

**REQUEST FOR PROPOSALS:**  
**FOR THE PROVISION OF ELECTRIC GENERATION SERVICE  
AND GOVERNMENT ENERGY AGGREGATION SERVICES**  
**FOR THE**  
**MONTGOMERY COMMUNITY ENERGY**  
**AGGREGATION (MCEA) PROGRAM**

**THE TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY,  
NEW JERSEY**  
**Lead Agency, MCEA**

**DATE OF ISSUANCE: August 9, 2013**

**QUESTIONS AND COMMENTS DUE: August 21, 2013 5:00 p.m.**

**NOTICE OF INTENT TO BID DUE: August 21, 2013, 5:00 p.m.**

**QUALIFICATIONS DOCUMENTS DUE: August 21, 2013, 5:00 p.m.**

**STAGE 2 PRICE PROPOSALS DUE: September 5, 2013, 2:00 p.m.**

**Stage 2 Price Proposals will be accepted electronically at**  
**[bids-MCEA@gabelassociates.com](mailto:bids-MCEA@gabelassociates.com)**

*Lead Agency's Energy Agent: Gabel Associates, Inc.*

For questions relating to this RFP, send written inquiries via FAX or e-mail to:

Olivia Corkedale  
Gabel Associates, Inc  
417 Denison Street  
Highland Park, New Jersey 08904  
(732) 296-0799 (FAX)  
E-mail: [Olivia.corkedale@gabelassociates.com](mailto:Olivia.corkedale@gabelassociates.com)

**MONTGOMERY COMMUNITY ENERGY AGGREGATION  
REQUEST FOR PROPOSALS  
DATED AUGUST 9, 2013**

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## **A. INTRODUCTION**

On April 4, 2013, the Township of Montgomery (also referred to as “Township”) in Somerset County, New Jersey, adopted Ordinance No. 13-1434 authorizing the formation of a Government Energy Aggregation in the Township of Montgomery, named the Montgomery Community Energy Aggregation (“MCEA”) Program, pursuant to applicable State law (Government Energy Aggregation Act, P.L. 2003, c.24; N.J.S.A. 48:3-93.1 et seq.) and New Jersey Board of Public Utilities (“BPU”) rules (N.J.A.C. 14:4-6.1 et seq.). The MCEA has been formed for the express purposes of obtaining power supply for Township residents and, potentially, for Township businesses, at a price that is lower than the tariff price for power supply charged by the local electric utility, Public Service Electric and Gas Company (“PSE&G”).

Pursuant to Ordinance No. 13-1434 the Township will act as the Lead Agency of the MCEA. Consistent with applicable rules, the Lead Agency will solicit proposals for electric generation service and government energy aggregation services for Township residents, and may enter into a contract for the provision of electric generation service and government energy aggregation services on behalf of residential customers within the boundaries of the Township. The Lead Agency will also simultaneously solicit proposals for electric generation service for Township businesses who have signed an “opt-in” form to join the MCEA program, and may enter into a contract for the provision of electric generation services on behalf of such businesses located within the boundaries of the Township. The Lead Agency seeks to award a contract for either 12, 18 or 24 months for one or both Bid Groups provided that the proposed price for the awarded bid group(s) is below the prevailing price for electric generation service provided by PSE&G, as set forth in the utility’s applicable Basic Generation Service (“BGS”) tariff, and provided further that the Lead Agency, in its discretion, determines that the bid price(s) warrants the award of a contract(s) under this RFP. An award or awards will be made based on which supplier’s proposal is most advantageous to the Township and participating Township customers, price and other factors considered. The Township reserves the right to: make no award at all; to make a single award to one supplier covering both the residential and business Bid Groups; to make separate awards to two different suppliers (one for residential customers and one for business customers); or to make a single award to one supplier covering only one of the two Bid Groups (either residential or business). The evaluation and selection process is set forth in detail in Section H of this RFP.

The term of the electric generation service will be for a period of service of either twelve (12) months, eighteen (18) months or twenty-four (24) months beginning with the December 2013 meter read dates (“MRDs”) for each account. Suppliers may submit price proposals for one, some or all three of the potential contract durations. At the time of contract award, the Township will select the term, if any, that is most advantageous to the Township and participating Township customers.

As Lead Agency the Township is issuing this Request for Proposals (“RFP”), and will, if a contract award is made, execute a Master Performance Agreement (“MPA”) with the selected supplier that sets forth the rights and obligations of both the Lead Agency and the selected supplier in connection with the MCEA Program. There is a separate (and different) MPA for the residential and business bid groups (Appendix B1 and B2 attached hereto, respectively), and the successful supplier(s) for the Participating Residential Accounts and the Participating Business Accounts will execute separate MPAs. The form of MPA pertaining to the awarded supplier of business customers includes a form of supply agreement that the supplier and each participating business customer will be bound to. The term of the MPA will be from the date of execution through December 2014, May 2015 or December 2015.

The decision to make an award is at the sole discretion of the Lead Agency. If in its discretion it elects to

make a contract award, the Lead Agency will make an award to the supplier(s) whose proposal is most advantageous to the Township and participating customers, price and other factors considered, as set forth specifically in Section H of this RFP. In particular, the Township shall consider which supplier(s) will provide the most benefits to the MCEA participants, provided that the supplier(s) meets the qualification requirements set forth in this RFP and provided that the bid contract price for electric generation service is reasonably forecast and estimated by the Township to provide sufficient savings to the participants over the term of the contract relative to the cost that would be incurred by MCEA if they were to remain on the applicable basic generation service tariff over the contract term. The Lead Agency's award of a contract to a selected supplier(s) will obligate the participants in the MCEA to purchase electricity from the selected supplier(s), subject to the terms and conditions stated in the MPA, including opt-out rights.

Gabel Associates, 417 Denison Street, Highland Park, NJ 08904 (732) 296-0770, has been retained by the Township to serve as the MCEA energy agent. Gabel Associates and its subcontractor, Cooling America through Local Leadership ("CALL") are administering the implementation of this RFP process. Gabel Associates is an energy agent duly registered with the New Jersey Board of Public Utilities since 1999 (Energy Agent Registration No. EA-0021) and is also an approved vendor under the New Jersey Department of Community Affairs - Division of Local Government Services e-procurement pilot program for energy generation services. The energy agent fee to compensate the Gabel/CALL team for its consulting services will be paid by the winning supplier(s), and shall be included in suppliers' bid price(s).

This procurement process is being conducted in accordance with the "Government Energy Aggregation Act" (N.J.S.A. 48:3-93.1 et seq.); Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.); "Local Unit Electronic Technology Pilot Program and Study Act" (P.L. 2001, c.30) and related E-Procurement Pilot Program administered by the New Jersey Division of Local Government Services; "Electric Discount and Energy Competition Act," P.L. 1999, c. 23 (N.J.S.A. 48:3-49 et seq.) ("EDECA"); and all applicable regulations and standards promulgated thereunder, including in particular the BPU's government energy aggregation rules (N.J.A.C. 14:4-6.1 et seq.). Specifically, the Township is implementing the MCEA as an "Option 2" government energy aggregation, as that term is defined in N.J.A.C. 14:4-6.6.

