

Nancy Meyers

From: Nancy Meyers
Sent: Monday, April 29, 2013 11:41 AM
To: Nancy Meyers
Cc: Geraldine M. Stout
Subject: TIME SENSITIVE - ADDENDUM #1 - REQUEST FOR QUOTATION - Jabra GN9350e Wireless Headsets and Adapters
Attachments: Affirmative Action Supplement form (#1).pdf; AA302 Rev11_11 & Instructions (#2 & 3).pdf; AA Cert of Employee Inform Report (Sample) (#4).pdf; AA Federal Lttr (Sample) (#5).pdf; Disclosure of Investment Activities in Iran (#6).pdf; Ownership Disclosure form (#7 - #7.1).pdf; NJEDA-RFB Standard Terms - Conditions Rev 05 (10-22-12).pdf; .ATTACHMENT A.docx
Importance: High
Tracking:

Recipient	Delivery
Nancy Meyers	Delivered: 4/29/2013 11:41 AM
Geraldine M. Stout	Delivered: 4/29/2013 11:41 AM
'joanne@mrainternational.com'	
'lhockenbury@eplus.com'	
'loretta.kushner@dyntek.com'	
'john_minnella@shi.com'	
'jeboch@integra1.com'	
'jeboch@integra1.net'	
'jeboch@integra1.net'	
'sbennett@promedianj.com'	
'Joseph Guarracino'	
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'kathdor@cdw.com'	

ADDENDUM #1

This Addendum #1 is issued to **CHANGE THE DUE DATE** for receipt of Bids from Monday, April 29, 2013, at 12 :00 a.m. (EST)

to

Wednesday, May 1, 2013 at 9:00 a.m. (EST).

If you have already submitted your Bid and wish to withdraw and resubmit it; you shall request to do so, via email to nmeyers@njeda.com before the revised Due Date and time of Wednesday, May 1, 2013.

Bidders shall note that if you withdraw your bid; you MUST RESUBMIT before the amended Due Date and time indicated above (i.e., May 1st at 9:00 a.m. (EST)).

The original Bid submission shall not be considered only if you withdraw your Bid and fail to resubmit a Bid by the due date and time indicated in this Addendum #1, as there shall only be one (1) submittal per Bidder.

Nancy C. Meyers
Procurement Officer
Internal Process Management Department
New Jersey Economic Development Authority (NJEDA)
P.O. Box 990
Trenton, New Jersey 08625-0990
(609) 858-6714
(609) 278-4767 (fax)
nmeyers@njeda.com

For more information about NJEDA's products and services please visit us on the web at www.njeda.com

REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)

Dear Prospective Bidder,

For your review and consideration, please provide a Request for Quotation for the following items:

Qty	Item Number	Description	Requested IN- HOUSE Due Date	VENDOR CONFIRMED IN- HOUSE Due Date	Unit Price	Extended Price
10	#GN9350e	Jabra Wireless Headset	5/3/2013			
16	#14201-16	Jabra Line Adapter	5/3/2013			

- **IN-HOUSE DUE DATE: Friday, May 3, 2013**
Vendor must use a shipping method that will ensure all goods are received by the deadline.
- **FOB: Destination / Inside Delivery**
- **Bidders must specify and quote the brand indicated above** (or an Authority approved equivalent). If the Bidder is offering alternate product to that which is specified, it is the Bidder's responsibility to provide detailed specifications, as well as brand, make and model information for the proposed alternate product **with the quote**. This information (i.e. product literature, brochures, etc.) must be marked to indicate those product specifications which differ from that of the specified item listed in this request for quote. The literature and product brochures must contain sufficient information to demonstrate that the proposed alternate being offered is equal to or superior to the product specified herein. The Authority, in its sole discretion, shall determine whether an alternate brand is acceptable.
- Bidders **shall indicate a unit and extended price for each of the above items, as well as a Confirmed IN-HOUSE Due Date.**
- **Prices shall include delivery and be quoted FOB: Delivered / Inside Delivery. The Bidder shall not indicate separate shipping charges on its bid quotation. Freight / shipping charges shall be amortized into the unit price for the items indicated.**
- Bids which include separate shipping / freight charges will be deemed non-responsive and will not be reviewed.
- As an instrumentality of the State of New Jersey, **the New Jersey Economic Development Authority is tax exempt.**

- The New Jersey Economic Development Authority's Standard Terms and Conditions (attached) shall apply to all orders. Bidders shall not submit its separate terms and conditions with the bid, as these will not be considered.

BIDS SHALL BE SUBMITTED no later than 12:00 PM (EST) on Monday, April 29th, 2013, via e-mail to nmeyers@njeda.com. Your quote must be received by this deadline in order to be considered.

PLEASE NOTE: This is not an order. This is a request for quote only.

Please be advised that in order to comply with State regulations, the successful Bidder will be required to complete/submit compliance documents as required by law for this purchase. In the interest of time, the Bidder is requested to complete and submit the following compliance documents with the bid response. A copy of each compliance form is attached for your use.

1. **Affirmative Action verification –One (1)** of the following forms must be submitted (samples of which attached) (**#1**):
 - Form AA302 Employee Information Report (**#2**) ; (This form is one that can be completed; instructions provided on sheet **#3**; or
 - Certificate of Employee Information Report (**#4**); or
 - U.S. Department of Labor Federal Letter of Approval (**#5**)
2. **New Jersey Business Registration Certificate (BRC)** (This form can be accessed on Division of Revenue's website):
 - On-line Business Registration Certificate Service at:
https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp
3. **Disclosure of Investment in Activities in Iran (#6)** (please complete and return per the instructions given);
4. **Ownership Disclosure Form (#7, #7.1)** (please complete and return per the instructions given).

Should you have any questions, please do not hesitate to contact me at nmeyers@njeda.com. I will be out of the office tomorrow (Friday). Should you have any questions in my absence, please contact Geraldine Stout at gstout@njeda.com.

Thank you for your anticipated prompt attention to this matter.

Nancy C. Meyers
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Nancy Meyers

From: Nancy Meyers
Sent: Thursday, April 25, 2013 2:45 PM
To: Nancy Meyers
Cc: Geraldine M. Stout
Subject: REQUEST FOR QUOTATION - Jabra GN9350e Wireless Headsets and Adapters
Attachments: Affirmative Action Supplement form (#1).pdf; AA302 Rev11_11 & Instructions (#2 & 3).pdf; AA Cert of Employee Inform Report (Sample) (#4).pdf; AA Federal Lttr (Sample) (#5).pdf; Disclosure of Investment Activities in Iran (#6).pdf; Ownership Disclosure form (#7 - #7.1).pdf; NJEDA-RFB Standard Terms - Conditions Rev 05 (10-22-12).pdf; ATTACHMENT A.docx

Importance: High

Tracking:

Recipient

Nancy Meyers

Geraldine M. Stout

'joanne@mrainternational.com'

'lhockenbury@eplus.com'

'loretta.kushner@dyntek.com'

'john_minnella@shi.com'

'jeboch@integral1.com'

'jboch@integral.net'

'sbennett@promedianj.com'

'Joseph Guarracino'

'frost@atp-us.com'

'dbird@quatro.com'

'bweaver@vology.com'

'kathdor@cdw.com'

Delivery

Delivered: 4/25/2013 2:45 PM

Delivered: 4/25/2013 2:45 PM

REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)

Dear Prospective Bidder,

For your review and consideration, please provide a Request for Quotation for the following items:

