal thoroughly, NJPA requires any response to this solicitation be valid and irrevocable for ninety (90) days after the date proposals are opened.

## F. EXPECTATIONS FOR EQUIPMENT/PRODUCTS AND SERVICES BEING PROPOSED

**3.30 Industry Standards:** Except as contained herein, the specifications or solutions for this RFP shall be those accepted guidelines set forth by the PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES industry, as they are generally understood and accepted within that industry across the nation. Submitted products/equipment, related services and accessories, and their warranties and assurances are required to meet and/or exceed all current, traditional and anticipated standards, needs, expectations, and requirements of NJPA and its Members.

**3.30.1 Deviations from industry standards** must be identified by the Proposer and explained how, in their opinion, the equipment/products and services they propose will render equivalent functionality, coverage, performance, and/or related services. Failure to detail all such deviations may comprise sufficient grounds for rejection of the entire proposal.

**3.30.2 Technical Descriptions/Specifications.** Excessive technical descriptions and specifications that unduly enlarge the proposal response may cause NJPA to reduce the evaluation points awarded on Form G. Proposers must supply sufficient information to:

**3.30.2.1** demonstrate the Proposer's knowledge of industry standards and Member agency needs and expectations;

**3.30.2.2** Identify the equipment/products and services being proposed as applicable to the needs and expectations of NJPA Member agencies; and

**3.30.2.3** differentiate equipment/products and services from other industry manufacturers and providers.

**3.31 New Current Model Equipment/Products:** Proposals submitted shall be for new, current model equipment/products and services with the exception of certain close-out products allowed to be offered on the Proposer's "Hot List" described herein.

**3.32 Compliance with laws and standards:** All items supplied on this Contract shall comply with any current applicable safety or regulatory standards or codes.

**3.33 Delivered and operational:** Products/equipment offered herein are to be proposed based upon being delivered and operational at the NJPA Member's site. Exceptions to "delivered and operational" must be clearly disclosed in the "Total Cost of Acquisition" section of the proposal.

**3.34 Warranty:** The Proposer warrants that all products, equipment, supplies, and services delivered under this Contract shall be covered by the industry standard or better warranty. All products and equipment should carry a minimum industry standard manufacturer's warranty that includes materials and labor. The Proposer has the primary responsibility to submit product specific warranty as required and accepted by industry standards. Dealer/Distributors agree to assist the purchaser in reaching a solution in a dispute over warranty's terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the warranty will be passed on to the NJPA member. Failure to submit a minimum warranty may result in non-award.

**3.35 Additional Warrants:** The Proposer warrants that all products/equipment and related services furnished hereunder will be free from liens and encumbrances; defects in design, materials, and workmanship; and will conform in all respects to the terms of this RFP including any specifications or standards. In addition, Proposer/Vendor warrants the products/equipment and related services are suitable for and will perform in accordance with the ordinary use for which they are intended.

## G. SOLUTIONS-BASED SOLICITATION

**3.36** The NJPA solicitation and contract award process is not based on detailed specifications. Instead, this RFP is a "Solutions-Based Solicitation." NJPA expects respondents to understand and anticipate the current and future needs of NJPA and its members—within the scope of this RFP—and to propose solutions that are commonly desired or required by law or industry standards. Proposal will be evaluated in part on your demonstrated ability to meet or exceed the needs and requirements of NJPA and our member agencies within the defined scope of this RFP.

**3.37** While NJPA does not typically provide product and service specifications, the RFP may contain scope refinements and industry-specific questions. Where specific items are specified, those items should be considered the minimum required, which the proposal can exceed in order to meet Members' needs. NJPA may award all of the respondent's proposal or may limit the award to a subset of the proposal.

## **34 INSTRUCTIONS FOR PREPARING YOUR PROPOSAL**

### **A. INQUIRY PERIOD**

**4.1** The inquiry period begins on the date of first advertisement and continues until to the Deadline for Submission." RFP packages will be distributed to potential Vendors during the inquiry period.

### **B. PRE-PROPOSAL CONFERENCE**

**4.2** A pre-proposal conference will be held at the date and time specified in the timeline on page one of this RFP. Conference information will be sent to all potential Proposers, and attendance is optional. The purpose of this conference is to allow potential Proposers to ask questions regarding this RFP and NJPA's competitive contracting process. Only answers issued in writing by NJPA to questions asked before or during the pre-proposal conference are binding on the parties to an awarded contract.

### **C. IDENTIFICATION OF KEY PERSONNEL**

**4.3** Awarded Vendors will designate one senior staff member to represent the Vendor to NJPA. This contact person will correspond with members for technical assistance, questions, or concerns that may arise, including instructions regarding different contacts for different geographical areas or product lines.

**4.4** These designated individuals should also act as the primary contact for marketing, sales, and any other area deemed essential by the Proposer and NJPA.

### **D. PROPOSER'S EXCEPTIONS TO TERMS AND CONDITIONS**

**4.5** Any exceptions, deviations, or contingencies regarding this RFP that a Proposer requests must be documented on Form C, Exceptions To Proposal, Terms, Conditions And Solutions Request.

**4.6** Exceptions, deviations or contingencies requested in the Proposer's response, while possibly necessary in the view of the Proposer, may result in lower scoring or disqualification of a proposal.

### **E. PROPOSAL FORMAT**

**4.7** All Proposers must examine the entire RFP package to seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a proposal.

**4.8** All proposals must be properly labeled and sent to "The National Joint Powers Alliance, 202 12th Street NE Staples, MN 56479."

**4.9** All proposals must be physically delivered to NJPA at the above address with all required hard copy documents and signature forms/pages inserted as loose pages at the front of the Vendor's response. The proposal must include these items.

**4.9.1** Hard copy original of completed, signed, and dated Forms C, D, F; hard copy of the signed signature-page only from Forms A and P from this RFP;

**4.9.2** Signed hard copies of all addenda issued for the RFP;

**4.9.3** Hard copy of Certificate of Insurance verifying the coverage identified in this RFP; and

**4.9.4** A complete copy of your response on a flash drive (or other approved electronic means). The electronic copy must contain completed Forms A, B, C, D, F, and P, your statement of products and pricing (including apparent discount), and all appropriate attachments. In order to ensure that your full response is evaluated, you must provide an electronic version of any material that you provide in a hard copy format.

As a public agency, NJPA's proposals, responses, and awarded contracts are a matter of public record, except for such data that is classified as nonpublic. Accordingly, public data is available for review through a properly submitted public records request. To redact nonpublic information from your proposal (under Minnesota Statute §13.37), you must make your request within thirty (30) days of the contract award or non-award date.

**4.10** All Proposal forms must be submitted in English and must be legible. All appropriate forms must be executed by an authorized signatory of the Proposer. Blue ink is preferred for signatures.

**4.11** Proposal submissions should be submitted using the electronic forms provided. Proposers that use alternative documents are responsible for ensuring that the content is substantially similar to the NJPA form and that the document is readable by NJPA.

**4.12** The Proposer must ensure that the proposal is in the physical possession of NJPA before the submission deadline.

**4.12.1** Proposals must be submitted in a sealed envelope or box properly addressed to NJPA and prominently identifying the proposal number, proposal category name, the message "Hold for Proposal Opening," and the deadline for proposal submission. NJPA is not responsible for untimely proposals. Proposals received by the deadline for proposal submission will be opened and the name of each Proposer and other appropriate information will be publicly read.

**4.13** Proposers are responsible for checking directly with the NJPA website for any addendums to this RFP. Addendums to this RFP can change the terms and conditions of the RFP, including the proposal submission deadline.

## F. QUESTIONS AND ANSWERS ABOUT THIS RFP

**4.14** Upon examination of this RFP document, Proposer should promptly notify NJPA of any ambiguity, inconsistency, or error they may discover. Interpretations, corrections, and changes to this RFP will be considered by NJPA through a written addendum. Interpretations, corrections, or changes that are made in any other manner are not binding, and Proposers must not rely on them.

**4.15** Submit all questions about this RFP, in writing, referencing PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES to Chris Robinson at NJPA 202 12th Street NE, Staples, MN 56479 or to RFP@njpacoop.org. You may also call Chris Robinson at (218) 895-4168. NJPA urges potential Proposers to communicate all concerns well in advance of the submission deadline to avoid misunderstandings. Questions received within seven (7) days before the submission deadline generally cannot be answered. NJPA may, however, field purely procedural questions, questions about NJPA-issued addenda, or questions involving a Proposer withdrawing its response before the RFP submission deadline.

**4.16** If NPJA deems that its answer to a question has a material impact on other potential Proposers or on the RFP itself, NJPA will create an addendum to this RFP.

**4.17** If NJPA deems that its answer to a question merely clarifies the existing terms and conditions and does not have a material impact on other potential Proposers or the RFP itself, no further documentation of that question is required.

**4.18** Addenda are written instruments issued by NJPA that modify or interpret the RFP. All addenda issued by NJPA become a part of the RFP. Addenda will be delivered to all Potential Proposers using the same method of delivery of the original RFP material. NJPA accepts no liability in connection with the delivery of any addenda. Copies of addenda will also be made available on the NJPA website at [www.njpacoop.org](http://www.njpacoop.org) (under "Current and Pending Solicitations") and from the NJPA offices. All Proposers must acknowledge their receipt of all addenda in their proposal response.

**4.19** Any amendment to a submitted proposal must be in writing and must be delivered to NJPA by the RFP submission deadline.

**4.20 through 4.21** [These sections are intentionally blank.]

## **G. MODIFICATION OR WITHDRAWAL OF A SUBMITTED PROPOSAL**

**4.22** A submitted proposal must not be modified, withdrawn, or cancelled by the Proposer for a period of ninety (90) days following the date proposals were opened. Before the deadline for submission of proposals, any proposal submitted may be modified or withdrawn by notice to the NJPA Procurement Manager. Such notice must be submitted in writing and must include the signature of the Proposer. The notice must be delivered to NJPA before the deadline for submission of proposals and must be so worded as not to reveal the content of the original proposal. The original proposal will not be physically returned to the potential Proposer until after the official proposal opening. Withdrawn proposals may be resubmitted up to the time designated for the receipt of the proposals if they fully conform with the proposal instructions.

## **H. PROPOSAL OPENING PROCEDURE**

**4.23** Sealed and properly identified responses for this RFP entitled PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES will be received by Chris Robinson, Procurement Manager, at NJPA Offices, 202 12th Street NE, Staples, MN 56479 until the deadline identified on page one of this RFP. All Proposal responses must be submitted in a sealed package. The outside of the package must plainly identify PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES and the RFP number. To avoid premature opening, the Proposer must label the Proposal response properly. NJPA documents the receipt of proposals by immediately time- and date-stamping them. At the time of the public opening, the NJPA Director of Procurement or a representative from the NJPA Proposal Evaluation Committee will read the Proposer's names aloud and will determine whether each submission has met Level-1 responsiveness.