As the Lead Agency of an Option 2 government energy aggregation program, Montgomery Township has or will undertake a number of tasks (directly or through a designated agent such as the Energy Consultant and/or the selected Supplier(s)), including: execution of EDC Agreement with PSE&G; preparation, release and administration of RFP; selection of winning bidder(s) and execution of Master Performance Agreement on behalf of all Participating Customers (residential and business); distribution of "opt-out" notifications to all residential customers in the Township that are not currently under a Third Party Supplier ("TPS") contract; distribution of "opt-in" notifications to all business customers in the Township; collection and compilation of completed "opt-out" notice forms returned by residential customers; and oversight of enrollment of Participating Customer accounts.

Pursuant to BPU rules and Ordinance No. 13-1434, the Lead Agency (Montgomery Township) is authorized to issue an RFP and to award a contract(s) to an electric power supplier(s) on the Participating Customers' behalf provided that the winning bid(s) will, in the discretion of the Lead Agency, provide sufficient savings relative to the applicable utility tariff rates. Participating Customers of the MCEA fall into the following categories:

1. Residential electric accounts located within the geographic boundaries of the Township, that do not currently have a third party supply contract, and who do not "opt-out" of the MCEA Program;
2. Business electric accounts located within the geographic boundaries of the Township, that have opted-in to the MCEA Program.

Required steps under the BPU's government energy aggregation rules that have been completed to date include: the adoption of Ordinance No. 13-1434 authorizing the MCEA Program on April 4, 2013; a copy of Ordinance No. 13-1434 provided to PSE&G on June 21, 2013; draft bid documents including form of master performance agreement/contract submitted to the BPU and Rate Counsel on July 9, 2013; comments received from the BPU and Rate Counsel on July 29, 2013 and July 26, 2013, respectively; and execution of an EDC Agreement dated June 25, 2013 between the Township and the EDC – PSE&G.

PSE&G has indicated that there are approximately 6,400 residential electric accounts located within the Township that are not currently served by a third party supplier ("TPS") that are being included in the MCEA Program, pursuant to BPU rules, on an "opt-out" basis<sup>1</sup>, as described in more detail below.

Pursuant to BPU Rules and the EDC Agreement, within 10 business days after the execution of the Master Performance Agreement by the Township and the supplier selected to service residential accounts, and notification to PSE&G of said execution, PSE&G will provide the Township with the name, address and account number of each residential customer located in the Township that is not already being served by a TPS. This information will be reviewed by the Township and its energy agent in an attempt to identify any inconsistencies with municipal boundaries or other anomalies, and will thereafter be immediately provided to the selected supplier. The selected supplier will be required to mail a written notice to each such residential customer that includes information as required in N.J.A.C. 14:4-6.6(r), including an opt-out response card. There follows a mandatory 30-day "opt-out" period for residential customers as required in the BPU Rules. The selected supplier will administer the receipt and logging of returned "opt-out" cards. All residential customers who do not submit an "opt-out" card by the end of the 30-day "opt-out" period will be included in the MCEA, and will be considered Participating Residential Accounts. At the end of the 30-day "opt-out" period the selected supplier will submit enrollment requests to PSE&G for all Participating Residential Customers, for service commencing with the December 2013 meter read dates ("MRDs") for all accounts.

***The customer-specific information provided to the selected supplier(s) by the EDC and/or the Lead Agency in connection with the MCEA, as provided for in this RFP and in the form of Master Performance Agreement, shall be treated in a confidential manner pursuant to N.J.A.C. 14:4-6.3(f), and be used by the selected supplier(s) for the sole purpose of administering the MCEA program, and information for residential customers who opt-out of the program or that remain in the program shall not be used by the supplier(s) for any other purpose.***

By virtue of applicable state law (Government Energy Aggregation Act, P.L. 2003, c.24, N.J.S.A. 48:3-93.1 et. seq.) and BPU rules (N.J.A.C. 14:4-6.1 et seq.), and Ordinance No. 13-1434 adopted by the Township Committee of the Township of Montgomery, the Township of Montgomery has the legal authority to enter into a contract(s) with the selected power supplier(s) for the provision of electric generation service on behalf of residential customers and participating businesses located within the Township. The terms and conditions for the provision of electric generation service by the selected supplier to all Participating Residential Accounts are set forth in the Master Performance Agreement (Attachment B1 of this RFP). The specific terms and conditions of electric generation service to Participating Business Accounts are set forth in the Master Performance Agreement and Form of Power Supply Agreement (Attachment B2 of this RFP).

It is the intent of the Lead Agency that, other than a reduced price for power supply, the switch from the BGS tariff to the third party supplier(s) be as seamless as possible. Importantly, the Lead Agency intends that

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<sup>1</sup> Residential electric accounts that are current being served by a Third Party Supplier are not initially eligible for inclusion in the MCEA Program.

participating customers receive a single bill from the utility for delivery service and electric generation service. ***As such, the winning supplier(s) shall bill customers on a utility consolidated billing basis. Moreover for those participating residential customers that currently have a budget billing arrangement with PSE&G, the Lead Agency requires that those participating residential customers be able continue these arrangements.***

The Lead Agency is accepting All-In Fixed Price bids for a twelve (12) month, eighteen (18) or twenty-four (24) month term, for Participating Residential Accounts. A single fixed bid price is being accepted for the Participating Residential Account bid group.

The Lead Agency is accepting All-In Fixed Price bids for a twelve (12) month, eighteen (18) or twenty-four (24) month term, for Participating Business Accounts. A single fixed bid price is being accepted for the Participating Business Account bid group.

If it makes a contract award the Lead Agency will only select a single supplier for each bid group. An award will not be made for the Participating Residential Accounts bid group unless the bid price submitted for the Participating Residential Accounts bid group by a supplier deemed qualified to provide the requested services will, in the discretion of the Lead Agency, provide sufficient savings relative to the applicable utility tariff rates. An award will not be made for the Participating Business Accounts bid group unless the bid price submitted for the Participating Business Accounts bid group by a supplier deemed qualified to provide the requested services will, in the discretion of the Lead Agency, provide sufficient savings relative to the applicable utility tariff rates. The specific process for evaluation of bids and award is set forth in more detail in Section H of this RFP.

Delivery of electric generation service procured as a result of this RFP shall begin for each participating account with the December 2013 meter read date (“MRD”) and shall extend for an initial term of twelve (12), eighteen (18) or twenty-four (24) consecutive billing months (the “Initial Term”). Under the terms of the MPA Participating Residential Accounts will be permitted to opt-out of the contract at any time, with a minimum of 30 days advance notice, consistent with the BPU Rules.