Qty	Item Number	Description	Requested IN- HOUSE Due Date	VENDOR CONFIRMED IN- HOUSE Due Date	Unit Price	Extended Price
10	#GN9350e	Jabra Wireless Headset	5/3/2013			
16	#14201-16	Jabra Line Adapter	5/3/2013			

- **IN-HOUSE DUE DATE: Friday, May 3, 2013**
Vendor must use a shipping method that will ensure all goods are received by the deadline.
- **FOB: Destination / Inside Delivery**

- **Bidders must specify and quote the brand indicated above** (or an Authority approved equivalent). If the Bidder is offering alternate product to that which is specified, it is the Bidder's responsibility to provide detailed specifications, as well as brand, make and model information for the proposed alternate product with the quote. This information (i.e. product literature, brochures, etc.) must be marked to indicate those product specifications which differ from that of the specified item listed in this request for quote. The literature and product brochures must contain sufficient information to demonstrate that the proposed alternate being offered is equal to or superior to the product specified herein. The Authority, in its sole discretion, shall determine whether an alternate brand is acceptable.
- Bidders shall indicate a unit and extended price for each of the above items, as well as a Confirmed IN-HOUSE Due Date.
- Prices shall include delivery and be quoted FOB: Delivered / Inside Delivery. The Bidder shall not indicate separate shipping charges on its bid quotation. Freight / shipping charges shall be amortized into the unit price for the items indicated.
- Bids which include separate shipping / freight charges will be deemed non-responsive and will not be reviewed.
- As an instrumentality of the State of New Jersey, the New Jersey Economic Development Authority is tax exempt.
- The New Jersey Economic Development Authority's Standard Terms and Conditions (attached) shall apply to all orders. Bidders shall not submit its separate terms and conditions with the bid, as these will not be considered.

BIDS SHALL BE SUBMITTED no later than 12:00 PM (EST) on Monday, April 29th, 2013, via e-mail to nmeyers@njeda.com. Your quote must be received by this deadline in order to be considered.

PLEASE NOTE: This is not an order. This is a request for quote only.

Please be advised that in order to comply with State regulations, the successful Bidder will be required to complete/submit compliance documents as required by law for this purchase. In the interest of time, the Bidder is requested to complete and submit the following compliance documents with the bid response. A copy of each compliance form is attached for your use.

1. **Affirmative Action verification –One (1)** of the following forms must be submitted (samples of which attached) (**#1**):
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 - On-line Business Registration Certificate Service at:
https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp
3. **Disclosure of Investment in Activities in Iran (#6)** (please complete and return per the instructions given);
4. **Ownership Disclosure Form (#7, #7.1)** (please complete and return per the instructions given).

Should you have any questions, please do not hesitate to contact me at nmeyers@njeda.com. I will be out of the office tomorrow (Friday). Should you have any questions in my absence, please contact Geraldine Stout at gstout@njeda.com.

Thank you for your anticipated prompt attention to this matter.

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New Jersey Economic Development Authority Standard Terms and Conditions

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STANDARD TERMS and CONDITIONS:

GENERAL:

1. Unless specifically instructed otherwise in the *Request for Bids (RFB)*, the following terms and conditions will apply to all contracts or purchase agreements made with the New Jersey Economic Development Authority (hereafter, the "Authority"). These terms are in addition to the terms and conditions set forth in the *Request for Bids (RFB)* and should be read in conjunction with same, unless the *RFB* specifically indicates otherwise. If a Bidder proposes changes or modifications or takes exception to any of the Authority's terms and conditions, the Bidder must so state specifically in writing in its bid response. Any proposed change, modification or exception in the Authority's terms and conditions by a Bidder will be a factor in the determination of an award of a contractor purchase agreement. The Authority is under no obligation to consider or accept any exception taken to these terms and conditions.
2. All of the Authority's terms and conditions, as specified in the *Request for Bids* document and as contained herein, will become a part of any contract(s) or purchase order(s) awarded as a result of the *Request for Bids*, whether stated in part, in summary or by reference. In the event the Bidder's terms and conditions conflict with those of the Authority, the Authority's terms and conditions shall prevail, unless the Bidder is notified in writing of the Authority's acceptance of the Bidder's terms and conditions.
3. The statutes, laws or codes cited are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.
4. If awarded a contract or purchase agreement, the successful Bidder's ("Vendor") status shall be that of any independent principal and not as an employee of the New Jersey Economic Development Authority or the State of New Jersey.
5. **UNAUTHORIZED / NON-CONTRACTED ITEMS PURCHASED** -The Authority is authorized to order, and the Vendor is authorized to ship, only those items covered by the contract. If a review of orders placed by the Authority reveals that material other than that covered by the contract has been ordered and delivered, the Director – Internal Process Management will take such steps as are necessary to have the material returned regardless of the time elapsed between the date of delivery and discovery of the violation. The Vendor shall be required to issue full credit for the non-approved / non-contracted items ordered and delivered against the resulting contract.

BID PREPARATION:

6. **BID SUBMISSION** - Bids must be submitted in ink or typewritten on the *RFB* form ("*Bid Quotation*" form) provided, signed and returned in a sealed envelope addressed to the New Jersey Economic Development Authority ("Authority") with bid identification number, due date and time indicated on the outside of the envelope. If, in the interest of time, the Authority indicates that it will accept a quotation / proposal response submitted via e-mail, it will be so indicated on the *Request for Bids* or *Request for Proposal* form. Bidders shall state a unit price on the "*Bid Quotation*" form, for each item, and extend such unit price by multiplying same by the indicated quantities on the *RFB* form solicitation issued by the Authority.

Bidders are permitted to submit partial bids, unless specifically instructed otherwise in the *RFB* specifications. If the Bidder is not providing a quote for an item, the words "*No Bid*" are to be inserted on the "*Bid Quotation*" form in the "*Total*" column for the given item.

7. **DUE DATE and TIME** - All bids must be received by the New Jersey Economic Development Authority's front receptionist desk or via e-mail, if so permitted by the *Request for Bids / Request for Proposal* form, at or before the date and time specified on the *RFB* form. Bids received after the time indicated shall be rejected and returned to the Bidder unopened. The Authority will not be responsible for late postal or delivery service nor will the postmark date be considered in honoring bid receipt date and time.
8. **BID ERRORS** – In the event of inconsistencies or errors in the unit price quoted or extended total price (i.e. unit price multiplied by the estimated quantity) calculated by the Bidder, the unit price will prevail.
9. **CORRECTIONS** - Any correction of any entry made on the *RFB* form, should be initialed by the duly authorized representative of the Bidder who prepared and signed the "*Bid Quotation Form*". Regarding bids submitted via e-mail, Bidders must notify the Authority of any known errors, PRIOR to the due date and time for the receipt of bids. If the Bidder identifies an error in its bid after the receipt and opening of bids, the Authority will be under no obligation to reconsider its award, based on the Bidder's corrected price.

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10. **BID PRICES** - All prices quoted shall be firm and not subject to increase during the term of the contract or any extension thereto, unless specifically otherwise stated in the *RFB* language. In the event of a manufacturer's or Vendor's price decrease during the contract period, the Authority shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director - Internal Process Management must be notified, in writing, of any price reduction within five (5) business days of the effective date.

Failure to report price reductions may result in cancellation of contract by the Authority, for cause.

11. **ALTERATIONS / WITHDRAWALS** - Bidders may withdraw, or withdraw and resubmit bids, at any time prior to the public opening, or in the case of e-mailed bids, as of the due date and time, but not thereafter. Bids may be withdrawn only upon written request received by the Director - Internal Process Management, prior to the date and time for receipt of bids or the public opening. The written withdrawal request must be signed by a duly authorized representative of the bidding entity. In the event the Bidder withdraws its bid proposal in person, a business card and proper identification must be presented. Bids so withdrawn will be returned to the Bidder unopened.