## **1. NJPA'S RIGHTS RESERVED**

**4.24** NJPA may exercise the following rights with regard to the RFP.

**4.24.1** Reject any and all proposals received in response to this RFP;

**4.24.2** Disqualify any Proposer whose conduct or proposal fails to conform to the requirements of this RFP;

**4.24.3** Duplicate without limitation all materials submitted for purposes of RFP evaluation, and duplicate all public information in response to data requests regarding the proposal;

**4.24.4** Consider and accept for evaluation a late modification of a proposal if 1) the proposal itself was submitted on time, 2) the modifications were requested by NJPA, and 3) the modifications make the terms of the proposal more favorable to NJPA or its members;

**4.24.5** Waive any non-material deviations from the requirements and procedures of this RFP;

**4.24.6** Extend the Contract, in increments determined by NJPA, not to exceed a total Contract term of five years;

**4.24.7** Cancel the Request for Proposal at any time and for any reason with no cost or penalty to NJPA;

**4.24.8** Correct or amend the RFP at any time with no cost or penalty to NJPA. If NJPA corrects or amends any segment of the RFP after submission of proposals and before the announcement of the awarded Vendor, all proposers will be afforded a reasonable opportunity to revise their proposals in order to accommodate the RFP amendment and the new submission dates. NJPA will not be liable for any errors in the RFP or other responses related to the RFP; and

**4.24.9** Extend proposal due dates.

## **54 PRICING**

**5.1** NJPA requests that potential Proposers respond to this RFP only if they are able to offer a wide array of products and services at lower prices and with better value than what they would ordinarily offer to a single government agency, a school district, or a regional cooperative.

**5.2** This RFP requests pricing for an indefinite quantity of products or related services with potential national sales distribution and service. While most RFP categories represent significant sales opportunities, NJPA makes no guarantees about the quantity of products or services that members will purchase. The estimated annual value of this contract is \$65 Million.

Vendors are expected to anticipate additional volume through potential government, educational, and not-for-profit agencies that would find value in a national contract awarded by NJPA.

**5.3** Regardless of the payment method selected by NJPA or an NJPA member, the total cost associated with any purchase option of the products and services must always be disclosed in the proposal and at the time of purchase.

**5.4** All proposers must submit "Primary Pricing" in the form of either "Line-Item Pricing," or "Percentage Discount from Catalog Pricing," or a combination of these pricing strategies. Proposers are also encouraged to offer optional pricing strategies such as "Hot List," "Sourced Products," and "Volume Discounts," as well as financing options such as leasing. All pricing documents should include a clear effective date.

### **A. LINE-ITEM PRICING**

**5.5** Line-item pricing is a pricing format in which individual products or services are offered at specific Contract prices. Products or services are individually priced and described by characteristics such as manufacture name, stock or part number, size, or functionality. This method of pricing may offer the least amount of confusion, but Proposers with a large number of items may find this method cumbersome. In these situations, a percentage discount from catalog or category pricing model may make more sense and may increase the clarity of the contract pricing format.

**5.6** All line-item pricing items must be numbered, organized, sectioned (including SKUs, when applicable), and prepared to be easily understood by the Evaluation Committee and members.

**5.7** Submit Line-Item Pricing items in an Excel spreadsheet format and include all appropriate identification information necessary to discern the line item from other line items in each Responder's proposal.

**5.8** Line-item pricing must be submitted to NJPA in a searchable spreadsheet format (e.g., Microsoft® Excel®) in order to facilitate quickly finding any particular item of interest. For that reason, Proposers are responsible for providing the appropriate product and service identification information along with the pricing information that is typically found on an invoice or price quote for such product or services.



**5.9** All products or services typically appearing on an invoice or price quote must be individually priced and identified on the line-item price sheet, including any and all ancillary costs.

**5.10** Proposers should provide both a published "List Price" as well as a "Proposed Contract Price" in their pricing matrix. Published List Price will be the standard "quantity of one" price currently available to government and educational customers, excluding cooperative and volume discounts.

#### **B. PERCENTAGE DISCOUNT FROM CATALOG OR CATEGORY**

**5.11** This pricing model involves a specific percentage discount from a catalog or list price, defined as a published Manufacturer's Suggested Retail Price (MSRP) for the products or services being proposed.

**5.12** Individualized percentage discounts can be applied to any number of defined product groupings.

**5.13** A percentage discount from MSRP may be applied to all elements identified in MSRP, including all manufacturer options applicable to the products or services.

**5.14** When a Proposer elects to use "Percentage Discount from Catalog or Category," Proposer will be responsible for providing and maintaining current published MSRP with NJPA, and this pricing must be included in its proposal and provided throughout the term of any Contract resulting from this RFP.

#### **C. COST PLUS A PERCENTAGE OF COST**

**5.15** "Cost plus a percentage of cost" as a primary pricing mechanism is not desirable. It is, however, acceptable for pricing sourced goods or services.

#### **D. HOT LIST PRICING**

**5.16** Where applicable, a Vendor may opt to offer a specific selection of products or services, defined as "Hot List" pricing, at greater discounts than those listed in the standard Contract pricing. All product and service pricing, including the Hot List Pricing, must be submitted electronically in a format that is acceptable to NJPA. Hot List pricing must be submitted in a line-item format. Products and services may be added or removed from the Hot List at any time through an NJPA Price and Product Change Form.

**5.17** Hot List program and pricing may also be used to discount and liquidate close-out and discontinued products and services as long as those close-out and discontinued items are clearly labeled as such. Current ordering process and administrative fees apply. This option must be published and made available to all NJPA Members.

#### **E. CEILING PRICE**

**5.18** Proposal pricing is to be established as a ceiling price. At no time may the proposed products or services be offered under this Contract at prices above this ceiling price without a specific request and approval by NJPA. Contract prices may be reduced at any time, for example, to reflect volume discounts or to meet the needs of an NJPA Member.

**5.19** [This section is intentionally blank.]

#### **F. VOLUME PRICE DISCOUNTS / ADDITIONAL QUANTITIES**

**5.20 through 5.23** [These sections are intentionally blank.]

#### **G. TOTAL COST OF ACQUISITION**

**5.24** The Total Cost of Acquisition for the equipment/products and related services being proposed, including those payable by NJPA Members to either the Proposer or a third party, is the cost of the proposed equipment/products product/equipment and related services delivered and operational for its intended purpose in the end-user's location. For example, if you are proposing equipment/products FOB Proposer's dock, your proposal should reflect that the contract pricing does not provide for delivery beyond Proposer's dock, nor any set-up activities or costs associated with those delivery or set-up activities. Any additional costs for delivery and set-up should be clearly disclosed. In contrast, a proposal could state that there are no additional costs of acquisition if the product is delivered to and operational at the end-user's location.

#### H. SOURCED GOOD or OPEN MARKET ITEM

**5.25** A Sourced Good or an Open Market Item is a product that a member wants to buy under contract that is not currently available under the Vendor's NJPA contract. This method of procurement can be satisfied through a contract sourcing process. Sourcing options serve to provide a more complete contract solution to meet our members' needs. Sourced items are generally deemed incidental to the total transaction or purchase of contract items.

**5.26** NJPA or NJPA Members may request products, equipment, and related services that are within the related scope of this RFP, even if they are not included in an awarded Vendor's line-item price list or catalog. These items are known as Sourced Goods or Open Market Items.

**5.27** An awarded Vendor may source such items to the extent that the items are identified as "Sourced Products/Equipment" or "Open Market Items" on any quotation issued in reference to an NJPA awarded contract, and that this information is provided to either NJPA or an NJPA Member. NJPA is not responsible for determining whether a Sourced Good is an incidental portion of the overall purchase or whether a Member is able to consider a Sourced Good a purchase under an NJPA contract.

**5.28** "Cost plus a percentage" pricing is an acceptable option in pricing of Sourced Goods.

#### I. PRODUCT & PRICE CHANGES

**5.29** Awarded Vendors may request product or service changes, additions, or deletions at any time throughout the contract term. All requests must be made in written format by completing the NJPA Price and Product Change Request Form (located at the end of this RFP and on the NJPA website), signed by an authorized Vendor representative. All changes are subject to review and approval by NJPA. Submit your requests through email to your assigned Contract Manager and to [PandP@njpacoop.org](mailto:PandP@njpacoop.org).

**5.30** NJPA will determine whether the request is both within the scope of the original RFP and in the best interests of NJPA and NJPA Members. Approved Price and Product Change Request Forms will be returned to the Vendor contact through email.

**5.31** The Vendor must 1) complete this change request form and individually list or attach all items subject to change, 2) provide a sufficiently detailed explanation and documentation for the change, and 3) include a complete restatement of pricing document in appropriate format (preferably Excel). The pricing document must identify all products and services being offered and must conform to the following NJPA product and price change naming convention: (Vendor Name) (NJPA Contract #) (effective pricing date); for example, "COMPANY 012411-CPY effective 02-12-2016."

**5.32** The new pricing restatement must include *all* products and services offered, even for those items whose pricing remains unchanged, and must include a new effective date on the pricing documents. This requirement reduces confusion by providing a single, current pricing sheet for each vendor and creates a historical record of pricing.

**5.33** ADDITIONS. New products and related services may be added to a Contract resulting from this RFP at any time during that Contract term to the extent that those products and related services are within the

scope of this RFP. Allowable new products and related services generally include updated models of products and enhanced services that reflect new technology and improved functionality.

**5.34 DELETIONS.** New products and related services may be deleted from a contract if an item is no longer available.

**5.35 PRICE CHANGES.** A Vendor may request pricing changes by providing reasonable justification for the change. For example, a request for a 3% increase in a product line that relies heavily on petroleum products may be reasonable if the raw cost of required petroleum products has increased substantially. Conversely, a request for a 3% increase in prices based only on a 3% increase in a cost-of-living index may be considered unreasonable. Although NJPA is sensitive to the possibility of fluctuations in raw material costs, prospective Vendors should make every reasonable attempt to account for normal cost changes by proposing pricing that will be effective throughout the duration of the four-year Contract.

**5.35.1 Price decreases:** NJPA expects Vendors to propose their very best prices and anticipates price reductions that are due to advancement in technology and marketplace efficiencies.

**5.35.2 Price increases:** A Vendor must include reasonable documentation for price-increase requests, along with both current and proposed pricing. Appropriate documentation should be attached to the Price and Product Change Request Form, including letters from suppliers announcing price increases. Price increases must not exceed the industry standard.

**5.36 through 5.37** [These sections are intentionally blank.]

**5.38** Proposers representing multiple manufacturers, or carrying multiple related product lines may also request the addition of new manufacturers or product lines to their Contract to the extent they remain within the scope of this RFP.

**5.39 through 5.43** [These sections are intentionally blank.]

## K. SALES TAX

**5.44** Sales and other taxes should not be included in the prices quoted. The Vendor will charge state and local sales and other applicable taxes on items for which a valid tax-exemption certification has not been provided. Each NJPA Member is responsible for providing verification of tax-exempt status to the Vendor. When ordering, NJPA Members must indicate that they are tax-exempt entities. Except as set forth herein, no party is responsible for taxes imposed on another party as a result of or arising from the transactions under a Contract resulting from this RFP.

## L. SHIPPING

**5.45** Shipping costs can constitute a significant portion of the overall cost of procurement. Consequently, significant weight will be given to the quality of a prospective Vendor's shipping program. Shipping charges should reasonably reflect the actual cost of shipping. NJPA understands that Vendors may use other shipping cost methods for simplicity or for transparency. But to the extent that shipping costs are determined to disproportionately increase a Vendor's profit, NJPA may reduce the points awarded in the "Pricing" criteria.

**5.46 through 5.47** [These sections are intentionally blank.]

**5.48** All shipping and restocking fees must be identified in the price program. Certain industries providing made-to-order products may not allow returns. Proposals will be evaluated not only on the actual costs of shipping, but on the relative flexibility extended to NJPA Members relating to restocking fees, shipping errors, customized shipping requirements, the process for rejecting damaged or delayed shipments, and similar subjects.