There is anticipated to be a certain amount of account turnover during the contract term due to residential customers moving. When a residential customer moves out of an existing dwelling, the account is closed out by the EDC and Electric Generation Service for that account will be closed out by the EDC. There will be no penalty assessed on such resident that has moved. The new resident moving into a dwelling will have a new account established by the EDC and not automatically be enrolled in the MCEA program by the EDC. The winning supplier will, in consultation with the Lead Agency and/or its agent, be permitted to periodically obtain from the EDC a list of new residential accounts in the Township not being served by a TPS, for purposes of sending the MCEA program opt-out notice to such accounts to start the process for potential enrollment of the new resident in the MCEA program for the remaining term of the MPA, consistent with the terms of the MPA and BPU Rules.

Participating Business Accounts are committed to remain enrolled in the program for the duration of the Initial Term. Additional business customers that “opt-in” to the MCEA program after the initial enrollment period may be added during the contract term, under the terms and conditions set forth in the MPA and power supply agreement applicable to business customers, upon mutual agreement between the Township and the selected supplier as to price, consistent with applicable BPU rules, including that the agreed-upon price will provide sufficient savings relative to the applicable utility tariff rates.

## **B. PARTICIPATING ACCOUNTS AND ACCOUNT INFORMATION**

There are 19 Participating Business Customers that have executed the “opt-in” form, representing approximately 26 electric accounts and approximately 650,000 kilowatt-hours (“kwh”) of annual usage that have opted in to the MCEA program and that are included in this RFP; however there are no Participating Municipal Accounts included in this RFP. Appendix A includes the customer name, account numbers (20-digit PODID number issued by PSE&G), twelve month usage history (when available) and assigned capacity and transmission obligations for the Participating Business Accounts that have signed an opt-in form.

As described above and as provided for in the BPU Rules, the list of specific residential accounts located in the Township of Montgomery that are eligible<sup>2</sup> for the MCEA Program, including name, address and account number, will be provided to the winning supplier by PSE&G within ten (10) days of the execution of the MPA. PSE&G has indicated to the Lead Agency that the total universe of eligible residential accounts (i.e., those not currently served by a TPS) in the Township of Montgomery consumes about 70 million Kwh annually.

Suppliers shall treat all customer information provided to them in connection with this RFP as confidential. Such information shall be used by Suppliers for the sole purpose of preparing a proposal in response to this RFP and, if Supplier is awarded a contract, to implement the government aggregation program.

Electronic versions of this bid package can be obtained by any licensed electric power supplier contacting Olivia Corkedale of Gabel Associates at [Olivia.Corkedale@gelassociates.com](mailto:Olivia.Corkedale@gelassociates.com).

## **C. RFP PROCESS**

This bid is being conducted via a two-stage process. During Phase 1, prospective bidders are required to submit a (non-binding) Notice of Intent to Bid, and certain qualifications documents and legal forms as specified in Section D of this RFP, and are also provided the opportunity to ask questions regarding these RFP documents including the form(s) of MPA, as set forth below.

### **PHASE 1 – QUALIFICATION STAGE, QUESTIONS AND ADDENDUM:**

#### ***Stage 1a:***

Form 1 in Appendix C of this RFP provides a form Notice of Intent to Bid (“NOI”). A completed NOI is a required qualification document. All BPU-licensed suppliers who submit a Notice of Intent to Bid will be put on the Bid Distribution List. The NOI is non-binding; in other words, while a completed NOI is required in order to be eligible to bid, the submission of a NOI does not impose a requirement on the part of a supplier to submit a bid. However, in order to be eligible to bid interested suppliers *must* submit a completed NOI by no later than 5:00 p.m. on August 21, 2013 (i.e., the deadline for submission of the balance of qualifications documents as set forth under Stage 1b below). Moreover, interested suppliers are encouraged to submit a completed NOI as soon as possible in order to be placed on the Bid Distribution List. The NOI may be submitted as follows:

Email: [Olivia.Corkedale@gelassociates.com](mailto:Olivia.Corkedale@gelassociates.com);

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<sup>2</sup> Eligible residential accounts consist of all residential accounts for dwellings located in the Township of Montgomery that are not currently being served by a TPS.

FAX: (732) 296-0799 attn: Olivia Corkedale; or  
Mail: Gabel Associates, c/o Olivia Corkedale, 417 Denison St., Highland Park, NJ 08904

***Stage 1b:***

Required documents and legal forms, otherwise referred to as Qualification Documents, are described in Section D of this RFP, and are provided in Appendix C of this RFP. All suppliers wishing to become qualified to bid must complete and submit all of the required documents and legal forms. The deadline for submission of these documents is 5:00 p.m. on August 21, 2013. Email transmission by the appointed deadline will be acceptable. However, hardcopy originals of all qualifications documents must be received by the energy agent within two (2) business days of the above deadline.

The Lead Agency and energy agent will review qualification document submissions and provide notification by August 27, 2013 of any deficiencies. Prospective suppliers will be given the opportunity to cure any identified deficiencies. The final deadline for submission of cured documentation is 5:00 p.m. on August 30, 2013.

All suppliers who have submitted Stage 1 qualification documents will be notified by no later than close of business September 3, 2013 whether they are deemed to be a Qualified Bidder and will be eligible to submit Stage 2 price bids.

The qualification documents may be submitted as follows:

Email: [Olivia.Corkedale@gelassociates.com](mailto:Olivia.Corkedale@gelassociates.com);  
FAX: (732) 296-0799 attn: Olivia Corkedale; or  
Mail: Gabel Associates, c/o Olivia Corkedale, 417 Denison St., Highland Park, NJ 08904

***Stage 1c:***

The Lead Agency will accept written questions and comments concerning these specifications, including the Master Performance Agreement. There will be an open period for questions, which will conclude at 5:00 p.m. on August 21, 2013. Written questions may be submitted as follows:

Email: [Olivia.Corkedale@gelassociates.com](mailto:Olivia.Corkedale@gelassociates.com);  
FAX: (732) 296-0799 attn: Olivia Corkedale; or  
Mail: Gabel Associates, c/o Olivia Corkedale, 417 Denison St., Highland Park, NJ 08904

The Lead Agency, through the energy agent, will answer all questions submitted in writing within a reasonable period of time through the issuance of addenda pursuant to the Local Public Contracts Law. All responses to any questions, along with any modifications to the RFP documents, will be included in a Notice of Addendum issued by the Lead Agency, through the energy agent, on August 26, 2013 via email (with return receipt) to all suppliers on the Bid Distribution list and also to other persons who are BPU-licensed electric power suppliers and who received an RFP package.

## PHASE 2 - SUBMISSION OF BID PRICES

In Phase 2 the Lead Agency will accept bid prices. Bid prices must be submitted on the Bid Price Form (standard form in Appendix E of this RFP) and must be accompanied by a Bid Transmittal Letter (standard form in Appendix D of this RFP, subject to any addenda that may be issued). **The deadline for bid submission is 2:00 p.m. prevailing time on September 5, 2013.** Bids must be submitted electronically, as described below. Bids received after the 2:00 p.m. deadline on bid day will be returned unopened.