DELIVERY REQUIREMENTS:

12. **FOB / DELIVERY COSTS** - Prices shall be quoted FOB: Destination / Inside Delivery or FOB: Destination / Spotted Delivery, as required, to the site(s) designated by the Authority in the *Request for Bids* documents. The Authority does not have access to dock-level loading, nor can it accept palletized deliveries. Bidders must consider the costs and logistics (i.e. labor and equipment) required to deliver goods, as ordered. All delivery charges shall be borne by the Vendor. The successful Bidder ("Vendor") shall assume all costs, liability and responsibility for the delivery of merchandise in first class condition, to the Authority's respective location(s) or designated purchaser(s), and in accordance with good commercial practices.

No additional charges will be accepted for any additional freight / delivery costs associated with partial shipments made at the Vendor's convenience, when a single shipment is ordered by the Authority. The quantity count or weight as determined by the Authority's using location / delegated purchaser receiving the shipment, shall govern.

Bid quotations submitted indicating delivery charges to be borne by the Authority will not be considered. Bids submitted on an F.O.B. Destination / Inside Spotted Delivery basis are mandatory. In the event, however, in instances where customs of the trade or unusual circumstances dictate F.O.B. Origin / Shipping Point, the Bidder must indicate an estimate of the shipping charges in the bid, in the section: Bidders are encouraged to address this issue during the "Questions and Answers" period provided for in the Request for Bids language.

The decision to accept a change to the Authority's FOB: Destination requirements shall be at the sole discretion of the Authority's Director - Internal Process Management. In such instances, the Vendor will prepay the actual shipping charges and add same to the invoice. A copy of the original invoice from the shipper must be included with the Vendor's invoice to the Authority.

13. **DELIVERY DATE** - The Bidder must indicate on the "Bid Quotation" form, in the area entitled "Delivery Date" a FIRM delivery date to deliver the goods / services required. This firm delivery date shall be stated in DAYS and shall represent the number of days required to deliver said goods (regardless of quantity) / provide said services, following receipt of an order from the Authority. Bidders should note that the "Delivery Date is not a ship date but an in-house date. Statements such as "stock" or "immediate" are not acceptable. In the event the *RFB* specifies delivery within a specific time period, the Bidder shall indicate on the "Bid Quotation" form, in the section "Delivery", whether delivery will be made within the time specified by indicating the number of days required to deliver the good(s) / provide the specified service(s).
14. **DELIVERY INTERVALS** - Deliveries shall be made at such time(s) and in such quantities as ordered by the Authority and in strict accordance with conditions stated in the *RFB*. Deliveries may be made as required by the Authority or based on a predetermined, scheduled basis as arranged between the Authority and the Vendor. It shall be the responsibility of the Vendor to maintain an adequate stock of supply to meet the Authority's delivery requirements.
15. **FAILURE to DELIVER** - In the event delivery is not made within the number of days specified in the Vendor's bid or as stipulated by the Authority in the *RFB* language, the Authority may purchase the required material(s) from any available source. It shall be at the Authority's sole discretion whether or not to cancel the contract for non-performance if the Authority is forced to alternate source and secure the required goods / services from an alternate source. If cancelled for non-performance such as but not limited to late delivery, non-delivery, quality issues, etc., the Authority will have no obligation accept delivery of the goods / service at a later date, nor will it consider a restocking fee or cancellation fee.

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SUBSTITUTIONS / ALTERNATES:

16. **PROVIDED AS SPECIFIED** – All items provided against the resulting contract must be in strict accordance with those bid upon. **No substitutions may be provided following the award of a contract or purchase order.**
17. **INSPECTION** - All work performed and goods / products furnished, as a result of this *Request for Bids* solicitation, shall be subject to inspection, testing and rejection by the Authority, or its designated representatives, at all times and places, both during manufacture and upon delivery of same at the specified destination. Any rejected goods or materials shall be returned at the Vendor's risk and expense. All inspection, handling and transportation charges, to and from the Authority's delivery site, are the financial responsibility of the Vendor.
18. **ALTERNATES** - All items are to be quoted as specified or as an "approved equivalent". In those cases when an alternate product is offered, it is the Bidder's responsibility to provide in the RFB response detailed information indicating the brand, make and model of the alternate product offered, as well as detailed specifications and a brochure / engineering blueprints marked to indicate the proposed vs. specified features of the product(s). In the event a Bidder fails to take exception to the published bid specifications, the Authority shall evaluate the bid as offering the specified product / service. The Authority shall determine, at its sole discretion, if an alternate product offered is acceptable as "approved equivalent".

In the event the Authority specifies a model number that has been replaced by another model number or item, the Bidder may quote the replacement item as an alternate. In this case, the Bidder must specify the manufacturer and model number of the replacement item on the "Bid Quotation" form and must supply detailed specification information marked to indicate the difference between the proposed vs. specified products specifications. The Authority will evaluate the item as "an approved equivalent".

PAYMENT:

19. **PAYMENT TERMS** - The Authority issues prompt payment to Vendors upon receipt of an original invoice, following receipt of and acceptance of goods by the Authority's employee or designated representative. The Bidder shall state the terms, if any, to be extended to the Authority for payment made within a certain period of time after receipt of the Vendor's invoice.

The Vendor's original invoice, the original *bill of lading* and any other related documentation as may be required by the Authority, must be presented to the Authority-employee or designated representative for signature, on the date of each delivery. The using division / department shall be responsible for requesting and approving payment be made to the Vendor, after determining that the Vendor has performed / supplied in a proper and satisfactory manner, in accordance with the terms and conditions of the award / purchase. Payment will not be made until the using division / department has approved payment.
20. **CASH DISCOUNTS** - Bidders are encouraged to offer cash discounts based on expedited payment by the Authority. The Authority will make efforts to take advantage of discounts, however, payment discounts will not be considered in determining the lowest, responsive bid. Discount periods shall be calculated as of the next business day following the receipt of and acceptance of the goods or services, as indicated on a properly signed and executed form and, if applicable, a properly executed performance security, if applicable, whichever is latest.

The date appearing on the check issued by the Authority in payment for said goods or services shall be deemed the date of the Authority's response to the discount period.
21. **C.O.D. TERMS** - "Cash on Delivery" (C.O.D.) terms shall not be considered by the Authority. Bids stating COD terms will not be considered and will be subject to rejection.
22. **C.I.A. TERMS** - "Cash in Advance" (C.I.A.) terms (i.e. partial or full payment) will not be considered by the Authority. Bids stating CIA terms will not be considered and will be subject to rejection.
23. **TAX CHARGES** - As an instrumentality of the State of New Jersey, the New Jersey Economic Development Authority is exempt from State sales or use taxes and Federal excise taxes. Bid quotation prices must not include such taxes. The Authority's Federal Tax Exemption number is 22-2045817.

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QUALITY:

24. **QUALIFICATION and PERFORMANCE GUARANTEE of BIDDER** – By submitting a bid, the Bidder represents and warrants that: the equipment / products offered is standard, new equipment, is the latest model of regular stock product, with parts regularly used commercially available on the open market for the type of equipment offered, that such parts are all currently in production and not likely to be discontinued. The Bidder further warrants that no attachment or part has been substituted or applied, contrary to the manufacturer's recommendations and standard practice. All equipment supplied to the Authority which operates on electrical current must be UL listed, where applicable.