**5.49 through 5.50** [These sections are intentionally blank.]

**5.51** Delivered products must be properly packaged. Damaged products may be rejected. If the damage is not readily apparent at the time of delivery, the Vendor must permit the products to be returned within a reasonable time at no cost to NJPA or NJPA Member. NJPA and NJPA Members reserve the right to inspect the products at a reasonable time subsequent to delivery where circumstances or conditions prevent effective inspection of the products at the time of delivery.

**5.52** The Vendor must deliver Contract-conforming products in each shipment and may not substitute products without the express approval from NJPA or the NJPA Member.

**5.53** NJPA reserves the right to declare a breach of Contract if the Vendor intentionally delivers substandard or inferior products that are not under Contract and described in its paper or electronic price lists or sourced upon request of any Member under this Contract. In the event of the delivery of nonconforming products, the NJPA Member will notify the Vendor as soon as possible and the Vendor will replace nonconforming products with conforming products that are acceptable to the NJPA member.

**5.54** Throughout the term of the Contract, Proposer agrees to pay for return shipment on products that arrive in a defective or inoperable condition. Proposer must arrange for the return shipment of the damaged products.

## **56** **EVALUATION OF PROPOSALS**

### **A. PROPOSAL EVALUATION PROCESS**

**6.1** The NJPA proposal evaluation committee will evaluate proposals received based on a 1,000 point evaluation system. The committee establishes both the evaluation criteria and designates the relative weight of each criterion by assigning possible scores for each category on Form G of this RFP. The committee may adjust the relative weight of the criteria for each RFP. (For example, if the "Warranty" criterion does not apply to a particular RFP, the points normally awarded under "Warranty" may be used to increase the number of potential points in another evaluation category or categories.) The "Pricing" criterion will contain at least a plurality of points for every RFP.

**6.2** NJPA uses a scoring system that gives primary importance to "Pricing." But pricing includes more than just the absolute lowest initial cost of purchasing, for example, a particular product. Other considerations include the total cost of the acquisition and whether the Proposer's offering represents the best value. The evaluation committee may consider such factors as life-cycle costs, total cost of ownership, quality, and the suitability of an offering in meeting NJPA Members' needs. Pricing points may be awarded based on pricing clarity and ease of use. NJPA may also award points based on whether a response contains exceptions, exclusions, or limitations of liabilities.

**6.3** The NJPA Board of Directors will consider making awards to the selected Proposer(s) based on the recommendations of the proposal evaluation committee. To qualify for the final evaluation, a Proposer must have been deemed responsive as a result of the criteria set forth under "Proposer Responsiveness," found just below.

### **B. PROPOSER RESPONSIVENESS**

**6.4** All responses are evaluated for Level-One and Level-Two Responsiveness. If a response does not substantially conform to substantially all of the terms and conditions in the solicitation, or if it requires unreasonable exceptions, it may be considered nonresponsive.

**6.5** All proposals must contain suitable responses to the questions in the proposal forms. The following requirements must be satisfied in order to meet Level-One Responsiveness, which is typically ascertained on the proposal opening date. If these standards are not met, your response may be disqualified as nonresponsive.

**6.6** Level-One Responsiveness means that the response

- 6.6.1** is received before the deadline for submission or it will be returned unopened;
- 6.6.2** is properly addressed and identified as a sealed proposal with a specific RFP number and an opening date and time;
- 6.6.3** contains a pricing document (with apparent discounts) and all other forms fully completed, even if "not applicable" is the answer;
- 6.6.4** includes the original (hard copy) completed, dated, and signed RFP forms C, D, and F. In addition, the response must include the hard-copy signed signature page only from RFP Forms A and P and, if applicable, all signed addenda that have been issued in relation to this RFP;
- 6.6.5** contains an electronic (CD, flash drive, or other suitable) copy of the entire response; and

**6.7** Level-Two Responsiveness (including whether the response is within the RFP's scope) is determined while evaluating the remaining items listed under Proposal Evaluation Criteria below. These items are not arranged in order of importance. Each item draws from multiple questions, and a Proposer's responses may affect scoring in multiple evaluation criteria. For example, the answers to Industry-Specific Questions may help determine scoring relative to a Proposer's marketplace success, ability to sell and service nationwide, and financial strength. Any questions not answered without an explanation will likely result in a loss of points and may lead to a nonaward if the proposal evaluation committee cannot effectively review your response.

#### C. PROPOSAL EVALUATION CRITERIA

**6.8** Forms A and P include a series of questions that address the following categories:

- 6.8.1** Company Information and Financial Strength
- 6.8.2** Industry Requirements and Marketplace Success
- 6.8.3** Ability to Sell and Deliver Service Nationwide
- 6.8.4** Marketing Plan
- 6.8.5** Other Cooperative Procurement Contracts
- 6.8.6** Value-Added Attributes
- 6.8.7** Payment Terms and Financing Options
- 6.8.8** Warranty
- 6.8.9** Equipment/Products/Services
- 6.8.10** Pricing and Delivery
- 6.8.11** Industry-Specific Questions

**6.9** [This section is intentionally blank.]

#### D. OTHER CONSIDERATIONS

**6.10** In evaluating RFP responses, NJPA has no obligation to consider information that is not provided in the Proposer's response. NJPA may, however, consider additional information outside the Proposer's response. This research may include such sources as the Proposer's website, industry publications, listed references, and user interviews.

**6.11** NJPA may organize RFP responses into separate classes or subcategories, depending on the range of responses. For example, NJPA might receive numerous submissions for "Widgets and Related Products and Services." NJPA may organize these responses into subcategories, such as manufacturers of fully operational Widgets, manufacturers of component parts for Widgets, and providers of parts and service for Widgets. NJPA reserves the right to award Proposers in some or all of such subcategories without regard to the evaluation score given to Proposers in another subcategory. This specifically allows NJPA to award Vendors that might not have, for instance, the breadth of products of Proposers in another subcategory, but that nonetheless meet a substantial and articulated need of NJPA Members.

**6.12** [This section is intentionally blank.]

**6.13** NJPA reserves the right to request and test equipment/products and related services and to seek clarification from Proposers. Before the Contract award, the Proposer must furnish the requested information within three (3) days (or within another agreed-to time frame) or provide an explanation for the delay along with a requested time frame for providing the requested information. Proposers must make reasonable efforts to supply test products promptly. All Proposer products remain the property of the Proposer, and NJPA will return such products after the evaluation process. NJPA may make provisional contract awards, subject to a Proposer's proper response to a request for information or products.

**6.14** A Proposer's past performance under previously awarded contracts to schools, governmental agencies, and not-for-profit entities is relevant in evaluating a Proposer's current response. Past performance includes the Proposer's record of conforming to published specifications and to standards of good workmanship, as well as the Proposer's history for reasonable and cooperative behavior and for commitment to Member satisfaction. Incumbency as an awarded Vendor does not, by itself, merit positive consideration for a future Contract award.

**6.15** NJPA reserves the right to reject any or all proposals.

#### **E. COST COMPARISON**

**6.16** NJPA may use a variety of evaluation methods, including cost comparisons of specific products. NJPA reserves the right to use this process when the proposal evaluation committee determines that this will help to make a final determination.

**6.17** This direct cost comparison process will award points for being low to high Proposer for each cost evaluation item selected. A "Market Basket" of identical (or substantially similar) equipment/products and related services may be selected by the proposal evaluation committee, and the unit cost will be used as a basis for determining the point value. NJPA will select the "Market Basket" from all appropriate product categories as determined by NJPA.

#### **F. MARKETING PLAN**

**6.18** A Proposer's marketing plan is a critical component of the RFP response. An awarded Vendor's sales force will likely be the primary source of communication with NJPA Members and will directly affect the contract's success. Marketing success depends on communicating the contract's value, knowing the contract thoroughly, and communicating the proper use of contracted products and services to the end user. Much of the success and sales reward is a direct result of the commitment to the contract by the awarded Vendor's sales teams. NJPA reserves the right to deem a Proposer Level-Two nonresponsive or not to award a contract based on an unacceptable or incomplete marketing plan.

**6.19 NJPA marketing expectations include the following components.**

**6.19.1** An awarded Vendor must demonstrate the ability to deploy a national sales force or dealer network. The best RFP responses demonstrate the ability to sell, deliver, and service products through acceptable distribution channels to NJPA members in all 50 states. Proposers' responses should fully demonstrate their sales and service capabilities, should outline their national sales force network (both numerically geographically), and should describe their method of distribution of the offered products and related services. Service may be independent of the product sales pricing, but NJPA encourages related services to be a part of Proposers' response. Despite its preference for awarding contracts to Vendors that demonstrate nationwide sales and service, NJPA reserves the right to award contracts that meet specific Member needs locally or regionally.

**6.19.2** Proposers are invited to demonstrate their ability to successfully market, promote, and communicate the benefits of an NJPA contract to current and potential Members nationwide. NJPA desires a marketing plan that communicates the value of the contract to as many Members as possible.

**6.19.3** Proposers are expected to be receptive to NJPA trainings. Awarded Vendors must provide an appropriate training venue for both management and the sales force. NJPA commits to providing training on all aspects of communicating the value of the awarded contract, including the authority of NJPA to offer the contract to its Members, the value and utility the contract delivers to NJPA Members, the scope of NJPA Membership, the authority of Members to use NJPA procurement contracts, the preferred marketing and sales methods, and the successful use of specific business sector strategies.

**6.19.4** Awarded Vendors are expected to demonstrate a commitment to fully embrace the NJPA contract. Proposers should identify both the appropriate levels of sales management and sales force that will need to understand the value of the NJPA contract, as well as the internal procedures needed to deliver the appropriate messaging to NJPA Members. NJPA will provide a general schedule and a variety of methods describing when and how those individuals should be trained.

**6.19.5** Proposers should outline their proposed involvement in promoting an NJPA contract through applicable industry trade show exhibits and related customer meetings. Proposers are encouraged to consider participation with NJPA at NJPA-endorsed national trade shows.

**6.19.6** Proposers must exhibit the willingness and ability to actively market and develop contract-specific marketing materials including the following items.

**6.19.6.1 Complete Marketing Plan.** Proposers must submit a marketing plan outlining how they will launch the NJPA contract to current and potential NJPA Members. NJPA requires awarded Vendors to embrace and actively promote the contract in cooperation with the NJPA.

**6.19.6.2 Printed Marketing Materials.** Awarded Vendors will produce and maintain full color print advertisements in camera-ready electronic format, including company logos and contact information to be used in the NJPA directory and other approved marketing publications.

**6.19.6.3 Contract announcements and advertisements.** Proposers should outline in the marketing plan their anticipated contract announcements, advertisements in industry periodicals, and other direct or indirect marketing activities promoting the awarded NJPA contract.

**6.19.6.4 Proposer's Website.** Proposers should identify how an awarded Contract will be displayed and linked on the Proposer's website. An online shopping experience for NJPA Members is desired whenever possible.

**6.19.7** An NJPA Vendor contract launch will be scheduled during a reasonable time frame after the award and held at the NJPA office in Staples, MN unless the Vendor and NJPA agree to a different location.

**6.20** Proposer shall identify their commitment to develop a sales/communication process to facilitate NJPA membership and establish status of current and potential agencies/members. Proposer should further express their commitment to capturing sufficient member information as is deemed necessary by NJPA.