Bid prices must include the cost to the supplier(s) of the Administrative Fee and the Energy Agent Fee. The Administrative Fee consists of reimbursable out-of-pocket MCEA Program expenses incurred by the Lead Agency, and recoverable pursuant to N.J.A.C. 14:4-6.8(d), in the amount of \$9,506.88 applicable to the Participating Residential Account bid group, and \$813.13 applicable to the business bid group<sup>3</sup>, payable to the Lead Agency in a lump-sum within 30 days of the execution of the respective MPAs in accordance with the terms of the MPA(s). The Energy Agent Fee of \$0.00095/kwh will be payable directly to Gabel Associates on a monthly or quarterly basis in accordance with the terms of an agent agreement to be executed between the winning supplier(s) and Gabel Associates.

Bid prices must also include 7% State Sales and Use Tax.

The Township Committee of the Township of Montgomery has a regularly-scheduled meeting at 7:00 p.m. on September 5, 2013, at which time it will vote on the award of a contract(s) to the selected MCEA supplier(s). Bid prices must be held firm until at least 11:00 a.m. on September 6, 2013. In the event, based upon the bids received, the Lead Agency determines to make a contract award(s), the energy agent will notify the winning bidder(s), and the Lead Agency will issue an Award Letter to winning bidder(s) via e-mail and facsimile, by no later than 11:00 a.m. on September 6, 2013. An Award Letter issued by the Lead Agency will be: a) a binding commitment on the part of the Township of Montgomery to execute the MPA(s) with the selected supplier(s); and b) will also represent the award of the right to serve all Participating Residential Accounts and/or Participating Business Accounts, as applicable.

If no award is made as a result of the bids submitted on September 5, 2013, the energy agent will notify all qualified suppliers of the next date that it will be accepting bids. The deadline for bid submission of refreshed bids will be 2:00 p.m. prevailing time on the designated bid day(s).

As indicated above, bidders must submit Stage 2 price bids electronically. Bids must be submitted on the Bid Price Forms set forth in Appendix F, and must be accompanied by a completed Transmittal Letter (Appendix D) executed by a person duly authorized to legally bind the Bidder (the "Authorized Representative").

Bidders must email the completed Bid Price Form (an MS Excel document) and a PDF version (.pdf) of the completed Transmittal Letter. The completed Bid Price Form and Transmittal Letter should be forwarded via email to: [bids-MCEA@gabelassociates.com](mailto:bids-MCEA@gabelassociates.com).

Prospective bidders with concerns about their ability to deliver their bid by email should coordinate with the

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<sup>3</sup> The amounts of \$9,506.88 and \$813.13 include the sum of out-of-pocket expenses already incurred and expected to be incurred by the Township in connection with the residential bid group and business bid group, respectively, for publication and postage of program announcements and legal fees. The amount of \$9,506.88 in connection with the residential bid group also includes estimated payment of \$750 to PSE&G as provided for in the EDC Agreement. A charge of up to \$750 by PSE&G for services rendered is permitted in the EDC Agreement; as of the date of the issuance of the RFP the Township has not yet been invoiced for any charges by PSE&G.

energy agent to send a test email BEFORE the date bids are received. Gabel Associates' Program Coordinator will send a "confirmation of receipt" email shortly after the deadline for delivery. If you do not receive a confirmation email, and you have submitted a bid, it is your responsibility to contact the energy agent to determine the status of your submission.

Bids received will not be opened until 2:00 p.m. Prevailing Time, on bid day.

The costs and expenses associated with the preparation of a Bid will be at the sole cost and expense of the Bidder. In no event will a Bidder have a claim against the Lead Agency, the energy agent or the MCEA Participating Customers for reimbursement of any such costs or expenses.

## **D. QUALIFICATION DOCUMENTS**

### **i. Pre-Bid Submittals**

The following documents must be submitted by a licensed electric power supplier by no later than 5:00 p.m. prevailing time on August 21, 2013 in order to be eligible to bid<sup>4</sup>. There will be a period for review by the Lead Agency and cure by suppliers, as described in Section C of this RFP.

Standard forms for documents that must be utilized, as set forth below, are provided in Appendix C of this RFP. The content of these forms, and all provisions and promises contained therein, shall be incorporated into this RFP as if fully stated herein.

- a. Notice of Intent to Bid (Appendix C Form 1)**
- b. Copy of New Jersey Business Registration Certificate**
- c. Copy of New Jersey Board of Public Utilities-Issued Electric Power Supplier License**
- d. Ownership Disclosure Statement (Appendix C Form 2) – must be notarized**
- e. Non-Collusion Affidavit (Appendix C Form 3) – must be notarized**
- f. Acknowledgement of Revisions and Notices (Appendix C Form 4)**
- g. One of the following three documents as forms of evidence of compliance with affirmative action requirements:**
  - (i) A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter);**
  - OR**
  - (ii) A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4;**

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<sup>4</sup> Prospective bidders may submit qualifications documents prior to the deadline set forth above. Prospective bidders are encouraged to submit the non-binding Notice of Intent to Bid as soon as possible in order that the energy agent obtains all pertinent contact information and places supplier on the Bid Distribution List as soon as possible.

OR

(iii) A photocopy of an Employee Information Report (Form AA302) completed by the winning Supplier in accordance with N.J.A.C. 17:27-4.

**h. Description of Prior, Relevant Experience on Project of Same or Larger Size and Scope, and Demonstration of Capabilities to Perform Requested Services, including:**

- i. General Overview of Industry Experience, including years as retail electric power supplier; states in which the firm offers retail electric power supply; number of customers and amount of load served; and trading desk capabilities;**
- ii. Description of Industry Experience specifically related to providing retail electric power supply to residential customers, including number of customers and amount of load served; and identifying in which states residential retail service is provided;**
- iii. Description of experience of firm specific to Government Energy Aggregation (“GEA”), including number of such GEA programs for which the firm is or has been the retail supplier and states in which GEA services have been provided;**
- iv. Provide references (municipal or county government preferred) for three retail power supply projects that are similar in scope, and equal or larger to in size, relative to the MCEA Program, including:
  - a. Reference Name, Title, Affiliation, address, phone number and email address,**
  - b. Identification of program name,**
  - c. Date(s) of Service, and**
  - d. Approximate Number of Customers Served;****
- v. Description of back-office capabilities and experience to provide requested services, including:
  - a. production of opt-out notice forms,**
  - b. distribution of opt-out notice forms,**
  - c. receipt, processing and logging of opt-out notice forms,**
  - d. timely enrollment of participating customers,**
  - e. capability to receive and answer customer inquiries, billing or service complaints via telephone, including multi-lingual capabilities,**
  - f. confirmation that supplier will offer budget billing (equal payment plan) for MCEA participants and, describe how supplier would establish monthly budget payment amounts, and**
  - g. issuance of timely invoice and interact with utility for consolidated billing;****
- vi. Discussion of any other capabilities, or insights into the logistical details of the implementation of Government Energy Aggregation programs not addressed in i. through v. above, that demonstrate the supplier’s experience, expertise and understanding of GEA and that the supplier believes demonstrate its qualifications for the services being requested.**

*If Bidder believes that any of the information being provided in response to item (f) above is proprietary in nature and that, if released to the public, may result in a compromise of intellectual property or similar hardship, it may stamp such information “Confidential.” The Lead Agency will withhold such information from disclosure, unless and until such time a*

*request has been made for the release of such information and the release of such information is required by law, including the Open Public Records Act.*

## **E. FORM OF MASTER PERFORMANCE AGREEMENT AND POWER SUPPLY AGREEMENT**

The form of Master Performance Agreement (“MPA”) is set forth in Appendix B. Appendix B1 constitutes the MPA applicable to the Participating Residential Account Bid Group, and Appendix B2 constitutes the MPA applicable to the Participating Business Account Bid Group.