All new equipment shall be unconditionally guaranteed for a period of one (1) year from date time of acceptance by the Authority, unless otherwise specified in the Bidder's "Bid Quotation" response document. Bids indicating an unconditional warranty period less than the one (1) year period will be considered non-responsive. If upon reviewing bids, it is determined that all Bidders failed to meet this warranty requirement (i.e. it is industry practice not to provide an unconditional one (1) year warranty), then the Authority, in its sole discretion, may determine that it is reasonable based on industry practice, to waive this requirement. As such, all bids will be evaluated as though this requirement had not been stated in the *Request for Bids*. If the Bidder is offering a warranty period greater than the one (1) year period, it should indicate such in its bid quote. Items such as extended warranties have a beneficial financial impact to the Authority (i.e. less maintenance, repair or replacement) and as such, will be considered in evaluating bids and determining the lowest, responsive Bidder.

Prompt service and if necessary, replacement, of product / equipment will be rendered without charge during this warranty period, regardless of geographic location of the product. The Bidder will maintain at its facility, at an authorized distributorship or at a manufacturer's authorized service headquarters, sufficient quantities of parts necessary for proper service to said equipment.

In the event repair / service is necessary, the Bidder warrants that authorized trained mechanics / technicians are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate. This service will be made no later than forty-eight (48) hours from contact by the Authority that such service is required or within the time interval accepted as industry practice. During the warranty period, the Vendor shall immediately replace any material / service which is rejected for failure to meet the requirements of the contract. All services rendered to the Authority shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval is given by the Authority's employee or its designated representative.

25. **NON-CONFORMING DELIVERIES / REJECTED MATERIAL / SERVICES** – Following award of the contract, should the result of any tests or inspections fail to meet the requirements of the Authority, the material / service shall be rejected and immediately replaced by the Vendor. The Vendor shall bear any and all costs associated with the delay caused by failure of the Vendor to meet, test or inspect said goods / products to acceptable standards as required in the *RFB*. The Authority, in its sole discretion, reserves the right to require new materials be used or provided rather than re-working existing materials. In the event of such a rejection, the Vendor shall immediately replace such goods / products within twenty-four (24) hours but no later than forty-eight (48) hours, or as the Authority may require.

In the event a service provided is found to be substandard / unacceptable, the Vendor shall immediately take measures to correct the non-conforming services provided. These measures shall be corrected and replacement services provided within twenty-four (24) hours but no later than forty-eight (48) hours, or as the Authority may require. Any additional costs, such as overtime or additional materials required and used, shall be the sole responsibility of the Vendor. The Authority, in its sole discretion, reserves the right to require new materials be used / provided rather than re-working existing materials used in the performance of the service.

Any additional costs incurred by the Authority as a result of non-conforming goods / services (i.e. the need for overtime) may be deducted from the Vendor's invoice.

26. **TESTING / SAMPLES** – The Authority reserves the right to have the material(s) referenced in the Bidder's "Bid Quotation" form response tested prior to award of a contract / purchase order during the term of the contract and any extensions thereto. Testing shall be performed by an independent testing laboratory or other testing as the Authority may deem appropriate, to determine if the material(s) meets the specifications published in the *Request for Bids*. If required, the low Bidder shall submit a reasonable quantity of the exact product(s) to be supplied, as no-charge samples within five (5) business days of the Authority's request to do so, for such testing purposes. Failure to provide the samples may result in rejection of the vendor's bid for the specific item for which no sample(s) were submitted.

If these samples prove satisfactory and meet the published specifications of the *RFB*, the contract will be awarded. If they do not prove satisfactory, the test shall be performed on the next low Bidder's sample(s), until satisfactory products are found to meet requirements of the bid specifications. Following the award of a contract / purchase order, in the event the independent laboratory or other testing as the Authority deems appropriate, finds that a shipment does not meet the

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published specifications of the RFB, the Authority shall have the right to reject same. Should the Authority for any reason decide to accept any shipment, which fails to meet the published specifications, the Authority may make an appropriate price adjustment to the Vendor's invoice, with regard to same.

AWARD / SCOPE:

27. **SCOPE / AMOUNT** – Unless otherwise indicated, the total quantities indicated in this *Request for Bids* and subsequent contract award, are **estimates of the Authority's anticipated requirements** for these goods / services. **There is no guarantee of any minimum or maximum quantities to be purchased and the Vendor shall provide, as required.** It is understood and agreed that contract prices shall cover the quantities actually required and ordered by the Authority during the term of the contract, and any extensions thereto, whether more or less than the approximate quantity stated.
28. **BID ACCEPTANCES and REJECTIONS** - Failure to observe the instructions contained herein and as set forth in the *Request for Bids* and any specifications attached thereto may be considered grounds for rejection of the bid. The Director – Internal Process Management reserves the right, in his sole discretion, to award in whole or in part, if deemed to be in the best interest of the Authority to do so, to waive minor informalities and / or irregularities of non-compliance with bid specifications, to reject any and all bids received and to terminate the RFB. Further, the Director – Internal Process Management shall have the authority to award order(s), contract(s) or purchase agreement(s) to the Vendor(s) best meeting all specifications and conditions of the RFB.
29. **AWARD** – The Authority reserves the right, in its sole discretion, to award individual line items, combinations of line items or in total, whichever is deemed to be in the best interest of the Authority. Award will be based on the price(s), terms and delivery date(s) given by the Bidder.
- In the event it is determined that the extended total price has been incorrectly calculated, discrepancies will be corrected by the Authority on the basis of the unit price(s). The determination of the low Bidder will be made on the basis of the corrected total price (i.e. the Bidder's indicated unit price multiplied by the firm or estimated quantity indicated in the RFQ). The Authority shall not be liable for any failure on its part to detect or correct errors and the Authority's action in connection therewith shall not give rise to any rights to the Bidder.
30. **TIE BIDS** - In the event of a tie bid, the following criteria will be applied to determine award: 1) history of Bidder's performance (if applicable), 2) delivery advantage (i.e. shorter delivery interval quoted or closer proximity to Authority site), 3) extended warranty offered 4) valid and current registration with the New Jersey Department of Treasury – Division of Revenue – Small Business Registration and MAWBE Certification Services - PO Box 455, Trenton, NJ 08646 (609) 292-2146 or at <http://www.newjerseybusiness.gov> as a Small Business Enterprise (SBE) as of the date and time of the bid opening 5) Vendor has a business presence in New Jersey, thereby creating employment within the State or 6) the Director Internal Process Management, in his sole discretion, may make multiple awards to both Bidders, in as equitable a fashion as is reasonable to meet the needs of the Authority; provided, however, that multiple awards to both Bidders will only be considered where the *Request for Bids* language reserves the Authority's ability to accept only a portion of a bid (i.e. partial bid).
31. **COMPLAINTS / PERFORMANCE** – In the event a Bidder has a history of performance problems as demonstrated by formal documented complaints and / or contract cancellations for cause, a Bidder may be bypassed for this award.
32. **RIGHT to INSPECT BIDDER'S FACILITIES** - The Authority reserves the right to inspect the Bidder's facilities before making an award for the purposes of ascertaining whether the Bidder's ability to supply / perform against the resulting contract.
33. **VENDOR RIGHT to PROTEST - INTENT to AWARD** - Bidders have the right to protest the Authority's proposed award of the contract as announced in the *Notice of Intent to Award* or *Conditional Notice of Award*, as applicable. Unless otherwise stated, **a Bidder's protest must be submitted to the Director – Internal Process Management within ten (10) business days after receipt of written notification that its bid has not been accepted or that an award of a contract has been made.** In the public interest, the Director – Internal Process Management may shorten this protest period, in cases of emergency, but shall provide at least forty-eight (48) hours notice for Bidders to respond to a proposed award.

