

STATE OF NEW JERSEY AGENCY PURCHASE ORDER				DOCUMENT		DATE	REQUISITION NUMBER	FY
				TC	AGY	NUMBER		
PO # 8930243				PO	022	80508930243	08/26/21	R
				(WAO) SPECIAL PROCUREMENT/ WAIVER AUTHORIZATION			VENDOR ID NUMBER	00
CONTRACT NO	AGENCY REF	BUYER	TERMS	TOTAL AMOUNT				
	LIHEAP		NONE	\$ 6459852.42				

VENDOR NAME AND ADDRESS

IBM CORPORATION
STERLING MEADOW RD
300 LONG MEADOW RD
STERLING FOREST NY 10979

Direct Purchase or Special Procurement, Indicate Date Quotation Received → 02/23/21

SHIP F.O.B. DESTINATION TO:

HOUSING (228050/S001)
FISCAL/PROCUREMENT OFFICE
101 S BROAD ST 5TH FL
PO BOX 806 RM 501F
TRENTON NJ 08625-0806

BILL TO:

DEPT OF COMMUNITY AFFAIRS (228050/B001)
HOUSING
FISCAL/PROCUREMENT OFFICE
PO BOX 806
TRENTON NJ 08625-0806

WAIVER NUMBER: AP036

IMPORTANT: THIS PURCHASE ORDER CONTAINS PROMPT PAYMENT INFORMATION

VENDOR REFERENCE

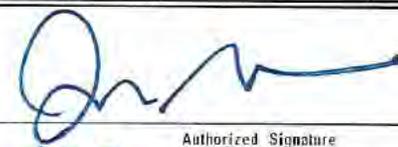
BFY	FUND	AGCY	ORG CODE	SUBORG	APPR UNIT	ACTIVITY CD	OBJECT CD	SUB-OBJ	REV SRCE	SUB-REV	PROJECT/JOB NO
21	100	022	8050		996	FREA	3410				
1											
2											
3											

RPT CT	AMOUNT
1	HEAA 6459852.42
2	
3	

INSTRUCTIONS TO VENDORS: ENCLOSE PACKING SLIP WITH SHIPMENTS. SUBMIT ALL BILLS ON ATTACHED STATE VOUCHER FORMS. IF PARTIAL BILLING SUBMIT BALANCE ON SEPARATE STATE VOUCHER FORMS. SHOW PURCHASE ORDER NUMBER ON ALL BILLS OF LADING. INVOICES AND CORRESPONDENCE TO THE STATE AGENCY INDICATED ABOVE. N.J.S.A. 54:32B-1 ET SEQ. EXEMPTS NJ STATE AGENCIES FROM SALES OR USE TAXES. DO NOT INCLUDE THEM IN YOUR PRICE.

ITEM NO.	COMMODITY CODE/DESCRIPTION OF ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT
00001	DELIVERY: 030 DAYS ARD COMMODITY CODE: 918-32-000000 [CONSULTING SERVICES (NOT OTHERWISE...)] ITEM DESCRIPTION: CONSULTING SERVICES FOR DCA'S USFHEA (ARP) ARREARAGE PROGRAM TO SUPPORT BOTH IN-TAKE OF APPLICATIONS AND ADJUDICATION OF BENEFITS.	1.000	EACH	6459852.42	\$ 6459852.42

AGENCY APPROVAL: This transaction is authorized by the Director, Division of Purchase and Property in accordance with the provision of Chap. 107 P.L. 1985 as amended. The issuing Agency's Approval Officer's signature guarantees compliance with all provisions governing the authorization granted by the Director. Signature affixed to this document serves as certification that: 1) items purchased under DPA authorization are not currently available under the provisions of a current State contract, nor from the State Distribution Center, nor from DEPTCOR (State Use Industries); 2) funds required and authorized for this purpose are available. Unauthorized use is subject to prosecution.