The Master Performance Agreement applicable to the Participating Residential Account Bid Group sets forth rights and responsibilities of the selected supplier and the Lead Agency in connection with serving residential accounts under the MCEA Program, and also sets forth the terms and conditions for the provision of electric generation service by the selected supplier to each residential customer in the MCEA Program. The MPA will be executed between the Lead Agency (Montgomery Township) and the selected supplier.

The Master Performance Agreement applicable to the Participating Business Account Bid Group sets forth rights and responsibilities of the selected supplier and the Lead Agency in connection with serving business accounts under the MCEA Program, and includes as an attachment the form of supply contract to which the selected supplier and each business customer will be bound, and that sets forth the terms and conditions for the provision of electric generation service by the winning supplier to each participating business customer in the MCEA Program.

As described more fully in Section C of this RFP, during Phase I the Lead Agency will accept comments and questions concerning the form(s) of MPA set forth in Appendix B1 and B2. The Lead Agency will answer all questions to clarify the intent of the MPA as addenda, and, if it determines to make amendments to the MPA as a result of questions and comments received, it will include such amendments, if any, in its addendum to be issued on August 26, 2013.

The final Master Performance Agreement(s) (the form of contract in Appendix B1 and B2 and any amendments thereto issued via addendum) will be the form(s) of contract executed between the Lead Agency and the winning supplier.

Under New Jersey law, bids that include "material exceptions" to the MPA will be deemed unresponsive. There shall be no negotiation of terms and conditions subsequent to the submission of bids. The Lead Agency reserves the right to reject bids that are contingent upon modifications to the final MPA(s).

## **F. BILLING**

Billing shall be on a monthly basis, consistent with terms set forth in the MPA. Suppliers are to provide billing to MCEA Participating Customers on a consolidated billing basis. Payment terms will be in accordance with PSE&G’s practices. If the winning supplier is notified by PSE&G upon initial enrollment of an account that the account is not eligible for consolidated billing due to a credit hold or late payment history, the supplier is not required to continue with enrollment. If the winning supplier is notified by PSE&G during the contract term that an enrolled account has become ineligible for consolidated billing due to a credit hold late payment history, the supplier may drop the account and return it to the PSE&G Basic Generation Service tariff.

It is a requirement of the Township of Montgomery that residential customers who currently receive Basic Generation Service from PSE&G and that have a budget billing plan with PSE&G, be able to participate in the MCEA program and continue to receive a consolidated bill with levelized monthly charges for power supply charges. The Township therefore will require that the winning supplier for Participating Residential Accounts offer budget billing to such customers.

Based upon information provided by PSE&G, it is the Township’s understanding that approximately 740 of the Township’s non-TPS residents are currently on budget billing (so-called Equal Payment Plan or “EPP”) with PSE&G.

**G. BID GROUPS AND PRICING PRODUCTS**

**Bid Groups:**

The bid includes two bid groups. Bid Group 1 consists of all Participating Residential Accounts. Bid Group 2 consists of all Participating Business Accounts.

As described above, PSE&G has reported that there are approximately 6,400 residential electric accounts served within the geographic boundaries of the Township of Montgomery that are not currently served by a TPS, and therefore that are eligible to participate in the MCEA program. The breakdown of these residential accounts by rate class, as provided by PSE&G, is as follows: 6,263 customers in the RS tariff class, 23 customers in the RHS tariff class, 22 in the WH tariff class and 114 customers in the RLM tariff class. Taking into consideration current BGS-FP prices, only the RS and RLM tariff class residential customers will be included in the RFP; as such the pool of eligible residential customers is estimated to number about 6,375. The actual total number of Participating Residential Customers that will be initially enrolled by the selected supplier will determined by: 1) the number of such eligible residential customers that decide to “opt-out” of the program within the initial 30-day opt-out period; and 2) the number of eligible residential customers that are rejected for consolidated billing by PSE&G based upon credit or payment problems.

The following is the breakdown of Residential Accounts eligible for Bid Group 1 as provided by the EDC:

<b>Tariff Class</b>	<b># Accounts</b>	<b>Annual Usage (kwh)</b>
RS	6,263	67,829,711
RLM	114	2,257,672

Again, the actual number of Participating Residential Accounts will be dependent upon the number of opt-outs and the number of accounts rejected by the EDC for consolidated billing. The Lead Agency is soliciting a single bid price ( for each contract length) for all eligible residential accounts (RS, and RLM tariff classes) in Bid Group 1.

The Lead Agency is seeking a single bid price (for each contract length) for all Participating Business Accounts (all accounts fall under the GLP tariff class). The following is the breakdown of eligible Participating Business Accounts for Bid Group 2 as provided by the EDC:

Tariff Class	Number of Accounts	Annual Usage (kWh)
GLP	26	637,610

The Lead Agency will only select a single supplier for each Bid Group, as described further in Section H of this RFP.

Pricing Products:

The Lead Agency is requesting pricing on an “All-In, Fixed Price” basis, for a contract term commencing with the December 2013 MRD and expiring with the December 2014 MRD (12-month contract term), May 2014 MRD (18-month contract term) or the December 2015 MRD (24-month contract). The All-In, Fixed Price is defined as cents per kilowatt-hour for load-following energy supply, capacity, transmission, ancillary services, Line Losses, Renewable Portfolio Standards (“RPS”) compliance costs, Administrative Fee and Energy Agent Fee, supplier margin, and any other applicable taxes. The Fixed Price must include all costs necessary to provide Full Requirements service to Participating Residential Accounts on a per kilowatt-hour basis as applied to metered usage. For each Billing Period during the Contract Term, Supplier shall bill the customer for all kilowatt-hours used by the customer during the Billing Period at the Fixed Price. *Bid Prices must include the 7% New Jersey Sales and Use Tax.*

Bid Prices shall be exclusive of distribution charges and other charges imposed by PSE&G.

The Agreement will not be on a "take-or-pay" basis. Since it is impossible to determine the precise quantities of Full Requirements Service that will be needed during the term of the Agreement, the Supplier shall be obligated to furnish all of the participating accounts’ requirements during the term of the Agreement. Each participating account shall purchase Full Requirements Service equal to its full requirements for its accounts under contract from the Supplier at the Contract Price.

Pricing Forms

Appendix F contains the pricing forms for the MCEA bid groups<sup>5</sup>.