CONTRACT TERMS / LEGAL REQUIREMENTS:

34. **CONTRACT PERIOD**- The term of the resulting contract and any extensions thereto shall be as stated in the accompanying *Request for Bids* language.

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35. **EXTENSION OPTION** - If, in the opinion of the Director – Internal Process Management, it is in the best interest of the Authority to extend any contract entered into as a result of this RFB for a period of all or any part of one (1) year, the Vendor will be notified, in writing, of the Authority's intent to do so, prior to the expiration date of the existing contract. The Authority reserves the right, in its sole discretion, to make two (2) extensions to the resulting contract for not more than one (1) year each. All prices, terms, conditions and requirements (i.e. insurance, compliance, etc.) of the original contract remain in effect, unless otherwise indicated in the RFB language.

If the original contract terms required insurance, a contract bond, performance bond or bid security, the Vendor must submit new, current bond(s) and insurance to cover the extension period. The same insurance and compliance requirements will be required for each such extension period executed by the Authority.

Within ten (10) business days of receiving notice of the Authority's intent to exercise an extension option, the Vendor shall submit to the Director – Internal Process Management, evidence of current, valid mandatory compliance, insurance, bonds or security (if applicable), etc. as required in the original RFB language and the initial contract term. Failure to submit such required documentation within the period specified will not relieve the Vendor of its responsibilities to perform during the extension period of the contract.

36. **TERMINATION of CONTRACT –**

For Convenience: The Authority, in its sole discretion, may cancel the contract, at any time, without material cause, upon seven (7) days advanced written notice to the Vendor. In such event, absent a default on the part of the Vendor, the Vendor shall be entitled to compensation for all services properly provided to the Authority pursuant to the Contract, prior to such termination.

For Cause: The contract may be terminated by the Authority at any time for inadequate or improper performance, or for breach of any terms, conditions or obligations of the contract, as determined by the Authority, or if the Vendor shall make an assignment for the benefit of creditors, file a voluntary petition in bankruptcy or if an involuntary petition in bankruptcy is filed against the Vendor and the act of bankruptcy therein alleged is not denied by the Vendor, or if denied, is found by a court or jury.

The notice of termination shall be in writing, and shall be effective upon receipt by the Vendor. Upon termination, the Authority shall be liable only for payment for goods or services properly performed in accordance with the contract. The Authority shall have the right to purchase non-delivered goods, to replace defective goods or services on the open market and hold the Vendor liable for the difference between the price set forth in the contract for such goods or services and the prices paid on the open market or pursue any other rights available by law. In addition, the Authority shall have the right, without the necessity of court proceedings, to recover all equipment, materials or supplies that are the property of the Authority and have been entrusted with the Vendor to be used in the performance of said contract. Nothing in this paragraph is intended to limit the Authority's right to legally pursue all costs which exceed the amount due and owing the Vendor under said contract. The list of remedies in this paragraph is not exclusive.

37. **CONTRACT CHANGES** - During the term of contract, or any extensions thereto, no changes will be permitted to any of the contract specifications, terms or conditions unless the Vendor receives written approval from the Director – Internal Process Management. Should the Vendor determine at any time that existing or current conditions make modification in requirements necessary; the Vendor shall promptly report such matter to the Director – Internal Process Management, in writing, for consideration and decision. The Authority shall be under no obligation to accept the Vendor's requested changes or to make any such modifications to the contract specifications, terms or conditions.

38. **SUBCONTRACTING or ASSIGNMENT** - The contract may not be subcontracted or assigned by the Vendor, in whole or in part, without the prior written consent of the Director – Internal Process Management. In the event the Bidder proposes to subcontract any of the services to be performed under the terms of the resulting contract award, it shall indicate such in its bid. The Bidder shall attach for the Authority's review and approval, a list of said subcontractors and an itemization of the products / services to be supplied by them. Such consent, if granted, shall not relieve the Vendor of any of its responsibilities under the contract. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the New Jersey Economic Development Authority. Any request to assign or subcontract any portion of the resulting contract must include evidence of a valid *Business Registration Certificate* for each entity proposed to perform work against the resulting contract.

It is the Vendor's responsibility to ensure that no subcontractor(s) performs work against the resulting contract, purchase order or price agreement unless and until the Vendor has obtained evidence of the subcontractor's valid *Business Registration Certificate (BRC)*, as issued by the New Jersey Department of Treasury – Division of Revenue. It shall be the Vendor's responsibility to verify from time-to-time during the contract term and any extensions thereto, that the subcontractor(s) maintains a valid *Business Registration Certificate* while performing work against the resulting contract, purchase order or price agreement.

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39. **TRANSFER of BUSINESS** - It is understood by all parties that if, during the term of the contract, the Vendor disposes of his business by sale, transfer or by any means to another party, all obligations are transferred to such purchaser. All such transfers of Authority-issued contracts are subject to the approval of the New Jersey Economic Development Authority. The Vendor shall notify the Director – Internal Process Management of the intent to sell / transfer the business. No Authority-issued contract will be transferred to another entity without the written consent of the Director – Internal Process Management.
40. **MERGERS / ACQUISITIONS** - If, subsequent to the award of any contract resulting from this *Request for Bids*, the Vendor shall merge with or be acquired by another firm, the following documents must be submitted to the Director- Internal Process Management:
- a. corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices.
 - b. New Jersey Economic Development Authority *Vendor Registration form* updated to reflect all current information, including a newly completed and signed *Ownership Disclosure form*
 - c. Vendor Federal Employer Identification Number (FEIN #).
 - d. valid *Business Registration Certificate*
 - e. any other documentation, insurance, bonds / security etc. required of the RFB / RFP and resulting contract, purchase order or price agreement.

The documents must be submitted within thirty (30) days of completion of the merger or acquisition. Failure to do so may result in termination of contract. A contract shall not be transferred unless the acquiring firm submits evidence of its registration with the Department of Treasury – Division of Revenue, by presenting a copy of its valid *Business Registration Certificate*, as well as any other mandatory documentation (i.e. insurance, bonds, etc.) that was required of the original contracted Vendor as a result of the published bid specifications.

If subsequent to the award of any contract resulting from this *Request for Bids*, the contractor's partnership or corporation shall dissolve, the Director, Internal Process Management must be so notified, in writing. All responsible parties of the dissolved partnership or corporation must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment will be made until all parties to the dissolved partnership or corporation submit the required documents to the Director.

41. **CONFIDENTIAL INFORMATION of the AUTHORITY** - The Vendor, its employees and subcontractors may receive, review and become aware of proprietary, personnel, commercial, marketing and financial information of the Authority, its employees, members, borrowers or business associates that is confidential and/or proprietary in nature ("*Confidential Information*"). The Vendor agrees that the use and handling of *Confidential Information* by the Vendor, its employees and subcontractors, shall be done in a responsible manner and solely for furtherance of the work to be performed against the resulting contract. Other than to its employees and subcontractors who have a need to know *Confidential Information* in connection with performance of the Work, the Vendor agrees not to disclose any *Confidential Information*, without the prior written consent of the Authority. The Vendor shall be responsible to assure that its employees and subcontractors do not disclose any *Confidential Information* without the prior written consent of the Authority. The Vendor shall inform each of its employees and subcontractors that receives any *Confidential Information* of these requirements and shall require each such employees and subcontractors to comply with such requirements.