Authorized Signature

AA3
Title

8.27.21
Date

Request for Quotation

NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS

American Rescue Plan Utility Arrearage Program Case Management Consulting Services

RFQ Issued: July 23, 2021

Response Deadline: August 6, 2021

I. OBJECTIVE

The NJ Department of Community Affairs (“DCA” or “Department”) is seeking quotations for professional consulting services (Consultant) to assist with the implementation and administration of case management for an American Rescue Plan (ARP) program that provides utility arrearage (past-due debt) relief for households impacted economically by the pandemic.

BACKGROUND

The economic consequences of the pandemic have resulted in significantly increased rates of unemployment among NJ residents, and have impacted the ability of residents to continue paying their utility bills. The Department will operate the ARP Utility Arrearage program to initially provide approximately \$170M (although the total amount may be increased) in federal ARP funds to pay utility arrears. The Department seeks assistance from the Consultant in developing and implementing this program. The Department anticipates additional funding and if allocated, the Department will seek to expand the term and amount of this contract.

II. QUALIFICATIONS

The State seeks a professional consultant (“Consultant”) with expertise and demonstrated experience in implementing outsourced case management and customer support for large benefit programs, including:

- Experience in quickly developing plans and strategies to process applications for a large volume of applicants (300,000+) to result in the provision of assistance to qualified applicants
- Experience with initiating and implementing outsourced:
 - Case Management
 - Customer Support
 - Provide in English, with 35% of staff able to support Spanish and the ability to integrate with a Language line interpreter for other languages
 - Multiple Weekday Evening Hours support
 - At least one Weekend Day support

- Integrated Interactive Voice Response (IVR) functionality with Connectivity to Data Sources
- Experience with all aspects of benefit program administration, including determining eligibility, working with customers to complete applications, reviewing submitted documentation, and management reporting
- Knowledge and experience utilizing Microsoft Dynamics 365 (D365) instances that stores the applicant submissions
- Experience in working with large governmental systems to implement and/or advise on benefit programs
- Demonstrated capacity to quickly begin acceptance and processing of applications to result in full expenditure of funds prior to June 30, 2022

The Bidder's qualifications in the areas above should be detailed in the narrative description of the Bidder's organization.

III. BIDDER'S SUBMISSION REQUIREMENTS

TRANSMITTAL LETTER

Bidder shall submit with its quotation a Transmittal Letter including Bidder's contact person for the RFQ response, including telephone number and email address. The Transmittal letter should include all assurances detailed in Section VII. Bidder Assurances.

DESCRIPTION of BIDDER'S ORGANIZATION

In an effort to establish the Bidder's ability to successfully provide the requisite services, for projects of similar scope, size and complexity, interested Bidders must provide a narrative that imparts general information about their organization. The narrative should address:

- the Bidder's business name and type (corporation, 501(c)(3), etc.), location, number of years in business, and details of any failure to complete a contract or any litigation within the past two years;
- the number of years the Bidder has provided benefit program case management consulting services to other clients, as evidenced by submitting a copy of the Bidder's list of clients and years serviced;
- the Bidder's experience and knowledge in each of the areas listed under Section II. Qualifications of this RFQ;
- the Bidder's history of engagements of a similar size and scope for benefit programs with other clients
- the Bidder's staff qualifications, capacity, and experience in providing these services, by

indicating the number of full-time employees (and, if applicable, part-time employees) qualified to do so;

- a staffing chart to show each position or title for those individuals who will, or who it is expected will, perform work against the resulting contract;
- if available, an organizational chart for the Bidder's entire organization, to evidence its depth of staff;
- the location and contact information (address, telephone, e-mail, etc.) of the Bidder's office that will be responsible for managing the resulting contract, as well as the locations of its corporate headquarters and any regional business offices; and
- the name, phone number, and e-mail address of the individual who will be responsible for managing the performance against the resulting contract.

As part of the quotation submission, the Bidder should provide a plan for making qualified replacement(s) available to provide the requisite services during the contract term and any extensions thereto, to ensure uninterrupted performance of the requisite services in the event of vacation, illness, or personal emergency of the Consultant's staff assigned to perform the work against the resulting contract. This submittal can be as simple as identifying alternate staff for key positions identified in the Bidder's staffing chart.