## G. CERTIFICATE OF INSURANCE

**6.21** Proposers must provide evidence of liability insurance coverage identified below in the form of a Certificate of Insurance (COI) or an ACORD binder form with their proposal. Upon an award issued under this RFP and before the execution of any commerce relating to such award, the awarded Vendor must provide verification, in the form of a Certificate of Insurance, identifying the coverage required below and identifying NJPA as a "Certificate Holder." The Vendor must maintain such insurance coverage at its own expense throughout the term of any contract resulting from this solicitation.

**6.22** Any exceptions or assumptions to the insurance requirements must be identified on Form C of this RFP. Exceptions and assumptions will be considered as part of the evaluation process. Any exceptions or assumptions that Proposers submit must be specific. If a Proposer does not include specific exceptions or assumptions when submitting the proposal, NJPA will typically not consider any additional exceptions or assumptions during the evaluation process. Upon contract award, the awarded Vendor must provide the Certificate of Insurance identifying the coverage as specified.

**6.23 Insurance Liability Limits.** The awarded Vendor must maintain, for the duration of its contract, \$1.5 million in general liability insurance coverage or general liability insurance in conjunction with an umbrella for a total combined coverage of \$1.5 million. Work on the Contract will not begin until after the awarded Vendor has submitted acceptable evidence of the required insurance coverage. Failure to maintain any required insurance coverage or an acceptable alternative method of insurance will be deemed a breach of contract.

**6.23.1 Minimum Scope and Limits of Insurance.** An awarded Vendor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

**6.23.1.1 Commercial General Liability—Occurrence Form**

Policy shall include bodily injury, property damage and ~~broad form~~ contractual liability and XCU coverage. In accordance with ISO Standard Forms.

**6.23.1.2 Each Occurrence** \$1,500,000

**6.24 Insurance Requirements:** The limits listed in this RFP are minimum requirements for this Contract and in no way limit any indemnity covenants contained in this Contract. NJPA does not warrant that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the performance of the work under this Contract by the Vendor, its agents, representatives, employees, or subcontractors, and the Vendor is free to purchase additional insurance as may be determined necessary.

**6.25 Acceptability of Insurers:** Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Minnesota and with an "A.M. Best" rating of not less than A- VII. NJPA does



not warrant that the above required minimum insurer rating is sufficient to protect the Vendor from potential insurer solvency.

**6.26 Subcontractors:** Vendors' certificate(s) must include all subcontractors as additional insureds except for their negligence and willful misconduct under its policies, or the Vendor must furnish to NJPA separate certificates for each subcontractor. All coverage for subcontractors are be subject to the minimum requirements identified above.

#### H. ORDER PROCESS AND/OR FUNDS FLOW

**6.27** NJPA Members typically issue a purchase order directly to a Vendor under a Contract resulting from this RFP. Alternatively, a separate contract may be created to facilitate acquiring products or services offered in response to this RFP. Nothing in this Contract restricts the Member and Vendor from agreeing to add terms or conditions to a purchase order or a separate contract provided that such terms or conditions must not be less favorable to NJPA's Members.

**6.28** [This section is intentionally blank.]

#### I. ADMINISTRATIVE FEES

**6.29** Vendors will pay to NJPA an administrative fee in exchange for NJPA facilitating this Contract with its current and potential Members. NJPA may grant a conditional contract award to a Proposer if the proposed administrative fee is unclear, inadequate, or unduly burdensome for NJPA to administer. Sales under this Contract should not be processed until the parties resolve the administrative fee issue.

**6.29.1** The administrative fee is typically calculated as a percentage of the dollar volume of all products and services by NJPA Members under this Contract, including anything represented to NJPA Members as falling under this Contract.

**6.29.2** The administrative fee is included in, and not added to, the pricing included in Proposer's response to the RFP. Awarded Vendors must not charge NJPA Members more than permitted in the then current price list in order to offset the administrative fee.

**6.29.3** The administrative fee is designed to cover the costs of NJPA's involvement in contract management, facilitating marketing efforts, Vendor training, and any order processing tasks relating to the Contract. Administrative fees may also be used for other purposes as allowed by Minnesota law.

**6.29.4** The typical administrative fee under this Contract is two percent (2%). While NJPA does not dictate the particular fee percentage, we require that the Proposer articulate a specific fee in its response. For example, merely stating that "we agree to pay an administrative fee" is considered nonresponsive. NJPA acknowledges that the administrative fee percentage may differ between vendors, industries, and responses.

**6.29.5** NJPA awarded Vendors are responsible for paying the administrative fee at least quarterly and for generating all related reporting. Vendors agree to cooperate with NJPA in auditing these reports to ensure that the administrative fee is paid on all items purchased under the Contract.

**6.30 through 6.32** [This section is intentionally blank.]

#### J. VALUE-ADDED ATTRIBUTES

**6.33 Desirability of Value-Added Attributes:** Value-added attributes in an RFP response will be given positive consideration in NJPA's evaluation process. Such attributes may increase the benefit of a product or service by improving functionality, performance, maintenance, manufacturing, delivery, energy efficiency, ordering, or other items while remaining within the scope of this RFP.

**6.34 Women and Minority Business Enterprise (WMBE), Small Business, and Other Favored Businesses:** Some NJPA Members give formal preference to certain types of vendors or contractors. Proposers should document WMBE (or other) status for both their organization and for any affiliates (e.g., supplier networks) involved in fulfilling the terms of this RFP. The ability of a Proposer to provide preferred business entity "credits" to NJPA and NJPA Members under a Contract will be evaluated positively by NJPA and reflected in the "value added" area of the evaluation.

**6.35 Environmentally Preferred Purchasing Opportunities:** Many NJPA Members consider the environmental impact of the products and services they purchase. "Green" characteristics demonstrated by Proposers will be evaluated positively by NJPA and reflected in the "value added" area of the evaluation. Please identify any green characteristics of any offering in your proposal and identify the sanctioning body determining that characteristic. Where appropriate, please indicate which products have been certified as green and by which certifying agency.

**6.36 Online Requisitioning Systems:** When applicable, online requisitioning systems will be viewed as a value-added characteristic. Proposers should demonstrate how their system makes online ordering easier for NJPA Members, including how Members could integrate their current e-Procurement or enterprise resource planning (ERP) systems into the Proposer's ordering process.

**6.37 Financing:** The ability of the Proposer to provide financing solutions to Members for the products and services being proposed will be viewed as a value-added attribute.

**6.38 Technology:** Technological advances that appreciably improve the proposed products or services will be considered value-added attributes.

## K. WAIVER OF FORMALITIES

**6.39** NJPA reserves the right to waive minor formalities (or to accept minor irregularities) in any proposal, when it determines that considering the proposal may be in the best interest of its Members.

## 7 POST-AWARD OPERATING ISSUES

### A. SUBSEQUENT AGREEMENTS

**7.1 Purchase Order.** Purchase orders for products and services may be executed between NJPA Members and the awarded Vendor (or Vendor's sub-contractors) under this Contract. NJPA Members and Vendors must indicate on the face of such purchase orders that "This purchase order is issued under NJPA contract #XXXXXX" (insert the relevant contract number). Purchase order flow and procedure will be developed jointly between NJPA and an awarded Vendor after an award is made.

**7.2 Governing Law.** Purchase orders must be construed in accordance with, and governed by, the laws of a competent jurisdiction with respect to the Member. (See also Section 8.5 of this RFP.) All provisions required by law to be included in the purchase order should be read and enforced as if they were included. If through mistake or otherwise any such provision is not included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction. The venue for any litigation arising out of disputes related to purchase order will be a court of competent jurisdiction with respect to the Member.

**7.3 Additional Terms and Conditions.** Additional terms and conditions to a purchase order may be proposed by NJPA, NJPA Members, or Vendors. Acceptance of these additional terms and conditions is optional to all parties to the purchase order. One purpose of these additional terms and conditions is to address job- or industry-specific requirements of law such as prevailing wage legislation. Additional terms and conditions may also include specific local policy requirements and standard business practices of the issuing Member or the Vendor. Such additional terms and conditions are not considered valid to the extent that they interfere with the general purpose, intent, or currently established terms and conditions contain in

this RFP document. For example, a Vendor and Member may agree to add a "net 30" payment requirement to the purchase order instead of applying a "net 10" requirement. But the added terms and conditions must not be less favorable to the Member unless NJPA, the Member, and the Vendor agree to a Contract amendment or similar modification.

**7.4 Specialized Service Requirements.** In the event that the NJPA Member desires service requirements or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in the Contract resulting from this RFP, the NJPA Member and the Vendor may enter into a separate, standalone agreement, apart from a Contract resulting from this RFP. Any proposed service requirements or specialized performance requirements require pre-approval by the Vendor. Any separate agreement developed to address these specialized service or performance requirements is exclusively between the NJPA Member and Vendor. NJPA, its agents, and employees shall not be made a party to any claim for breach of such agreement. Product sourcing is not considered a service. NJPA Members will need to conduct procurements for any specialized services not identified as a part of or within the scope of the awarded Contract.

**7.5 Performance Bond.** At the request of the Member, a Vendor will provide all performance bonds typically and customarily required in their industry. These bonds will be issued pursuant to the requirements of purchase orders for products and services. If a purchase order is cancelled for lack of a required performance bond by the member agency, NJPA recommends that the current pending purchase order be canceled. Each Member has the final decision on purchase order continuation. Any performance bonding required by the Member, the Member's state laws, or by local policy is to be mutually agreed upon and secured between the Vendor and the Member.

**7.6 Asset Management Contracts:** Asset Management-type Contracts can be initiated under a Contract resulting from this RFP at any time during the term of this Contract. Such a contract could involve, for example, picking up, storing, repairing, inventorying, salvaging, and delivery products falling within the scope of this Contract. The intention in using Asset Management Contracts is to promote the long-term efficiency of NJPA's contracts by (among other things) extending the use and re-use of products. Asset Management Contracts cannot be created under this Contract unless they are executed within the authorized term of a Contract resulting from this RFP. The actual term of the Asset Management Contract may, however, extend beyond the expiration date of this Contract.

## **B. NJPA MEMBER SIGN-UP PROCEDURE**

**7.7** Awarded Vendors are responsible for familiarizing their sales and service forces with the various forms of NJPA membership documentation and will encourage and assist potential Members in establishing membership with NJPA. NJPA membership is available at no cost, obligation, or liability to the Member or the Vendor.

## **C. REPORTING OF SALES ACTIVITY**

**7.8** Awarded Vendors must report at least quarterly the total gross dollar volume of all products and services purchased by NJPA Members as it applies to this RFP and Contract. This report must include the name and address of the purchasing agency, Member number, amount of purchase, and a description of the items purchased.

**7.8.1 Zero sales reports:** Awarded Vendors must provide a quarterly Contract sales report regardless of the amount of sales.

## **D. AUDITS**

**7.9** NJPA relies substantially on the reasonable auditing efforts of both Members and awarded Vendors to ensure that Members are obtaining the products, services, pricing, and other benefits under all NJPA contracts. Nonetheless, the Vendor must retain and make available to NJPA all order and invoicing

documentation related to purchases that Members make from the Vendor under the awarded Contract. NJPA must not request such information more than once per calendar year, and NJPA must make such requests in writing with at least fourteen (14) days' notice. NJPA may employ an independent auditor at its own expense or conduct an audit on its own. In either event, the Vendor agrees to cooperate fully with NJPA or its agents in order to ensure compliance with this Contract.