Notwithstanding the foregoing, the term *Confidential Information* shall not include information which: (i) is already known to the Vendor, its employees or its subcontractors from sources other than the Authority; (ii) is or becomes generally available to the public other than as a result of a disclosure by the Vendor, its employees or its subcontractors; or (iii) is required to be disclosed by law or by regulatory or judicial process.

The Vendor shall indemnify and hold the Authority, its employees and members harmless for any breach of "*Confidential Information of the Authority*", by the Vendor, its employees and its subcontractors.

42. **MAINTENANCE of RECORDS** - The contractor shall maintain records for products and / or services delivered against the resulting contract for a period of three (3) years from the date of final payment. Such records shall be made available to the Authority upon request, for purposes of conducting an audit or for ascertaining information regarding dollar volume or number of transactions or as may be required by the Authority.
43. **ASSIGNMENT of ANTI-TRUST CLAIM(S)** - The Vendor recognizes that in actual economic practice, overcharges resulting from antitrust violations are, in fact usually, borne by the ultimate purchaser. Therefore, and as consideration for executing this contract, the Vendor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns

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and transfers to the New Jersey Economic Development Authority, all rights, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the New Jersey Economic Development Authority, pursuant to this contract.

In connection with this assignment, the following are the express obligations of the Vendor:

- a. It will take no action, which will in any way diminish the value of the rights conveyed or assigned hereunder.
- b. It will advise the Director – Internal Process Management:
 - in advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action;
 - immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
- c. It will notify the defendants in any antitrust suit of the fact of the within assignment at the earliest practicable opportunity after the Vendor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice will be sent to the Director – Internal Process Management.

Furthermore, it is understood and agreed that in the event any payment under any such claim or cause of action is made to the Vendor, it shall promptly pay over to the New Jersey Economic Development Authority the allotted share thereof, if any, assigned to the Authority hereunder.

STATE LAW REQUIRING MANDATORY COMPLIANCE by ALL VENDORS:

44. BUSINESS REGISTRATION - Public Law 2001, chapter 134; Public Law 2004, Chapter 57; and Public Law 2009, chapter 315:

Each entity responding to this RFQ/P must be registered with the New Jersey Department of Taxation – Division of Revenue and obtain a "Business Registration Certificate" ("BRC"), prior to entering into a contract with the New Jersey Economic Development Authority ("Authority"). All New Jersey and out-of-State business organizations must obtain a "BRC" prior to conducting business with the New Jersey Economic Development Authority. Bidders and any joint venture partners submitting a bid, including any named subcontractors, are strongly encouraged to submit their "Business Registration Certificate(s)", as well as the "Business Registration Certificate" for any named subcontractors with the bid. The successful Bidder is required to ensure that it, each joint venture partner and all subcontractors possess a valid "Business Registration Certificate" throughout the term of the contract and any extensions thereto.

The Authority cannot award a contract unless a valid "Business Registration Certificate" is obtained for each entity, as required by law. In the event the Bidder, joint venture partners and / or any named subcontractors are unable to provide evidence of possessing a valid "Business Registration Certificate" prior to the award of a contract, the bid may be deemed materially non-responsive.

During the term of the contract and any extensions thereto, and prior to performing any work or providing goods against said contract, the successful Bidder must obtain and submit to the Authority, proof of a valid "BRC" registration for any subcontractor who will perform work or provide goods against the resulting contract. Upon notification from the Authority of intent to award a contract, the successful Bidder must provide written notice to all its intended subcontractors, if applicable, that they are required to submit a copy of their "Business Registration Certificate" to the Contractor. The Contractor shall maintain and submit to the Authority a list of subcontractors and their current addresses, updated as necessary, during the course of the contract performance. No subcontract shall be entered into with a subcontractor for work (i.e. goods or services) under this contract, unless the subcontractor first provides to the Contractor, proof of the subcontractor's valid "BRC" registration.

As required by law, the Authority cannot award a contract to any Bidder or joint venture partners, which does not possess a valid "Business Registration Certificate".

The business registration form (Form NJ-REG) can be found online at

<http://www.state.nj.us/treasury/revenue/gettingregistered.htm#busentity>.

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Bidders may go to www.nj.gov/njbqs to register with the Division of Revenue or to obtain a copy of an existing "Business Registration Certificate".

INDIVIDUALS, who may be responding to this *Request for Bids* or who may perform work or provide goods against the contract as a subcontractor, MUST also possess a valid "Business Registration Certificate". The individual must complete and sign form "NJ-REG-A" (Rev 12/06) and submit it to the Department of Treasury. Evidence of registration with the Department of Treasury – Client Registration Bureau should be submitted with the bid.

The "NJ-REG-A" form may be found at the Department of Treasury's website:

<http://www.state.nj.us/treasury/revenue/pdf/forms/reg-a.pdf>

The contractor and any subcontractor / subconsultant providing goods or performing services under this contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act", P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State (reference *Exhibit F*).

45. **FOREIGN CORPORATION** - If applicable, the Vendor shall register as a "Foreign Corporation" with the Office of the Secretary of the State of New Jersey, designating a resident agent for the service or process and shall provide written proof or such registration prior to the Authority's execution of a contract agreement.
46. **ANTI-DISCRIMINATION / EQUAL EMPLOYMENT OPPORTUNITY** - Bidders are required to comply with the requirements of P.L. 1975 C. 127 - N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq. attached hereto as *Exhibit A* (reference *Exhibits A - D*).
47. **EXECUTIVE ORDER 34 (2006) COMPLIANCE** - In accordance with *Executive Order 34 (2006)*, the Authority encourages the use of Minority-Owned Business Enterprises (MBEs) and Woman-Owned Business Enterprises (WBEs) entities and MBE and WBE subconsultants.
48. **SET ASIDE** - The Authority is required to comply with the requirements of *N.J.A.C. 17:13* and *N.J.A.C. 17:14*, and as amended. The Authority encourages the participation of Small Business Enterprise (SBE) firms as certified by the New Jersey Department of Treasury – Division of Revenue – Small Business Registration and M/WBE Certification Services for the services subject to this *RFB*. Information regarding SBE registration and M/WBE certification can be obtained by contacting the Office of Business Services at (609) 292-2146 or at their offices at P.O. Box 455, Trenton, NJ 08646 or at <http://www.newjerseybusiness.gov>.
In support of the Authority's plan, Bidders should complete a "Set Aside Information Form" (reference *Exhibit H*) for itself and all subcontractors, if any, and submit with the bid. Bidders should also complete and submit the attached "Set Aside Compliance Certificate" (reference *Exhibit I*) with the bid. Failure to complete and submit both documents may result in a delay in reviewing the bid.
49. **AMERICANS WITH DISABILITIES ACT** - The contractor must comply with all provisions of the "Americans with Disabilities Act" (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101 et seq.
50. **PUBLIC LAW 2005, c.92 (N.J.S.A. 52:34-13.2) - COMPLIANCE / SOURCE DISCLOSURE** - If the resulting contract, purchase order or purchase agreement is primarily for services, Bidders are required to comply with *Public Law 2005, c.92 (N.J.S.A. 52:34-13.2)*, to which each entity responding to this *RFB* is required to indicate on the "Source Disclosure Certification" form (reference *Exhibit G*), the location by country where services rendered pursuant to this *RFB* will be performed. Failure to submit a completed and signed "Source Disclosure Certification" form with the bid may render the bid materially non-responsive. If the resulting contract, purchase order or purchase agreement is primarily for services; the "Source Disclosure" form must be returned with the bid and all services performed under the contract or performed under any subcontract awarded under the contract, must be performed within the United States.
51. **PUBLIC LAW, 2005, c.271 POLITICAL CONTRIBUTIONS** - If the resulting contract has a total value in excess of \$17,500, the successful Bidder / Vendor is required to comply with P.L. 2005, c.271 which means *Public Law 2005, chapter 271*. Failure to comply with these requirements throughout the term of the contract and any extension thereto may result in the Authority declaring the contract for these services void.
52. **PUBLIC LAW 2005, c. 51 SPECIAL PROVISIONS POLITICAL CONTRIBUTIONS and OWNERSHIP DISCLOSURE** - If the resulting contract has a total value in excess of \$ 17,500, the successful Bidder / Vendor is required to comply with P.L. 2005, c.51 which means *Public Law 2005, chapter 51 (C. 19:44A-20.13 through C. 19:44A-20.25, inclusive)* and as