**H. SELECTION AND AWARD PROCESS**

Montgomery Township is the Lead Agency of the MCEA Program, and is authorized by virtue of its Ordinance No. 13-1434 adopted on April 4, 2013 to award a contract(s) for electric generation service on behalf of each Participating Residential Account and Participating Business Account. The energy agent will analyze the bids, and will make a recommendation to the Lead Agency with respect to whether to make a contract award(s). The

<sup>5</sup> Bid Price Forms will be distributed to Qualified Bidders in electronic format along with the August 26, 2013 addendum..

Lead Agency may make an award for one, both or neither bid group and, if so will select the supplier for each bid group that is most advantageous to the Participating Members, provided that the bid price(s) for the awarded bid group(s) are lower than the applicable PSE&G BGS tariff price(s) and make it feasible to award a contract to a third party supplier in the discretion of the Lead Agency.

Specifically, if the bid prices for one or more suppliers for the Participating Residential Accounts are not lower than the applicable PSE&G BGS tariff prices for Participating Residential Accounts, or the amount of savings for residential customers (i.e., the magnitude of the discount offered by the bid price relative to the BGS-FP tariff price) does not warrant the implementation of the program in the discretion of the Lead Agency, no award will be made for Bid Group 1. Otherwise, a contract will be awarded to the bidder that provides the most overall benefit for Township residents, determined as follows.

*Step 1:*

Lead Agency determines which, if any, of the suppliers that submitted Stage 1 qualifications information are qualified to provide the requested services, and ranks those suppliers deemed qualified based upon their overall qualifications.

*Step 2:*

If one or more suppliers deemed in Step 1 to be qualified to perform the requested services, submit a bid price for the Participating Residential Accounts bid group that is below the applicable BGS-FP tariff rate<sup>6</sup>, these bids will be ranked in order of savings, as follows:

Bidder 1 Savings = (BGS Tariff Price - Bid Price) x (Residential Bid Group Annual Usage in Kwh);

Bidder 2 Savings = (BGS Tariff Price - Bid Price) x (Residential Bid Group Annual Usage in Kwh);

etc.

*Step 3:*

If the Lead Agency determines based upon Step 2 calculations that one or more bids produce sufficient savings to residential customers to warrant the implementation of the program, an award will be made to one of those suppliers. All other bidders whose bids are determined to not provide sufficient savings for residential customers will be eliminated from further consideration. **If none of the bids assessed in Step 2 is determined by the Lead Agency to produce sufficient savings to residential customers to warrant the implementation of the program, then the Lead Agency will not proceed to Step 4, and no award will be made.**

*Step 4:*

Based upon: a) the qualification ranking in Step 1; 2) the total savings for Participating Residential Accounts determined in Step 2; 3) confirmation that the supplier(s) being considered are equipped and willing to offer budget billing for the power supply costs to residents that currently receive budget billing from PSE&G; and 4) the additional benefits, if any, offered by suppliers such as the offer to add additional customers during the contract term at the original Bid Price (see Section I), the Lead Agency will determine the supplier that provides the most overall benefit for the Participating Residential Customers, and will make an award to that supplier.

**BGS Tariff Price:**

All accounts included in this bid are eligible for and take electric generation service from the EDC under a Basic

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<sup>6</sup> The bid price must be calculated by the Lead Agency to be below the weighted average BGS tariff price for the entire Bid Group, and must also be below the average BGS-FP tariff price for each residential rate class within the bid group.

Generation Service – Fixed Price (BGS-FP) tariff. For purposes of the analysis described above, the BGS Tariff Price benchmark will be determined in the following manner:

*Residential Accounts:*

The BGS Tariff Price equals the weighted average BGS-FP Tariff Price for the contract period for each residential tariff class (RS, and RLM), which is calculated by applying individual price components of Basic Generation Service for the applicable tariff (inclusive of energy, generation capacity, ancillary services and related cost as well as Transmission Charges and all applicable Transmission surcharges) to the applicable billing determinants for each tariff class as broken down by season, energy block and time-of-use for each applicable tariff class, where applicable and consistent with the breakdown of Basic Generation Service charges, to develop an average annual BGS-FP tariff price for each residential rate class. For purposes of bid price evaluation, the Township will also consider the impact of estimated changes to BGS-FP tariff prices during the contract term<sup>7</sup>.

*Participating Business Accounts (Bid Group 2):*

If the bid prices for one or more bidders for the Participating Business Accounts are not lower than the applicable PSE&G BGS tariff prices for Participating Business Accounts, or the amount of savings for business customers (i.e., the magnitude of the discount offered by the bid price relative to the BGS-FP tariff price) do not warrant the implementation of the program in the discretion of the Lead Agency, no award will be made for Bid Group 2. Otherwise, a contract will be awarded to the bidder that provides the most overall benefit for Participating Business Accounts, determined as follows.

*Step 1:*

Lead Agency determines which, if any, of the suppliers that submitted Stage 1 qualifications information are qualified to provide the requested services, and ranks those suppliers deemed qualified based upon their overall qualifications.

*Step 2:*

If one or more suppliers deemed in Step 1 to be qualified to perform the requested services, submit a bid price(s) for the Participating Business Accounts bid group that is below the applicable BGS-FP tariff rate<sup>8</sup>, these bids will be ranked in order of savings, as follows:

Bidder 1 Savings = (BGS Tariff Price - Bid Price) x (Bid Group 2 Annual Usage in Kwh);  
Bidder 2 Savings = (BGS Tariff Price - Bid Price) x (Bid Group 2 Annual Usage in Kwh);  
etc.

*Step 3:*

If the Lead Agency determines based upon Step 2 calculations that one or more bids produce sufficient savings to Bid Group 2 customers to warrant the implementation of the program, an award will be made to one of those suppliers. All other bidders whose bids are determined to not provide sufficient savings for business customers will be eliminated from further consideration. **If none of the bids assessed in Step 2 is determined by the Lead Agency to produce sufficient savings to business customers to warrant the award of a contract, then the Lead Agency will not proceed to Step 4, and no award will be made.**

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<sup>7</sup> BGS-FP tariff prices are adjusted on June 1<sup>st</sup> of each year based upon the EDC's revised BGS portfolio cost.

<sup>8</sup> The bid price must be calculated by the Lead Agency to be below the weighted average BGS tariff price for the entire Bid Group.

*Step 4:*

Based upon: a) the qualification ranking in Step 1; 2) the total savings for Participating Business Accounts determined in Step 2; and 3) confirmation that the supplier being considered is equipped and willing to offer budget billing for the power supply costs to businesses that currently receive budget billing from PSE&G, the Lead Agency will determine the supplier that provides the most overall benefit for the Participating Business Customers, and will make an award to that supplier.