ADDITIONAL SUBMISSION REQUIREMENTS

Detailed plan demonstrating the Bidder's capacity to quickly begin acceptance and processing of applications within 15 business days of contract execution and to result in full expenditure of funds prior to June 30, 2022

- A preliminary work plan that includes a timeline, significant milestones, and anticipated deliverables.
- Staffing plan demonstrating the qualifications and experience of the Bidder's management, supervisory, and other key personnel assigned to perform work against the resulting contract.
- Price Quotation. See Section V. Evaluation Criteria and Selection Process.

RESUMES of KEY TEAM MEMBERS

The Bidder should provide a resume for each key individual who will perform work against the resulting contract (including executive, middle management, and support personnel) to clearly demonstrate their respective appropriate qualifications, capabilities, and background.

The resumes should indicate the individual's name, title, number of years employed with the bidding organization, and any certifications or licenses held that are germane to performing the requisite tasks. At a minimum, the resume should include:

- demonstrable experience specific to providing the types of services required herein;
- employment history;
- education;
- degrees, professional certifications, and/or licenses; and
- any additional information that would allow the Department to assess the individual's abilities to perform against the contract, including particular skills relevant to conducting the assessment sought by the Department.

JOINT VENTURES and SUBCONTRACTORS

Two or more consultants may submit a joint quotation. A lead Consultant must be identified. The lead Consultant will be held accountable for contract performance and must maintain all research, notes, draft documents, and financial records for at least five years. Authorized signatories from each party comprising the joint venture must sign the bid quotation cover letter. All quotation submissions (compliance documents, evidence of experience, references, resumes, etc.) must be submitted for every party to the joint venture. The quotation must include a description of the organizational structure of the joint venture with a specific, detailed description of how the Consultants will work together and the key responsibilities of each partner.

Quotations may include a role for subcontractors. The Bidder must provide a detailed description of services to be provided by each subcontractor and/or subconsultant, and descriptions of prior projects in working with the subcontractor and/or subconsultant on similar projects. This information must be included with the quotation to evidence the subcontractor's capabilities and experience.

Detailed resumes should be provided for each member of the subcontractor's management, supervisory, and other key personnel who will perform work against the resulting contract. Such resumes must clearly demonstrate knowledge, ability, and experience relevant to that part of the work that the subcontractor is designated to perform. Subcontractors and subconsultants must also possess a valid New Jersey Business Registration Certificate prior to commencing work under the Contract.

Bidders intending to use subcontractors and/or subconsulting firms should note that the lead partner retains the sole and absolute responsibility for the management and supervision of all subcontractors and subconsultants to a high quality of service. Additionally, the lead partner assumes sole and absolute responsibility for all payments and monies due to its subcontractors and subconsultants.

CONFLICTS of INTEREST

The Bidder must disclose any potential conflicts of interest with regard to the Bidder's performance of the requisite services and the Bidder's relationship with any Department staff member including,

but not limited to:

- any firms for which the Bidder, its joint venture partner(s) or subcontractor(s) have provided, or may provide, other related services, including the preparation of applications to the Department;
- representation of a previous or known future applicant to the Department's programs;

IV. SCHEDULE AND SCOPE OF SERVICES

The contract's term will be August 31, 2021 – June 30, 2022. This contract may be extended up to 90 days, in the event the State receives reallocated funds and is granted an extension by the US Treasury. The Consultant shall execute the following tasks:

- Within 5 business days of contract execution, develop plans and materials for launch of new program
- Within 15 business days of contract execution, demonstrate capacity to begin accepting and processing applications
- Communicate in hard copy, digitally and via phone with applicants regarding pre-application process, application process, guidelines of the program, and status of applications and payments
- Assist applicants in navigating application process
- Communicate with applicants regarding incomplete applications and collect missing data
- Ensure entry of all needed applicant information into DCA's D365 application database and abide by all applicable policies issued by the New Jersey Office of Information Technology
- Review and determine eligibility of applications
- Communicate with all applicants regarding determination of eligibility
- Work with DCA staff and Utility partners to facilitate weekly subsidy payments
- Work with DCA staff and Utility partners to ensure quality administration of program

V. EVALUATION CRITERIA AND SELECTION PROCESS

It is the Department's intent to conduct a comprehensive, fair, and impartial evaluation of submissions received in response to this RFQ. Only submissions found to be responsive to this RFQ will be evaluated and scored. A responsive submission must comply with all instructions in this RFQ including, but not limited to, the criteria listed below.