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expanded by Executive Order 117 (Gov. Corzine, September 24, 2008) ("Two (2) Year Vendor Certification and Disclosure of Political Contributions" form - reference Exhibit K). Failure to comply with these requirements throughout

the term of the contract and any extension thereto may result in the Authority declaring the contract for these services void.

Contracts for any work, goods or services cannot be issued to any corporation or partnership, unless prior to or at the time of bid submission, the Bidder has disclosed the names and addresses of all its owners holding ten (10%) percent or more of the corporation or partnership's stock or interest. Bidders should refer to N.J.S.A. 52:25-24.2. (reference "Ownership Disclosure" form - Exhibit K).

53. **PREVAILING WAGE ACT** - The "New Jersey Prevailing Wage Act", N.J.S.A. 34:11-56.26 *et seq.* is hereby made part of every contract entered into on behalf of the New Jersey Economic Development Authority except those contracts which are not within the contemplation of the Act. The Bidder's signature on this bid is his guarantee that neither he, nor any subcontractors he might employ to perform the work covered by this bid, has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of the provisions of the "Prevailing Wage Act" and / or the "Public Works Contractor Registration Acts"; and this signature is the Bidder's guarantee that he and any subcontractors he might employ to perform the work covered by this bid, will comply with the provisions of the "Prevailing Wage and Public Works Contractor Registration Acts", where required (reference Exhibit O).
54. **PUBLIC WORKS CONTRACTOR REGISTRATION ACT** - The "New Jersey Public Works Contractor Registration Act" requires all contractors, subcontractors and lower tier subcontractors who bid on or engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-7060 or at http://lwd.dol.state.nj.us/labor/wagehour/wagehour_index.html (reference Exhibit P). If applicable, the "New Jersey Public Works Contractor Registration Certificate" shall be submitted with the bid. Failure to do so will render the bid materially non-responsive.
55. **COMPLIANCE - LAWS** - The Vendor must comply with all local, state and federal laws, rules and regulations applicable to this contract and to the goods delivered and / or services performed hereunder.
56. **COMPLIANCE - APPLICABLE STATE LAWS** - It is agreed and understood that any contracts and / or orders placed as a result of this Request for Bids, and any litigation arising from or related to, shall be governed and construed by the applicable laws, regulations, rights, obligations and rules of evidence of the STATE OF NEW JERSEY without reference to conflict of laws or principles. The Vendor agrees that any and all claims by Vendor against the Authority of a contractual nature shall be governed by and subject to the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 *et seq.*)

COMPLIANCE - SAFETY and HEALTH REQUIREMENTS:

57. **MATERIAL SAFETY DATA SHEETS (MSDS) REQUIREMENTS** - any Vendor, supplier, or subcontractor who provides the Authority with materials in the form of a single chemical substance or a mixture containing two (2) or more chemical substances, or who delivers to or stores such materials at an Authority facility, must provide the Authority with a clear, legible copy of the manufacturer's most recent Material Safety Data Sheet (MSDS) for each and every one of said materials (pursuant to N.J.A.C. 8:59-2.2(i)). A current MSDS document must accompany every delivery of such chemicals or materials made to the Authority's locations.
58. **LABELING REQUIREMENTS** - Any Vendor, supplier or subcontractor who provides the Authority materials which fall under the purview of the New Jersey Worker and Community Right-to-Know-Act (N.J.S.A. 34:5A-1 *et seq.*), or who stores any such materials at an Authority facility, shall ensure that each and every container of those materials is clearly and properly labeled in accordance with the Act (N.J.A.C. 8:59-5 *et seq.*).
59. **VOLATILE ORGANIC COMPOUNDS (VOC) REQUIREMENTS** - Any architectural coating, as defined by N.J.A.C. 7:27-23.2, provided to the Authority for its use or that is used by and applied by any Vendor or subcontractor in conjunction with an Authority project, must comply with each and every requirement of the New Jersey Department of Environmental Protection's Volatile Organic Compounds in Consumer Products (VOC) regulations (N.J.A.C. 7:27-23.1 *et seq.*).
60. **SAFETY and HEALTH REQUIREMENTS** - The goods, services and / or equipment provided through this RFB submission shall be so designed and installed to meet all applicable federal and state safety and health regulations and national consensus standard including, but not limited to US DOL-OSHA, NJ DOL-PEOSHA, NFPA and ANSI standards.
61. **COMPLIANCE - CODES** - The Vendor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor will be responsible for securing and paying all necessary permits, where applicable.

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INSURANCE / LIABILITIES:

62. **INDEMNIFICATION** - The Vendor shall assume all risk of and responsibility for, and agrees to indemnify, defend, save and hold harmless the New Jersey Economic Development Authority and its employees, agents, Directors and members of its Board, from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and / or materials supplied under this contract. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this agreement.
63. **INSURANCE COVERAGE REQUIREMENTS** - The Vendor shall procure and maintain at its own expense, throughout the term of the contract and any extensions thereto, liability insurance for damages of the kinds and in the amounts hereinafter provided, from **insurance companies licensed, admitted and approved to do business in the State of New Jersey**. The Vendor shall obtain this coverage from **A-VII or better-rated companies**, as determined by A.M. Best Company. All liability insurance policies shall afford coverage on an occurrence rather than claims made basis, with the exception of the professional liability coverage.

The types and minimum amounts of insurance required are as follows:

- a. **Commercial General Liability Insurance-**
The minimum limits of liability for this insurance shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate and cover liability based on property damage, death and bodily injury.
The Commercial General Liability Insurance policy shall provide coverage least as broad as the standard, basic, unamended and unendorsed commercial general liability policy and shall include contractual liability coverage. The policy shall name the New Jersey Economic Development Authority as an additional insured.
- b. **Commercial Automobile Liability Insurance -**
The Commercial Automobile Liability policy shall cover any owned, hired or non-owned automobile / vehicle used by the insured with minimum limits for liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.
- c. **Workers' Compensation and Employers' Liability -**
Workers' Compensation Insurance shall be provided in accordance with the requirements of the laws of this State and shall include an endorsement to extend coverage to any State, which may be interpreted to have legal jurisdiction. Employers' Liability Insurance shall also be provided in an amount acceptable to the Authority.
- d. **Professional Liability Insurance – (if applicable; required only when specified in the RFB language)**
The Vendor shall carry Errors and Omissions and/or Professional Liability Insurance sufficient to protect the Vendor from any liability arising out of professional obligations performed pursuant to this Contract. The insurance shall be in the amount of \$1,000,000 each claim and in such policy form as shall be approved by the Authority. The policy shall name the New Jersey Economic Development Authority as an additional insured.