**BGS Tariff Price:**

All accounts included in this bid are eligible for and take electric generation service from the EDC under a Basic Generation Service – Fixed Price (BGS-FP) tariff. For purposes of the analysis described above, the BGS Tariff Price benchmark will be determined in the following manner:

*Business Accounts:*

The BGS Tariff Price equals the weighted average BGS-FP Tariff Price for the contract period for each tariff class in Bid Group 2 (GLP), which is calculated by applying individual price components of Basic Generation Service for the applicable tariff (inclusive of energy, generation capacity, ancillary services and related cost as well as Transmission Charges and all applicable Transmission surcharges) to the applicable billing determinants for each tariff class as broken down by season, energy block and time-of-use for each applicable tariff class, where applicable and consistent with the breakdown of Basic Generation Service charges, to develop an average annual BGS-FP tariff price for each business rate class. For purposes of bid price evaluation, the Township will also consider the impact of estimated changes to BGS-FP tariff prices during the contract term<sup>9</sup>.

Timing of Contract Award

The Township Committee of the Township of Montgomery has a regularly-scheduled meeting on the evening of September 5, 2013, at which time it will consider the proposals submitted in response to this RFP. Suppliers shall hold their bid prices firm until at least 11:00 a.m. on September 6, 2013. If the Lead Agency determines to make an award on behalf of Participating Residential Customers and/or Participating Business Customers, it will do so by resolution adopted on September 5, 2013. The resolution will authorize and direct the Mayor and Clerk to execute and issue a Notice of Award letter(s) to the winning supplier(s) by no later than 11:00 a.m. on September 6, 2013. The resolution will also authorize the Mayor and Clerk to execute the Master Performance Agreement(s) no later than September 6, 2013.

If the Lead Agency determines, based upon the price proposals received on September 5, 2013, that none of the proposals are in the best interest of the Participating Customers, proposals for such bid groups will be rejected and no contract award will be made. In such event the Lead Agency may accept refreshed price proposals on a date to-be-announced (such announcement to be issued no later than 10 business days prior to the date of acceptance of refreshed prices), and all Stage 1-qualified suppliers will receive notice thereof. Refreshed prices must be received by 2:00 p.m. on the announced bid refresh date, and must be held firm until at least 11:00 a.m. the following morning.

**I. EXECUTION OF MPA AND ENROLLMENT OF PARTICIPATING ACCOUNTS**

Execution of Master Performance Agreement

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<sup>9</sup> BGS-FP tariff prices are adjusted on June 1<sup>st</sup> of each year based upon the EDC's revised BGS portfolio cost.

The Lead Agency will execute three original copies of the final form of Master Performance Agreement(s) (“MPA”)<sup>10</sup> by close of business on September 6, 2013. Supplier(s) is encouraged to make arrangements to counter-sign the Agreement in-person. If not, original signed copies will be express mailed to the selected supplier and electronic versions will be emailed to the selected supplier. The selected supplier(s) shall counter-sign in-person at the Lead Agency’s offices, or return via email the counter-signed copy of the MPA, by no later than 4:00 p.m. on September 6, 2013. The Lead Agency will send notice to PSE&G of the identity of the selected supplier, in written, email and FAX form, before close of business on September 6, 2013.

#### Develop and Finalize Opt-Out Notice

The Lead Agency will work with the selected supplier for the Participating Residential Accounts Bid Group during the succeeding 10 days to utilize the form of “opt-out” notice posted by the BPU on its website and customize it to the particulars of the MCEA Program. The Notification Letter will include the logo of both the Township and the selected supplier, and will also include the following:

- Brief overview of MCEA Program,
- Price for power and estimated % savings vs. PSE&G BGS tariff,
- Contract start date and Term of the contract,
- Statement that customer has the right to opt-out within the 30-day opt-out period and the deadline for doing so,
- Summary of rights and responsibilities under the MPA, including
  - Right to opt-out at any time,
  - No exit fees, and
  - Obligation to make payments of utility bill on time,
- Instructions on how to opt-out, including toll-free phone number or return of signed opt-out form,
- Contact name, phone number and email address for inquiries, and
- Description of billing.

The postage-paid opt-out form must include the customer’s name and PSE&G account number and a signature line.

The selected supplier will be responsible to prepare for the dissemination of Notification Letter and opt-out forms, including reproduction of forms and mailing, in accordance with the schedule below.

#### Opt-Out Notice, Opt-Out Administration, and Enrollment of Participating Accounts

Pursuant to BPU Rules, within 10 days after the postmark on the notice to PSE&G of the identity of the selected supplier, the utility shall provide the Lead Agency with the name, address and account number for each residential customer located in the Township that is not already being served by a TPS (this shall be referred to as the “Eligible Residential Customer List”). As such, the Lead Agency expects to receive the customer-specific residential account information, in electronic format, by no later than the close of business on September 16, 2013<sup>11</sup>. This file will be reviewed by the Township and its energy agent in an

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<sup>10</sup> The final form of MPA will be the form of MPA attached to these bid specifications, subject to any Addenda and resultant MPA amendments that may be issued during the bid process – see Section K of this RFP for more details on the addenda process.

<sup>11</sup> This date, and subsequent target dates set forth in this subsection of the RFP, assume that an award is made by the Lead Agency via resolution dated September 5, 2013. If no award is made on September 5, 2013, and refreshed bid prices are accepted by the Lead Agency at a later date, all target dates set forth in this subsection of the RFP will be

attempt to identify any inconsistencies with municipal boundaries or other anomalies, and will thereafter be immediately provided to the selected supplier.

By no later than September 25, 2013 the selected supplier for the Participating Residential Accounts Bid Group shall have completed the mailing of opt-out notice forms to all residential customers on the Eligible Residential Customer List provided by PSE&G, such that all opt-out notice forms are post-marked by no later than September 25, 2013.

The selected supplier for the Participating Residential Accounts Bid Group will be required to have capabilities to field and answer questions regarding the opt-out notice forms via a toll-free telephone line, which will be listed on the notice. The selected supplier will provide a physical address where opt-out notice forms can be returned. The selected supplier shall accept, maintain and create an electronic log of all returned opt-out notice forms.

The initial 30-day opt-out period shall conclude on Friday, October 25, 2013, and the selected supplier for the Participating Residential Accounts Bid Group shall thereafter begin submitting electronic enrollment requests to PSE&G for all remaining residential customers (i.e., those that have not opted-out, otherwise referred to as Participating Residential Accounts), for service commencing with the December 2013 meter read date for each account. The selected supplier must pull the enrollment for any customers whose opt-out notice or request is received after Friday, October 25, 2013 as soon as practicable.

Provided that it takes all necessary enrollment steps in a timely manner (i.e., submits all enrollment requests by no later than October 30, 2013), Supplier shall not be responsible for errors or omissions of the EDC that result in a delay of enrollment of individual accounts. In the event that any of the account enrollments are rejected by the EDC, Supplier shall bring these rejections to the attention of the Lead Agency or its energy agent and shall work with the Lead Agency or its energy agent to resolve in as timely a manner as possible.

The Township will keep a record of residential customers, if any, that are on a TPS contract and that are therefore not included in the list of non-TPS customers provided by the EDC on or about September 16, 2013, but that submit a written request to the Township between the date of MPA execution and the end date of the opt-out period (i.e., October 25, 2013) that they wish to be included in the MCEA program. This list, which will include customer name, address and account number, will be provided to the selected supplier by no later than October 25, 2013. Such customers shall be included by selected supplier in the initial MCEA enrollment.