#### **E. HUB PARTNER**

**7.10 Hub Partner:** NJPA Members may request special services through a "Hub Partner" for the purpose of complying with a law, regulation, or rule that an NJPA Member deems to apply in its jurisdiction. Hub Partners may bring value to the proposed transactions through consultancy, through qualifying for disadvantaged business entity credits, or through other means.

**7.11 Hub Partner Fees:** NJPA Members are responsible for any transaction fees, costs, or expenses that arise under this Contract for special service provided by the Hub Partner. The fees, costs, or expenses levied by the Hub Vendor must be clearly itemized in the transaction documentation. To the extent that the Vendor stands in the chain of title during a transaction resulting from this RFP, the documentation must clearly indicate that the transaction is "Executed for the Benefit of [NJPA Member name]."

#### **F. TRADE-INS**

**7.12** The value in US Dollars for Trade-ins will be negotiated between NJPA or an NJPA Member, and an Awarded Vendor. That identified "Trade-In" value shall be viewed as a down payment and credited in full against the NJPA purchase price identified in a purchase order issued pursuant to any Awarded NJPA procurement contract. The full value of the trade-in will be consideration.

#### **G. OUT OF STOCK NOTIFICATION**

**7.13** The Vendor must immediately notify NJPA Members when they order an out-of-stock item. The Vendor must also tell the Member when the item will be available and whether there are equivalent substitutes. The Member must have the option of accepting the suggested substitute or canceling the item from the order. Under no circumstance may the Vendor make unauthorized substitutions. Unfilled or substituted items must be indicated on the packing list.

#### **H. CONTRACT TERMINATION FOR CAUSE AND WITHOUT CAUSE**

**7.14** NJPA reserves the right to cancel all or any part of this Contract if the Vendor fails to fulfill any material obligation, term, or condition as described in the following procedure. Before any such termination for cause, the NJPA will provide written notice to the Vendor, an opportunity to respond, and a reasonable opportunity to cure the breach. The following are some examples of material breaches.

**7.14.1** The Vendor provides products or services that do not meet reasonable quality standards and that are not remedied under the warranty;

**7.14.2** The Vendor fails to ship the products or to provide the services within a reasonable amount of time;

**7.14.3** NJPA reasonably believes that the Vendor will not or cannot perform to the requirements or expectations of the Contract, NJPA issues a request for assurance, and the Vendor fails to respond;

**7.14.4** The Vendor fails to fulfill any of the material terms and conditions of the Contract;

**7.14.5** The Vendor fails to follow the established procedure for purchase orders, invoices, or receipt of funds as established by NJPA and the Vendor;

**7.14.6** The Vendor fails to properly report quarterly sales;

**7.14.7** The Vendor fails to actively market this Contract within the guidelines provided in this RFP and defined in the NJPA contract launch.

**7.15** Upon receipt of the written notice of breach, the Vendor will have ten (10) business days to provide a satisfactory response to NJPA. If the Vendor fails to reasonably address all issues in the written notice, NJPA may terminate the Contract immediately. If NJPA allows the Vendor more time to remedy the breach, such forbearance does not limit NJPA's authority to immediately terminate the Contract for continued breaches for which notice was given to the Vendor. Termination of the Contract for cause does not relieve either party of the financial, product, or service obligations incurred before the termination.

**7.16** NJPA may terminate the Contract if the Vendor files for bankruptcy protection or is acquired by an independent third party. The Vendor must disclose to NJPA any litigation, bankruptcy, or suspensions/disbarments that occur during the Contract period. Failure to disclose such information authorizes NJPA to immediately terminate the Contract.

**7.17** NJPA may terminate the Contract without cause by giving the Vendor sixty (60) days' written notice of termination. Termination of the Contract without cause does not relieve either party of the financial, product, or service obligations incurred before the termination.

**7.18** NJPA may immediately terminate any Contract without further obligation if any NJPA employee significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of NJPA has colluded with any Proposer for personal gain. NJPA may also immediately cancel a Contract if it finds that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Vendor or any agent or representative of the Vendor, to any employee of NJPA. Such terminations are effective upon written notice from NJPA or at a later date designated in the notice. Termination of the Contract does not relieve either party of the financial, product, or service obligations incurred before the termination.

## **8 GENERAL TERMS AND CONDITIONS**

### **8.1 ADVERTISING A CONTRACT RESULTING FROM THIS RFP**

**8.1** Proposer/Vendor must not advertise or publish information concerning this Contract before the award is announced by NJPA. Once the award is made, a Vendor is expected to advertise the awarded Contract to both current and potential NJPA Members.

### **B. APPLICABLE LAW**

**8.2** [This section is intentionally blank.]

**8.3** NJPA Compliance with Minnesota Procurement Law: NJPA has designed its procurement process to comply with best practices in the State of Minnesota. NJPA's solicitation methods are also created to comply with many of the various requirements that our Members must satisfy in their own procurement processes. But these requirements may differ considerably and may change from time to time. So each NJPA Member must make its own determination whether NJPA's solicitation process satisfies the procurement rules in the Member's jurisdiction.

**8.4** Governing law with respect to delivery and acceptance: All applicable portions of the Minnesota Uniform Commercial Code, all other applicable Minnesota laws, and the applicable laws and rules of delivery and inspection of the Federal Acquisition Regulations (FAR) laws will govern NJPA contracts resulting from this solicitation.

**8.5 Jurisdiction:** Any claims that arise against NJPA pertaining to this RFP, and any resulting contract that develops between NJPA and any other party, must be brought only in courts in Todd County in the State of Minnesota unless otherwise agreed to.

**8.5.1** Purchase orders or other agreements created pursuant to a contract resulting from this solicitation must be construed in accordance with, and governed by, the laws of the issuing Member. Any claim arising from such a purchase order or agreement must be filed and venued in a court of competent jurisdiction of the Member unless otherwise agreed to.

**8.6 through 8.7** [This section is intentionally blank.]

**8.8 Indemnification:** Each party is responsible for its own acts and is not responsible for the acts of the other party and the results thereof. NJPA's liability is governed by the Minnesota Tort Claims Act (Minn. Stat. §3.736) and other applicable law. No party shall be liable hereunder for incidental, indirect or consequential damages, even if advised of the possibility thereof.

**8.9 Prevailing wage:** The Vendor must comply with applicable prevailing wage legislation in effect in the jurisdiction of the NJPA Member. The Vendor must monitor the prevailing wage rates as established by the appropriate federal governmental entity during the term of this Contract and adjust wage rates accordingly.

**8.10 Patent and copyright infringement:** The Vendor agrees to indemnify and hold harmless NJPA and NJPA Members against any and all suits, claims, judgments, and costs instituted or recovered against the Vendor, NJPA, or NJPA Members by any person on account of the use or sale of any articles by NJPA or NJPA Members if the Vendor supplied such articles in violation of applicable patent or copyright laws.

#### C. ASSIGNMENT OF CONTRACT

**8.11** No right or interest in this Contract may be assigned or transferred by the Vendor without prior written permission by the NJPA. No delegation of any duty of the Vendor under this Contract may be made without prior written permission of the NJPA. NJPA will notify Members by posting approved assignments on the NJPA website ([www.njpacoop.org](http://www.njpacoop.org)).

**8.12** If the original Vendor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor-in-interest must perform all obligations under this Contract. NJPA reserves the right to reject the acquiring entity as a Vendor. A change of name agreement will not change the contractual obligations of the Vendor.

#### D. LIST OF PROPOSERS

**8.13** NJPA will not maintain a list of interested proposers, nor will it automatically send RFPs to them. All interested proposers must request the RFP as a result of NJPA's national solicitation advertisements. Because of the wide scope of the potential Members and qualified national suppliers, NJPA has determined this to be the best method of fairly soliciting proposals.

#### E. CAPTIONS, HEADINGS, AND ILLUSTRATIONS

**8.14** The captions, illustrations, headings, and subheadings in this RFP are for convenience and ease of understanding and in no way define or limit the scope or intent of this request.

#### F. DATA PRACTICES

**8.15** All materials submitted in response to this RFP become NJPA's property and become public records (under Minn. Stat. §13.591) after the evaluation process is completed. If the Proposer submits information in response to this RFP that it requests to be classified as nonpublic information (as defined by the

Minnesota Government Data Practices Act, Minn. Stat. §13.37), the Proposer must meet the following requirements.

**8.15.1** The Proposer must make the request within thirty (30) days of the award/nonaward notification, and include the appropriate statutory justification. Pricing, marketing plans, and financial information is generally not redactable. The NJPA Legal Department will review the request to determine whether the information can be withheld or redacted. If NJPA determines that it must disclose the information upon a proper request for such information, NJPA will inform the Proposer of such determination.

**8.15.2** The Proposer must defend any action seeking release of the materials that it believes to be nonpublic information, and it must indemnify and hold harmless NJPA, its agents, and employees, from any judgments or damages awarded against NJPA in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the term of any contract awarded under this RFP. In submitting a response to this RFP, the Proposer agrees that this indemnification survives as long as NJPA possesses the confidential information.

**8.16** [This section is intentionally blank.]

#### G. ENTIRE AGREEMENT

**8.17** This Contract, as defined herein, constitutes the entire agreement between the parties to this Contract. A Contract resulting from this RFP is formed when the NJPA Board of Directors approves and signs the applicable Contract Award & Acceptance document (Form E).

#### H. FORCE MAJEURE

**8.18** Except for payments of sums due, neither party is liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented due to force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence including, but not limited to, the following: acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, snow, earthquakes, tornadoes or violent wind, tsunamis, wind shears, squalls, Chinooks, blizzards, hail storms, volcanic eruptions, meteor strikes, famine, sink holes, avalanches, lockouts, injunctions-intervention-acts, terrorist events or failures or refusals to act by government authority and/or other similar occurrences where such party is unable to prevent by exercising reasonable diligence. The force majeure is deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and is deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with a Contract resulting from this RFP. Force majeure does not include late deliveries of products and services caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or other similar occurrences. If either party is delayed at any time by force majeure, then the delayed party must (if possible) notify the other party of such delay within forty-eight (48) hours.

**8.19 through 8.20** [These sections are intentionally blank.]

#### I. LICENSES

**8.21** The Vendor must maintain a valid status on all required federal, state, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with NJPA and NJPA Members.

**8.22** All responding Proposers must be licensed (where required) and must have the authority to sell and distribute the offered products and services to NJPA and NJPA Members. Documentation of the required licenses and authorities, if applicable, should be included in the Proposer's response to this RFP.

## **J. MATERIAL SUPPLIERS AND SUB-CONTRACTORS**

**8.23** The awarded Vendor must supply the names and addresses of sourcing suppliers and sub-contractors as a part of the purchase order when requested by NJPA or an NJPA Member.

## **K. NON-WAIVER OF RIGHTS**

**8.24** No failure of either party to exercise any power given to it hereunder, nor a failure to insist upon strict compliance by the other party with its obligations hereunder, nor a custom or practice of the parties at variance with the terms hereof, nor any payment under a Contract resulting from this RFP constitutes a waiver of either party's right to demand exact compliance with the terms hereof. Failure by NJPA to take action or to assert any right hereunder does not constitute a waiver of such right.

## **L. PROTESTS OF AWARDS MADE**

**8.25** And protests must be filed with NJPA's Executive Director and must be resolved in accordance with appropriate Minnesota rules. Protests will only be accepted from Proposers. A protest of an award or nonaward must be filed in writing with NJPA within ten (10) calendar days after the public notice or announcement of the award or nonaward. A protest must include the following items.