Deviations from the required coverage amounts indicated above will be so indicated on the *Request for Bids* form, as applicable.

The Vendor may be required to submit Certificates of Insurance together with the declaration pages, in a form acceptable to the Authority with respect to each of the aforementioned policies with the Authority's Director – Internal Process Management, prior to commencement of providing goods / services against the contract. These Certificates shall contain a provision that coverages afforded under the policies will not be reduced or canceled unless at least thirty (30) days prior written notice has been given to the Authority's Director – Internal Process Management. The Vendor shall notify the Authority, in writing, within forty-eight (48) hours, of any changes made to policies, which affect the Authority. Upon request, the Vendor shall furnish to the Authority a certified copy of each policy itself, including the provision establishing premiums.

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Within ten (10) calendar days of receiving a *Notice of Intent to Award or Conditional Notice of Award*, a contract, the successful Bidder may be required to submit evidence of actual, valid insurance coverage, for the types of insurance and amounts indicated herein and / or in the Contract language, (section 7-Insurance). The Certificates of Insurance supplied by the successful Bidder are subject to the final approval of the Authority. If the selected Bidder fails to provide complete and adequate evidence of insurance coverage, within said ten (10) day calendar period, the Authority reserves the right to rescind its offer and award the contract to an alternate Bidder.

Notwithstanding the minimum amounts of insurance coverage carried or required to be carried by the Bidder are specified herein, the liability of the Bidder shall not be limited to the amounts so specified and shall extend to any and all liability in excess of the insurance coverages so provided nor shall these minimum limits preclude the Authority from taking any action available to it under the provisions of the contract or otherwise in law.

BID and PERFORMANCE SECURITY REQUIREMENTS (if applicable):

If so indicated in the *RFB language*, the Bidders shall provide security as follows:

64. **BID SECURITY - If required and as indicated in the Request for Bids language**, bid security must be submitted with the bid in the amount listed in the *Request for Bids*.

Acceptable forms of bid security are:

- a. a properly executed individual or annual bid bond issued by an insurance or security company authorized to do business in the State of New Jersey,
- b. a certified or cashier's check drawn to the order of the New Jersey Economic Development Authority
- c. an irrevocable letter of credit drawn naming the New Jersey Economic Development Authority as beneficiary issued by a federally insured financial institution.

The Authority will hold all bid security during the evaluation and award processes. As soon as is practicable after the completion of the evaluation and award, the Authority will:

- a. issue a *Notice of Award or Conditional Notice of Award* for those offers accepted by the Authority;
- b. return all bond securities to those who have not been issued a *Notice of Award*.

All bid security from Vendors who have been issued an award notice shall be held until the successful execution of all required contractual documents and bonds (i.e. performance bond, insurance, etc.). If the Vendor fails to execute the required contractual documents and bonds within thirty (30) calendar days after receipt of award notice, the Vendor may be found in default and the contract terminated by the Authority. In case of default, the Authority reserves all rights inclusive of, but not limited to, the right to purchase material and / or to complete the required work and to recover any actual excess costs from the Vendor. Collection against the bid security shall be one of the measures available toward the recovery of any excess costs.

65. **PERFORMANCE SECURITY - If required and as indicated in the Request for Bids language**, the successful Bidder shall furnish performance security in such amount on any award of a term contract or line item purchase. Acceptable forms of performance security are:

- a. The Vendor shall be required to furnish an irrevocable security in the amount listed in the *Request for Bids* payable to the New Jersey Economic Development Authority, binding the Vendor to provide faithful performance of the contract.
- b. The performance security shall be in the form of a properly executed individual or Annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of the New Jersey Economic Development Authority, or an irrevocable letter of credit drawn and issued by a federally insured financial institution, naming the New Jersey Economic Development Authority as beneficiary.
- c. The Performance Security must be submitted to the Authority within thirty (30) days of the effective date of the contract award and cover the period of the contract and any extensions thereto. Failure to submit performance security may result in cancellation of contract for cause and nonpayment for work performed.

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66. **BID / CONTRACT BOND** - *If required and as indicated in the Request for Bids language*, ten (10) calendar days of receipt of the Authority's *Notice of Award* or *Conditional Notice of Award*, the Bidder to whom the contract has been awarded, shall furnish and deliver to the Authority, the Contract Bond in such form as accepted in the industry. The Contract Bond shall be in a sum of not less than one hundred (100%) percent of the total amount bid for the contract and shall be maintained by the successful Bidder / Vendor shall forthwith furnish and maintain other Surety satisfactory to the Authority.
67. **STANDARDS PROHIBITING CONFLICTS of INTEREST / - DEBARMENT LIABILITY** - The Vendor acknowledges that it shall be rendered liable to debarment in the public interest, pursuant to procedures established by *Executive Order No. 34 (1976)*, and updated by *Executive Order No. 189 (1988)*, and pursuant to *N.J.A.C. 19:30-2*, for violating any of the following provisions:
- a. No Vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any Authority officer or employee or special Authority officer or employee, as defined by N.J.S.A. 52:13D-13(b) and (e), with which such Vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13(i), of any such officer or employee, or any partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13(g).
 - b. The solicitation of any fee, commission, compensation, gift, gratuity, or other thing of value by any Authority officer or employee or special Authority officer or employee from any Authority Vendor shall be reported in writing forthwith by the Vendor to the Attorney General of New Jersey and the Executive Commission on Ethical Standards.
 - c. No Vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such Vendor to, any Authority officer or employee or special Authority officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Authority, or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13(g). Any relationships subject to this subsection shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the Authority officer or employee or special Authority officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.
 - d. No Vendor shall influence, or attempt to influence or cause to be influenced, any Authority officer or employee or special Authority officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
 - e. No Vendor shall cause or influence, or attempt to cause or influence, any Authority officer or employee or special Authority officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the Vendor or any other person. Any Bidder attempting to contact government officials (elected or appointed), the Authority's Board members or staff, in an effort to influence the selection process shall immediately have its bid rejected and disqualified.
68. **NON-COLLUSION** - The Bidder agrees that said Bidder has not directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the referenced contract; and that all statements contained in its *RFB* response are true and correct, and made with full knowledge that the Authority relies upon the truth of the statements contained herein and in any statements requested by the Authority showing evidence of qualifications in awarding the contract. The Bidder agrees that no person or selling agency has been employed or retained to solicit or secure such contract upon agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by our firm.
69. **OPEN PUBLIC RECORDS ACT** - Bidders should be aware that responses to this *Request for Bids* will be available, upon request, for public inspection. The Authority, as an instrumentality of the State of New Jersey, is subject to the *New Jersey Open Public Records Act (N.J.S.A. 47:1A-1)* and the *New Jersey Right-to-Know* statutory law and relevant case law.
70. Responses to this *Request for Bids* will be received until the date and time for receipt referenced on the *Request for Bids* form or in the specifications attached herein, and then publicly opened, if so indicated in the *RFB* language / specifications, at the offices of the New Jersey Economic Development Authority.

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EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to *N.J.S.A. 10:5-31 et seq.* as amended and supplemented from time to time and the *Americans with Disabilities Act*.

The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with Good faith efforts to meet targeted county employment goals established in accordance with *N.J.A.C. 17:27-5.2*, or good faith efforts to meet targeted county employment goals determined by the Division, pursuant to *N.J.A.C. 17:27-5.2*.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personal testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

The contractor and its subcontractor shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to *Subchapter 10 of the Administrative Code at N.J.A.C.17:27*.

Trry (11-08)