#### Supplemental Opt-Out Process New Participants

The selected supplier for the Participating Residential Accounts Bid Group will endeavor to identify, on a quarterly basis, a refreshed list of non-TPS residential customers in the Township (including new residential customers that move into a residence with a meter that was enrolled in the MCEA Program under the previous homeowner/resident, customers that move into a new home, or customers that have dropped their TPS supplier and returned to BGS supply since the initial program enrollment). Non-TPS customers that “opted-out” during the initial “opt-out” period shall be excluded from this list. The customers on these supplemental lists shall be included in supplemental “opt-out” rounds under one of two options. Supplier has the option, to be exercised at the time of bid submission, of either accepting new customers at the same contract price or offering a ‘refreshed price’ for these new accounts for the Township’s consideration. More specifically:

- 1) Same Price – customers receive a Notification Letter and opt-out card mailing and, unless they “opt-out”

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pushed back accordingly.

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- during the 30-day opt-out period, are enrolled, after the 30-day opt-out period, at the same contract price and terms and conditions for the remaining contract term; or
- 2) Option to Refresh – supplier offers a “refreshed price” for these accounts for the Township’s consideration. The Township may either accept or reject the offered “refreshed price,” consistent with applicable rules (specifically, N.J.A.C. 14:4-6.9). If the Township deems that the offered refresh price provides sufficient benefits to this supplemental group of customers consistent with the applicable rules, and accepts the refresh price, customers receive a Notification Letter and opt-out card mailing and, unless they “opt-out” during the 30-day opt-out period, are enrolled, after the 30-day opt-out period, at the refreshed price, and under the same terms and conditions as the original contract, for the remaining contract term.

On the Bid Price Forms bidders will be instructed to indicate whether they choose Option 1 (Same Price) or Option 2 (Option to Refresh) for pricing the quarterly batches of supplemental residential customers.

The Township will, with the assistance of the selected supplier, conduct supplemental outreach to educate residents on the supplemental opt-out process.

#### End of Contract Term

The selected supplier will “drop” all participating customers and return them to PSE&G effective at the end of the electric generation service term (i.e., December 2014 MRD for 12-month contract term, May 2015 MRD for 18-month contract term, or the December 2015 MRD for 24-month contract), unless the selected supplier is awarded a new contract, through a subsequent RFP process, to continue the provision of electric generation service to MCEA Participants after those dates.

### **J. GENERAL REQUIREMENTS OF ELECTRIC GENERATION SERVICE AND GOVERNMENT ENERGY AGGREGATION SERVICES**

The terms and conditions of service for Participating Residential Accounts will be set forth in the MPA executed between the Lead Agency and the selected supplier (form of MPA in Appendix B1).

The terms and conditions of service for Participating Business Accounts will be set forth in the MPA and accompanying form of supply contract (form of MPA in Appendix B2) executed between the Lead Agency and the selected supplier for the Participating Business Customer Bid Group<sup>12</sup>.

All quantities of Full Requirements Service for the Participating Customers under the MPA shall be considered firm and guaranteed for delivery by the Supplier to the Delivery Point(s) as defined in the MPA. The Supplier shall be liable for any and all fines, charges, penalties and other expenses assessed by the EDC to any Participating Customer for the failure of Supplier to provide Full Requirements Service pursuant to the MPA.

Supplier for the Participating Residential Accounts must have capability to provide customer care and government energy aggregation services as set forth in the MPA, for the scope of accounts and customers included in this RFP.

The Supplier shall comply with the mandatory Equal Employment Opportunity Language, Americans with

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<sup>12</sup> An Award Letter issued by the Township, awarding a contract to a supplier for Bid Group 2, will constitute, pursuant to Ordinance No. 13-1434 as well as the opt-in forms signed by each business customers, a binding contractual commitment on the part of each such business customer.

Disabilities Act language and Business Registration and Sales and Use Tax Requirements set forth in Appendix F, G and H, respectively, attached to this RFP and incorporated herein as if fully restated.

The Supplier is also advised of the responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c.271, §3) if the Supplier receives contracts in excess of \$50,000 from public entities in a calendar year. It is the Supplier's responsibility to determine if filing is necessary. Additional information on this requirement is available from ELEC at (888) 313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

#### **K. CLARIFICATION OR MODIFICATION OF REQUEST FOR PROPOSALS**

As described in Section C of this RFP, Suppliers may submit questions or comments with respect to these RFP documents, including the form(s) of Master Performance Agreement in Appendix B1 and B2. All such questions or comments shall be submitted via email to [Olivia.Corkedale@gabelassociates.com](mailto:Olivia.Corkedale@gabelassociates.com), and must be submitted by **no later than 5:00 p.m. on August 21, 2013** but submission of questions earlier than that deadline is encouraged to afford additional time for preparation, distribution and review of responses. All questions, comments and responses thereto will be provided to all persons on the Bid Distribution List, consistent with the Local Public Contracts Law. The Lead Agency does reserve the right to supplement or modify this RFP by issuing one or more addenda in accordance with the Local Public Contract Law. A comprehensive Notice of Addendum will be distributed via email (with return receipt) on August 26, 2013 to all suppliers on the Bid Distribution List and any other person who is a BPU-licensed supplier and who has received an RFP package.

Each Bidder is required to acknowledge receipt of all addenda at the time of submission of its Bid by submitting an executed Transmittal Letter. All responses to this RFP shall be prepared with full consideration of the addenda issued.

#### **L. PAYMENT OF ADMINISTRATIVE FEE AND ENERGY AGENT FEE**

As indicated in Section C of this RFP, Bid Prices for the residential bid group and the business bid group must include the cost to reimburse the Lead Agency for its out-of-pocket expenses related to the MCEA Program, recoverable pursuant to N.J.A.C. 14:4-6.8(d), referred to as Administrative Fee. An Administrative Fee in the amount of \$9,506.88 shall be included in the residential bid group Bid Prices, and an Administrative Fee in the amount of \$813.13 shall be included in the business bid group Bid Prices.

All Bid Prices (for both Bid Groups) must also include the Energy Agent Fee of \$0.00095/kwh. As such, the Contract Price (\$/Kwh) charged by the selected supplier(s) to Participating Residential and Business Accounts, and the payments received by the selected supplier from all of these participating customers, include these costs.

Within thirty (30) days of the execution of the MPA, the selected supplier for the residential Bid Group shall remit payment of the Administrative Fee to the Lead Agency in the amount of \$9,506.88, and the selected supplier for the business Bid Group shall remit payment of the Administrative Fee to the Lead Agency in the amount of \$813.13.

Beginning on or about February 1, 2014, and monthly or quarterly (as agreed to by the Energy Agent and the supplier) thereafter, the selected supplier shall remit to the energy agent (Gabel Associates) a payment equal to the amount of Energy Agent Fees collected (equal to Kwh sales to participating customers billed and paid x Energy Agent Fee of \$0.00095/kwh).

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