**8.25.1** The name, address, and telephone number of the protester;

**8.25.2** The original signature of the protester or its representative (you must document the authority of the representative);

**8.25.3** Identification of the solicitation by RFP number;

**8.25.4** Identification of the statute or procedure that is alleged to have been violated;

**8.25.5** A precise statement of the relevant facts;

**8.25.6** Identification of the issues to be resolved;

**8.25.7** The aggrieved party's argument and supporting documentation;

**8.25.8** The aggrieved party's statement of potential financial damages; and

**8.25.9** A protest bond in the name of NJPA and in the amount of 10% of the aggrieved party's statement of potential financial damages.

## **M. SUSPENSION OR DISBARMENT STATUS**

**8.26** If within the past five (5) years, any firm, business, person or Proposer responding to an NJPA solicitation has been lawfully terminated, suspended, or precluded from participating in any public procurement activity with a federal, state, or local government or education agency, the Proposer must include a letter with its response setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Any failure to supply such a letter or to disclose pertinent information may result in the termination of a Contract. By signing the proposal affidavit, the Proposer certifies that no current suspension or debarment exists.

## **N. AFFIRMATIVE ACTION AND IMMIGRATION STATUS CERTIFICATION**

**8.27** An Affirmative Action Plan, Certificate of Affirmative Action, or other documentation regarding Affirmative Action may be required by NJPA or NJPA Members relating to a transaction from this RFP. Vendors must comply with any such requirements or requests.



**8.28** Immigration Status Certification may be required by NJPA or NJPA Members relating to a transaction from this RFP. Vendors must comply with any such requirements or requests.

#### **O. SEVERABILITY**

**8.29** In the event that any of the terms of a Contract resulting from this RFP are in conflict with any rule, law, or statutory provision, or are otherwise unenforceable under the laws or regulations of any government or subdivision thereof, such terms will be deemed stricken from the Contract, but such invalidity or unenforceability shall not invalidate any of the other terms of an awarded Contract resulting from this RFP.

#### **P. RELATIONSHIP OF PARTIES**

**8.30** No Contract resulting from this RFP may be considered a contract of employment. The relationship between NJPA and an awarded Vendor is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. The parties neither intend the proposed Contract to create, nor is to be construed as creating, a partnership, joint venture, master-servant, principal-agent, or any other, relationship. Except as provided elsewhere in this RFP, neither party may be held liable for acts of omission or commission of the other party and neither party is authorized or has the power to obligate the other party by contract, agreement, warranty, representation, or otherwise in any manner whatsoever except as may be expressly provided herein.

### **9 FORMS**

**[THE REST OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK.]**

Form A



**PROPOSER QUESTIONNAIRE- General Business Information**  
*(Products, Pricing, Sector Specific, Services, Terms and Warranty are addressed on **Form P**)*

Proposer Name: Terex Utilities Inc. Questionnaire completed by: Nick Cammisa

Please identify the person NJPA should correspond with from now through the Award process:

Name: Nick Cammisa E-Mail address: nick.cammisa@terex.com

*Please answer the questions below using the Microsoft Word® version of this document. This allows NJPA evaluators to cut and paste your answers into a separate worksheet. Place your answer directly below each question. NJPA prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation). Please create a response that is easy to read and understand. For example, you may consider using a different font and color to distinguish your answer from the questions.*

**Company Information & Financial Strength**

- 1) Provide the full legal name, mailing and email addresses, tax identification number, and telephone number for your business.

Terex Utilities, Inc.  
500 Oakwood Road  
Watertown, SD 57201  
Utilities.info@terex.com

Federal Tax ID: 93-0557703

Phone: 605-882-4000

- 2) Provide a brief history of your company, including your company's core values, business philosophy, and longevity in the PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES industry.

Terex Utilities, founded in 1945 with the advent of the groundbreaking Tel-E-lect digger derrick, has been rooted in the growth and maintenance of this nation's utility infrastructure for well over 70 years. We've seen the good times and the bad and through it all, we've been there for you. We've listened to you when you've approached us with problems that you run into during your daily operations and have turned them into workable solutions for you...throughout your good times and your bad times.

Now, as we're traveling together into the 21st century, we are proud to be a part of the next exciting phase of providing you with state-of-the-art solutions steeped in the tradition of those people that built the power and communication grid...hard-working and inventive

**Digger Derrick Development**

The 50's and 60's saw three innovations were introduced that are still in use today - the Rite-Way auger storage bracket, PG (pole grabbing) winch, and the hydraulic collector block. With the latter, for the first time digger derricks could rotate continuously and without restriction making them a much more versatile machine.

The Telecon (TElect ECONOMy) was introduced which allowed a digger to be mounted on a smaller, lighter and more maneuverable chassis. The Commander I Series digger derrick was developed featuring two innovations that are still used as the standard today, box constructed booms and dual lift cylinders. Also we developed and introduced the

first fiberglass third section built to eliminate pin-on third sections. We can't rest on our laurels however, and we're continuing to lead innovations today.

#### Aerial Device Development

The 70's, 80's and early 90's saw us broadening our equipment offerings to include aerial devices. The first was named the "Zip Boom" family and consisted of a telescopic aerial and a articulated aerial. A unique fiberglass boom manufacturing process was developed resulting in the Tele-Glass boom. 1992 was a pretty big advancement for us in the aerial device product category as we added one of the best known names to our family – Hi-Ranger. The name still arouses passion and continues to be used as a model designation for all of our aerial devices today. Right on the heels of that announcement was the introduction of the hydraulic lift which allowed aerial devices to add height to the working envelope without adding additional boom length by elevating the complete aerial device 15' higher. We've since added different configurations and heights which gives our products exceptional flexibility. And, of course, we're not done!

#### Auger Drills & Auger Tooling Development

We continue to develop our business from the ground up. Not only product development but through research, design, safety and our service channels. As with the recent addition of Auger Drills and Auger Tooling, we continue to expand into markets for continued growth. Compact and powerful Terex Auger Drills offer a wide range of drill speeds and the highest drill torque per class. In addition, Terex offers a vast line of auger tools for hard rock, dirt, and high production drilling, as well as coring systems, pilots, bits, hubs, boring heads, and shank plates.

Today, we operate around the globe and we are properly positioned to help you even more. With our products, our innovations and our commitment to being right beside you, we look to partner with you into the next century . . . and beyond!

Terex Utilities works for you by listening, responding and delivering solutions with speed. We understand you challenges. We have a diverse team of people who are committed to delivering reliable equipment to you. We work to develop innovative technology and services quickly. All of this is in an effort to find solutions that allow you to work more efficiently.

- 3) Provide a detailed description of the products and services that you are offering in your proposal.

Insulated Aerial Devices, Digger Derricks, Auger Drills, Repair Service, Inspections, Parts and accessories

- 4) What are your company's expectations in the event of an award?

Terex will provide a quality product, with support and service after the sale.

- 5) Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters.

NYSE ticker symbol: TEX

<https://terexcorp.gcs-web.com/static-files/83962410-15c4-45eb-ac3b-6c9b3337fcc2>

<https://terexcorp.gcs-web.com/static-files/77c3f080-bbe3-410c-856a-f5e23fa53d50>

\* Files from the links provided with response as well

- 6) What is your US market share for the solutions that you are proposing? What is your Canadian market share, if any?

We believe our market share to be approximately 31% in the utility market. This is based on in-house data projections. We sell into Canada with about 60% market share there. We also sell in Europe, South America, China, and India with predominate market share in most of these countries.

- 7) Has your business ever petitioned for bankruptcy protection? Please explain in detail.

No

- 8) How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.

- a) If your company is best described as a distributor/dealer/reseller (or similar entity), please provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?
- b) If your company is best described as a manufacturer or service provider, please describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?

Terex Utilities is a leading manufacturer of utility equipment. We are also a large provider of service and parts for the utility equipment industry.

We have a network of factory direct Account Managers across the majority of the United States with the exception of New England States and Florida. In these two areas we work through distributors. In the Canadian market we have long term distributors providing the same services Terex provides in the states.

- 9) If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.

ISO9001:2008 certified since 1997



- 10) Provide all "Suspension or Disbarment" information that has applied to your organization during the past ten years.

We do not have any.

- 11) Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.

Terex Utilities can provide multiple types of equipment and services to NJPA members. We are a dealer for multiple service body manufactures and can upfit these at multiple locations across the US and Canada. We also tailor a service and inspection programs to maintain a safe operating fleet.

### Industry Recognition & Marketplace Success

- 12) Describe any relevant industry awards or recognition that your company has received in the past five years.

- Forbes' "The Just 100: America's Best Corporate Citizens in 2016!"
- Arbor Age A+ New Products Award for the XT PRO Series of Tree Trimmers
- Construction Equipment Top 100 Winner for the Hi-Ranger LTM Series

- 13) Supply three references/testimonials from your customers who are eligible for NJPA membership. At a minimum, please include the entity's name, contact person, and phone number.

**City of Longmont**  
350 Kimbark St  
Longmont, CO 80501  
Kevin Rademacher  
(720) 323-2195

**Seattle City Light**  
3613 4th Ave South  
Seattle, WA 98134  
Dustin Atkin  
(206) 459-3446

**City of Tacoma**  
3628 S 35TH St  
Tacoma, WA 98409  
Don Ashmore  
(253) 502-8575

**Grant County PUD**  
154 A St.  
Ephrata, WA 98823  
Mike Phelps  
(509) 754-0500

**City of Wilson**  
1800 Herring Ave  
Wilson, NC 27894  
Donnie Page  
(252) 399-2289

**City of Rocky Mount**  
628 Albemarle  
Rocky Mount, NC 27804  
Randy Coggin  
(252) 343-3196

**City of Milford**  
180 Vicker Dr

Milford, De 19963

Richard Carmean

(302) 422-1110

City of Arlington

1011 West Main

Arlington, TX 76013

Ricky Williams

(972) 748-8915

City of Burleson

725 S. E. John Jones Drive

Burleson, TX 76028

Jay Hutchinson

(817) 781-5998

Northern Neck Electric

85 St. Johns St

Warsaw, VA 22572

Jim Moss

(804) 333-0353 Ext. 6129

- 14) Provide a list of your top five governmental or educational customers (entity name is optional), including entity type, the state the entity is located in, scope of the projects, size of transactions, and dollar volumes from the past three years.

Our top five governmental or educational customers include:

1. Seattle City Light (Municipality) supplied and supplying distribution aerial and digger derrick devices.
2. Washington State DOT (State), supplied and supplying distribution aerial devices.
3. Tennessee Valley Authority (Federal Government) supplied transmission aerial devices
4. City of Tallahassee (Municipality) supplied distribution aerial devices.
5. Los Angeles Department of Water and Power (Municipality) supplied distribution aerial devices.

- 15) Indicate separately what percentages of your sales are to the government and education sectors in the past three years?

In the past three years Terex Utilities percent of sales sold to government entities is approximately 15% of our total sales.

- 16) List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?

Terex Utilities participates in several cooperative purchasing contracts including DES Master Contract (WA), Ohio STS, and NJPA. While exact sales dollars is confidential, cooperative purchasing has increased incrementally each of the last 3 years.

- 17) List any GSA contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?

Terex Utilities is part of the Terex Corp GSA contract and it is administered through Terex Government Services. Our contract # is GS-30S-0016T. While exact sales dollars is confidential, products purchased through GSA have remained steady over the last 3 years.

**Proposer's Ability to Sell and Deliver Service Nationwide**

18) Describe your company's capability to meet NJPA Member's needs across the country. Your response should address at least the following areas.

- a) Sales force.
- b) Dealer network or other distribution methods.
- c) Service force.

Please include details, such as the locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employers (or employees of a third party), and any overlap between the sales and service functions.

Terex Utilities, along with distributors and rental partners Commercial Truck Equipment, JA Kiley Company, NESCO, Ring Power, Scott Powerline, Utility One Source (UOS) and Wajax continue to create the most comprehensive sales, rental and service offerings across North America for electric utility customers.

Our combined investments have an expansive network with a footprint of 20 factories and final-stage manufacturing locations, 60 service centers and 240 mobile hydraulic technicians – all working together to support our customers with shorter lead times on new equipment, outstanding rental availability, and the right parts and service support when and where they need it.

We are committed and engaged with our partners to listen, understand and quickly provide innovative solutions for electric utility customers.

19) Describe in detail the process and procedure of your customer service program, if applicable. Please include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.

Terex Services offers a broad range of service solutions focused on keeping customers' equipment and their operators productive and safe. Terex Services has more than 240 factory-trained technicians and more than 20 factory branch locations to service Terex aerial devices, digger derricks, construction equipment, mobile cranes and Genie booms and lifts.

From inspections for compliance regulations, preventative maintenance work and general repairs to reconditioning, refurbishment and replacement parts, Terex Services provides quality work performed by factory trained technicians that are dedicated to increasing the uptime of your aerial work platform, construction, mobile crane and utility equipment.

**Our Service locations:**

Terex Utilities			Distributors	
<b>Seattle</b> 206.764.7675 9420 - 8 <sup>th</sup> Avenue Seattle, WA 98108	<b>North Little Rock</b> 501.943.5186 309 Dixie Street North Little Rock, AR 72114	<b>Bourbon</b> 574.342.8086 4478 Lincoln Hwy West Bourbon, IN 46204	<b>Commercial Truck</b> 677.915.9148 11199 48 St SE Calgary, AB T2C 5B4, Canada	
<b>Portland</b> 503.628.8611 12885 SW 7 <sup>th</sup> Place Tigard, OR 97223	<b>Birmingham</b> 205.841.6411 4129 Levlings Road Birmingham, AL 35207	<b>Waukegan</b> 252.507.8588 104 W22810 Ethelwood Rd Waukegan, WI 53186	<b>Wajax Equipment</b> 514.833.2542 815 Trillium Drive Kitchener, ON N2E 1J9, Canada	
<b>Stockton</b> 209.342.7164 2810 Lyching Way Stockton, CA 95204	<b>White House</b> 615.672.4911 300 Edna Way White House, TN 37189	<b>Sturgis</b> 605.449.1555 12545 Hwy 41 Frontage Rd Sturgis, SD 57779	<b>Wajax Equipment</b> 458.881.5727 2000 Rue John-Molson Laval, Quebec H7T 0E4, Canada	
<b>Pasadena</b> 800.585.5234 8594 Cherry Avenue Pasadena, CA 92313	<b>Charlotte</b> 704.854.3383 11945 Goodrich Drive Charlotte, NC 28273	<b>Watertown</b> 605.882.5884 1901 14 <sup>th</sup> Avenue NW Watertown, SD 57201	<b>Wajax Equipment</b> 867.863.7222 151 Thornhill Drive Dorchester, NS B3B 1S2, Canada	
<b>Phoenix</b> 602.758.8462 4920 W. Margolis Street Phoenix, AZ 85043	<b>Glen Allen</b> 804.732.3811 11073 Washington Hwy Glen Allen, VA 23069	<b>Denver</b> 303.582.8084 18000 E. 23 <sup>rd</sup> Avenue Aurora, CO 80011	<b>James A. Kiley Co.</b> 704.834.3363 15 Linwood Street Searsville, MA 02143-2188	
<b>Ft Worth</b> 817.538.8585 1300 S. Sylvania Avenue Ft Worth, TX 76111	<b>Thomasville</b> 717.658.1444 2775 Lincoln Hwy West Thomasville, VA 17364	<b>Field Service</b> 608.882.1301	<b>Ring Power Co.</b> 804.737.7728 500 World Commerce Pkwy St. Augustine, FL 32091	
<b>San Antonio</b> 214.476.7777 142 Gochler Road San Antonio, TX 78219	<b>Midland</b> 336.722.8388 1175 Industrial Parkway Midland, OR 44256			

- More than 60 Mobile Service Technicians
- Centrally managed and dispatched
- 8 Regional Coordinators
- GPS tracking
- Stock high usage parts and consumables
- Parts, Tech and Warranty Support
- FPS Certified Technicians\*
- Certified Welding Technicians\*



Mobile Field Services Hotline:  
**800-292-1931**

\*Not available in all areas

**Terex Services offers a wide range of services and solutions in the Utility Market**

#### **Training**

Operator training for all types of utility equipment  
*The Edge* – Terex Utilities online operator training  
 NCCCO Certification for Digger Derrick Operators

#### **Safety Inspections**

- DOT/ANSI Inspections and Compliance
- 5-year Inspections
- Dielectric Testing

#### **Preventative Maintenance**

- Perform all levels of routine service work – 30, 60 and 90 day, annual

#### **Repairs**

- Warranty Work
- Hydraulic Repair
- Certified Welding

#### **Custom Up fits**

- Truck Bodies
- Off-road custom builds
- Specialty Tool and Hardware Installation

#### **Rebuilds and Transfers**

- Overhauls
- Refurbishment

- 20) a) Identify any geographic areas of the United States that you will NOT be fully serving through the proposed contract.  
 b) Identify any NJPA Member sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Please explain your answer. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?

**Our sales and service network covers from coast to coast in the US and all the population centers of Canada.**

- 21) Define any specific contract requirements or restrictions that would apply to our Members in Hawaii and Alaska and in US Territories.

Third parties are utilized for both Hawaii and Alaska

#### Hawaii

DMS Diesel Repair, LLC  
 24 Railroad Ave  
 Hilo, HI 96720

#### Alaska

Seaside Diesel Repair  
 5741 Concrete Way



Juneau, AK

### Marketing Plan

- 22) If you are awarded a contract, how will you train your sales management, dealer network, and direct sales teams (whichever apply) to ensure maximum impact? Please include how you will communicate your NJPA pricing and other contract detail to your sales force nationally.

NJPA is a valuable resource for Terex Utilities and our dealer network. Once the contract is awarded communications will go out internally to our factory direct team as well as our dealer network. Although many on our factory direct team are aware of the NJPA sales process we will schedule updated training via webinar, conference calls and national sales meetings. This same process will be used to train our dealer network in the US and Canada.

- 23) Describe your marketing strategy for promoting this contract opportunity. Please include representative samples of your marketing materials in electronic format.

Our Marketing strategy would be to assign ownership to an Account Manager who would take the lead role and provide direction to other Sales people located in areas where we expect to have the most interaction.

- 24) Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.

Terex Utilities currently has a Twitter account ([www.twitter.com/TerexUtilities](http://www.twitter.com/TerexUtilities)) and Facebook account ([www.Facebook.com/TerexUtilities](http://www.Facebook.com/TerexUtilities)). We use both outlets to post articles and information about our products and services.

Another tool we use is Pardot, which allows us to create, deploy and manage online marketing campaigns. Through our utilization of Pardot and Salesforce, we are able to drive greater results from service and equipment marketing campaigns.

- 25) In your view, what is NJPA's role in promoting contracts arising out of this RFP? How will you integrate an NJPA-awarded contract into your sales process?

NJPA is currently part of our municipal sales strategy. In every case possible we promote the value and simplicity of using NJPA to speed up or eliminate the bid process. In many cases we can convert the customer from going out to bid and use NJPA as a resource. Due to NJPA flexibility we have converted opportunities from using other slate contracts to NJPA as well.

- 26) Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.

Replacement Parts for Terex Utilities are available for purchase through an online e-commerce platform shared with our AWP (Genie) division. Customer's with an account for either product line can be setup with online access. This provides live price and availability and access to placing orders from our parts catalog through both of our North American distribution hubs (Southaven, MS & North Bend, WA). The system also offers access to shipment tracking and invoicing. Accounts can also be configured to receive email acknowledgements and shipping confirmations to the individual that placed the order.

### Value-Added Attributes

- 27) Describe any product, equipment, maintenance, or operator training programs that you offer to NJPA Members. Please include details, such as whether training is standard or optional, who provides training, and any costs that apply.

Terex offers onsite unit specific mechanic training tailored to the needs of the customer. We also offer operator training ranging from unit in-services to our Digger Derrick and Aerial Device Edge Operator Safety Training Programs. We also offer an extensive online course selection which includes: Aerial Inspections, Digger Derrick Inspections, Dielectric Testing, Driver Safety Training, Hydraulic Troubleshooting, Aerial Edge Operator Safety Training and Digger Derrick Operator Safety Training programs. Additionally we also offer Tech-tips which take a technician step-by-step through numerous maintenance procedures on our public website.

- 28) Describe any technological advances that your proposed products or services offer.

Terex builds its reputation on reliability and not just having technological advances but making those technologies robust enough for the environment they are applied into. It is easy to make technological advances it is harder to make them reliable able to stand over time. That is where Terex excels.

29) Describe any “green” initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.

Terex has been down the road of high cost highly complex “Green” technology that provides very little theoretical payback and many times a net negative payback in actual practice. Terex has evolved in our outlook on “Green” Initiatives and in 2015 began developing the HyPower IM system.

The HyPower IM system utilizes plug in battery power to do what batteries do best, eliminate idle, but relies on the engine for it to do what it does best and that is move the truck and booms. Terex realized a lower cost, lower weight, less complex system could be developed which eliminated a large part of the fuel burn and carbon emissions as well as noise in the duty cycle of equipment used in utility applications. It was developed around the simple idea of providing the customer the most advantages for the least cost and complexity and achieving a balance which would actually provide an economic benefit for the customer. In 2017 Terex made the decision that it would be the only “Green” system we would offer our customers going forward.

30) Describe any Women or Minority Business Entity (WMBE) or Small Business Entity (SBE) accreditations that your company or hub partners have obtained.

Terex Utilities is committed to providing accredited diverse business enterprises (“DBEs”), such as women, minority and service-disabled veteran owned businesses, maximum practicable opportunity to participate in providing products and services to Terex Utilities. By diversifying our supplier base, we enhance competition and innovation among our suppliers, which helps us to provide our customers with safe, reliable, and market competitive products.

Terex Utilities has set a 5% goal on average for spending with DBEs. Terex Utilities achieves this goal through a supplier selection process focusing on local businesses, businesses in close proximity to our manufacturing facility, national DBE public web sites, and those suggest by our customer base.

Below are Terex Utilities accredited DBE figures through November 2017.

2017 spend through September							
CLASS	SPEND		MBE	WBE	HUBZONE	VET	DVET
FABRICATED STRUCTURAL COMPONENTS	\$18,239,036		0.0011%			0.0060%	0.0877%
HYDRAULIC & PNEUMATIC COMPONENTS	\$19,008,240		0.0741%			0.0302%	
POWER PLANTS, IC ENGINE	\$20,901						
POWER TRAIN	\$6,101,069						
ELECTRICAL & CONTROL COMPONENTS	\$5,116,420		0.0092%	0.2701%	0.0491%	0.1099%	0.0491%
RUNNING GEAR	\$77,381		1.7642%				
ASSEMBLIES, COMPLEX	\$2,304,200		1.4963%			0.0130%	
MECHANICAL COMPONENTS	\$11,151,498		0.6080%			0.0134%	
CASTINGS & FORGINGS	\$118,676						
STEEL	\$890,688						
HARDWARE	\$1,000,969		0.3278%			0.3624%	
CABS, ACCESSORIES & ROPS	\$412,126			0.6568%		0.9829%	
ALUMINUM	\$0						
CONSUMABLES, TOOLS & DISPATCH KITS	\$3,016,547			1.5373%		1.5829%	
INDIRECT PURCHASES	\$648,532		2.5300%	1.7800%		0.8100%	
PRODUCT IDENTIFICATION, LABELING & DOCUMENTATION	\$244,573						
PLASTICS, POLYMERS & RUBBER	\$582,976						
FLUID TRANSFER & CONTROL, NON-HYDRAULIC	\$60,384		1.1759%				
OTHER MATERIALS	\$4,346						
<b>Total</b>	<b>\$68,998,502</b>	<b>Average %</b>	<b>7.9864%</b>	<b>4.2442%</b>	<b>0.0491%</b>	<b>1.9109%</b>	<b>0.1368%</b>
		<b>Total Average %</b>					<b>3.2655%</b>

31) What unique attributes does your company, your products, or your services offer to NJPA Members? What makes your proposed solutions unique in your industry as it applies to NJPA members?

Terex equipment is unique in that we traditionally have not cut corners when it comes to designing our equipment. Our Welded derrick boom sections are the hardest boom in the industry to fabricate but provide the strongest strength to weight ratio. The same can be said for our rectangular, tapered fiberglass booms. All of our fiberglass booms are designed to maintain a strong bond with the steel which means they are many times stronger than required to meet industry required safety factors. This cost more money and takes more time but provides a much superior product that will maintain bonding and strength for the life of the equipment when used as designed. This has been the way our products have designed and built going back to the 1950's and a proud tradition we carry on today.

32) Identify your ability and willingness to provide your products and services to NJPA member agencies in Canada.

Our dealer network in Canada has been an extension of Terex Utilities for many years. Starting January 2, 2018 we have two new factory dealer representatives covering Canada. Both of these representatives are familiar with the NJPA process and have been instructed to promote NJPA for the Canadian market as well.

**NOTE: Questions regarding Payment Terms, Warranty, Products/Equipment/Services, Pricing and Delivery, and Industry Specific Items are addressed on Form P.**

Signature: \_\_\_\_\_



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

1/23/2018

**Form B**



**PROPOSER INFORMATION**

Company Name: Terex Utilities Inc.  
Address: 500 Oakwood Rd  
City/State/Zip: Watertown, SD  
Phone: 605-882-4000 Fax: 605-882-5595  
Toll-Free Number: 1-844-837-3948 E-mail: utilities.sales@terex.com  
utilities.info@terex.com  
Website Address: www.terex.com

**COMPANY PERSONNEL CONTACTS**

**Authorized signer for your organization**

Name: Jim Lohan  
Email: jim.lohan@terex.com Phone: 605-882-4000

The person identified here must have proper signing authority to sign the "Proposer's Assurance of Compliance" on behalf of ~~the Proposer~~ Stephanie Evans.

**Who prepared your RFP response?**

Name: Nick Cammisa Title: Regional Sales Manager  
Email: nick.cammisa@terex.com Phone: 303-503-6146

**Who is your company's primary contact person for this proposal?**

Name: Nick Cammisa Title: Regional Sales Manager  
Email: nick.cammisa@terex.com Phone: 303-503-6146

**Other important contact information**

Name: Stephanie Evans Title: Sales Operation Manager  
Email: stephanie.evans@terex.com Phone: 605-882-5604

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

**Form C**

**EXCEPTIONS TO PROPOSAL TERMS, CONDITIONS,  
AND SOLUTIONS REQUEST**



Company Name: Terex Utilities Inc.

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by NJPA or included in the final contract. NJPA will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	NJPA ACCEPTS
<del>G</del>	<del>6.23.1.1</del>	<del>Added - In accordance with ISO standard forms</del>	
<del>G</del>	<del>6.26</del>	<del>Added - except for the negligence and willful misconduct</del>	
<del>B</del>	<del>8.8</del>	<del>Added - No party shall be liable hereunder for incidental, indirect or consequential Damages, even if advised of the possibility thereof.</del>	

Proposer's Signature: *Stephen Evans* Date: 1/23/2018

**NJPA's clarification on exceptions listed above:**

Contract Award  
RFP #012418

**FORM D**



**Formal Offering of Proposal**  
(To be completed only by the Proposer)

**PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES**

In compliance with the Request for Proposal (RFP) for PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES, the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.


Company Name: Terex Utilities Inc. Date: January 23, 2018

Company Address: 500 Oakwood Rd

City: Watertown State: SD Zip: 57201

CAGE Code/Duns & Bradstreet Number: 00-625-0484

Contact Person: Stephanie Evans Title: Sales Operations Manager

Authorized Signature:  Stephanie Evans  
(Name printed or typed)

**Form E**



**Contract Acceptance and Award**

**(To be completed only by NJPA)**

NJPA #012418 \_\_\_\_\_

\_\_\_\_\_  
**Proposer's full legal name**

Your proposal is hereby accepted, and a Contract is awarded. As an awarded Proposer, you are now bound to provide the defined products and services contained in your proposal offering according to all terms, conditions, and pricing set forth in this RFP, any amendments to this RFP, your response, and any exceptions accepted by NJPA.

The effective start date of the Contract will be \_\_\_\_\_, 20\_\_\_\_ and continue until- \_\_\_\_\_ (no later than the later of four years from the expiration date of the currently awarded contract or four years from the NJPA Board's contract award date). This contract may be extended for a fifth year at NJPA's discretion.

**National Joint Powers Alliance® (NJPA)**

NJPA Authorized signature: \_\_\_\_\_  
NJPA Executive Director (Name printed or typed)

Awarded this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ NJPA Contract Number #012418

NJPA Authorized signature: \_\_\_\_\_  
NJPA Board Member (Name printed or typed)

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ NJPA Contract Number #012418

The Proposer hereby accepts this Contract award, including all accepted exceptions and NJPA clarifications.

Vendor Name \_\_\_\_\_

Vendor Authorized signature: \_\_\_\_\_  
(Name printed or typed)

Title: \_\_\_\_\_

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ NJPA Contract Number #012418

**PROPOSER ASSURANCE OF COMPLIANCE**



**Proposal Affidavit Signature Page**

**PROPOSER'S AFFIDAVIT**

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to NJPA members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.
4. The Proposer will, if awarded a Contract, provide to NJPA Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to NJPA Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to NJPA Members under an awarded Contract.
6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
7. The Proposer understands that NJPA will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify NJPA for reasonable measures that NJPA takes to uphold such a data designation.

**[The rest of this page has been left intentionally blank. Signature page below]**



By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

Company Name: Terex Utilities Inc.

Address: 500 Oakwood Rd

City/State/Zip: Watertown, SD 57201

Telephone Number: 605-882-5604

E-mail Address: stephanie.evans@terex.com

Authorized Signature: *Stephanie Evans*

Authorized Name (printed): Stephanie Evans

Title: Sales Operations Manager

Date: 1/23/18

**Notarized**

Subscribed and sworn to before me this 23<sup>rd</sup> day of January, 2018

Notary Public in and for the County of Codington State of South Dakota  
My Commission Expires

My commission expires: September 9, 2021

Signature: *Jane Homan*



Form G



**OVERALL EVALUATION AND CRITERIA**

For the Proposed Subject **PUBLIC UTILITY EQUIPMENT WITH RELATED ACCESSORIES AND SUPPLIES**

Conformance to RFP Terms and Conditions	50	
Financial Viability and Marketplace Success	75	
Ability to Sell and Deliver Service Nationwide	100	
Marketing Plan	50	
Value-Added Attributes	75	
Warranty	50	
Depth and Breadth of Offered Products and Related Services	200	
Pricing	400	
<b>TOTAL POINTS</b>	<b>1000</b>	

Reviewed by: \_\_\_\_\_ Its \_\_\_\_\_  
\_\_\_\_\_ Its \_\_\_\_\_

**Form P**



**PROPOSER QUESTIONNAIRE**

**Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions**

Proposer Name: Terex Utilities Inc.

Questionnaire completed by: Nick Camissa

**Payment Terms and Financing Options**

- 1) What are your payment terms (e.g., net 10, net 30)? **Net 30**
- 2) Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?

Terex Financial Services can offer municipal lease financing through Wells Fargo Equipment Finance as long as the entity meets qualifying guidelines as municipality and include an annual appropriation clause.

**Municipal Lease Structures:**

Finance Lease (\$1-out Lease)

Operating Leases (FMV)

**Terms:**

36–72 months (depending on the equipment)

**Rates:**

Fixed payment over the life of the term (based on credit rating)

- 3) Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders. **Terex Utilities, along with distributors, Commercial Truck Equipment, JA Kiley Company, Ring Power, Utility One Source (UOS) and Wajax continue to create the most comprehensive sales and service offerings across North America for public power utility customers. Our team is committed and engaged with our partners to listen, understand and quickly provide solutions. After understanding our customer needs we direct customers to the standard packages offered in the RFP. If there are any options the customer is requesting, they are quoted as open market items at the same NJPA discount. At the end of each month we report all sales that were sold through NJPA. The reporting will come from a contact at Terex Utilities. This will also include any sales from our dealer network as well.**
- 4) Do you accept the P-card procurement and payment process? If so, is there any additional cost to NJPA Members for using this process? **Parts and Service customers are able to use a P-card for their purchases.**

**Warranty – See attached Manufactures Limited Product Warranty**

- 5) Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions.
  - Do your warranties cover all products, parts, and labor? **Yes**

- Do your warranties impose usage restrictions or other limitations that adversely affect coverage? **All of our models are designed with an intended use. If warranty damage looks outside normal use/wear and tear, communication is started with the customer to come to a resolution.**
  - Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs? **Travel time is covered for the first 90 ninety days from the date of truck/unit in-service.**
  - Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair? **No**
  - Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer? **See provided warranty document**
  - What are your proposed exchange and return programs and policies? **These are handled by our service technicians and dealers.**
- 6) Describe any service contract options for the items included in your proposal. **National service rates and other ANSI required services have been provided as options in the RFP.**

**Pricing, Delivery, Audits, and Administrative Fee**

- 7) Provide a general narrative description of the equipment/products and related services you are offering in your proposal. **Specifications for new aerial devices, digger derricks, auger drills, technician services in the shop and field service, and other ANSI required inspection services have been provided for this RFP.**
- 8) Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.) **See provided pricing sheet for all equipment and services.**
- 9) Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.
- 10) The pricing offered in this proposal is
- a. the same as the Proposer typically offers to an individual municipality, university, or school district.
  - b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
  - c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
  - d. other than what the Proposer typically offers (please describe).
- 11) Describe any quantity or volume discounts or rebate programs that you offer. **A NJPA discount has been applied to the sale price of the units as indicated in the attached NJPA 2018 Contract Pricing.**
- 12) Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request. **Quotes for open market items are provided at the customers request and are priced at the same discount levels for NJPA memebers.**
- 13) Identify any total cost of acquisition costs that are **NOT** included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer. **Overseas freight will be quoted as an additional charge due to the changing market rates.**
- 14) If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program. **Freight is included for any new truck purchased in the lower 48 states. An additional line item will**