All bid submissions must include completed mandatory compliance forms. See Section X. Quotation Submittal.

The following evaluation criteria will be used to evaluate submissions received in response to this RFQ:

- demonstrated understanding of the scope of work. Awareness of implementation challenges and issues.
- demonstrated ability to quickly ramp up and begin administration of the program.
- the quality of the preliminary work plan describing a technical approach for completing the scope of work and a detailed description of all tasks and activities to be undertaken by the Bidder, indicating which tasks, if any, will be delegated to a subcontractor.
- A staffing plan that demonstrates the Bidder's qualifications and experience of the Bidder's management, supervisory, and other key personnel assigned to successfully complete the work.
- the extent and quality of the Bidder's documented experience in successfully providing similar services of comparable size and scope, as evidenced by the narratives submitted.
- the Bidder's price quotation including:
 - a detailed budget with estimated travel costs listed separately.
 - a detailed fixed fee proposal by task and estimated number of billable hours, based on a Preliminary Work Plan.
 - a proposal for billing schedule based on a performance-based contract (per service provided, etc.).

Bidders shall hold their quotation prices firm for a period of ninety days to accommodate the Department's evaluation and award processes.

VI. RESERVATION OF RIGHTS

Upon determination that its best interests would be served, the Department shall have the right to do the following:

1. **Cancellation** - Cancel this procurement at any time before the contract award.
2. **Amendment of procurement** - Amend this procurement at any time before responses are due.
3. **Refusal to accept** - Refuse to accept or return accepted quotations that do not comply with procurement requirements.
4. **Rejection of incomplete quotations** - Reject any quotation in which any part of the quotation is incomplete or in which there are significant inconsistencies or inaccuracies (the State reserves the right to reject all quotations).
5. **Prior contract default** - Reject the quotation of any Bidder in default of any prior contract or for the misrepresentation of material presented.

6. **Reject quotations after stated due date and time** - Reject or refuse to evaluate any quotation that is received after the stated due date and time.
7. **Written clarification** - Require Bidders, at their own expense, to submit written clarification of quotations in a manner or format that the Department may require to resolve minor ambiguities irregularities or clerical errors.
8. **Oral clarification** - Require Bidders, at their own expense, to make oral presentations at a time and in a place selected by the Department, if requested.
9. **Allowance of quotation changes** - Except as may be authorized by the Department, allow no additions or changes to the original quotation after the stated due date and time.
10. **Property of the State** - Own all materials submitted in response to this procurement upon receipt by the Department.
11. **Separate service negotiation** - Negotiate separately any services in any manner needed to serve the best interest of the State.
12. **All or any portion** - Contract for all or any portion of the Scope of Services or tasks contained in this RFQ.
13. **Quotation most advantageous** - Consider cost and all factors in determining the most advantageous quotation for the Department when awarding a Bidder the right to negotiate a contract with the Department (while cost is a factor in determining the Bidder to be awarded the right to negotiate a contract, price alone shall not determine the successful Bidders).
14. **Technical defects** - Waive minor technical defects, irregularities, and omissions if in its judgment the best interest of the Department will be served.
15. **Privileged and confidential information** - Share the contents of any quotation with any of its designees for purpose of evaluating quotations to make an award (the contents of all meetings including the first, second, and any subsequent meetings and all communications in the course of negotiating and arriving at the resultant contract periods shall be privileged and confidential).
16. **Best and Final Offers** - Seek Best and Final Offers (BFO) on price from Bidders upon review of the scored criteria.
17. **Unacceptable quotations** - Reopen the bidding process if advantageous to the Department.

VII. BIDDER ASSURANCES

The successful Bidder shall have sole and absolute responsibility for the complete effort specified in and required of the contract. Payment shall be made only to the successful Bidder.

The successful Bidder shall be responsible for the professional quality, technical accuracy and timely completion and submission of all deliverables, services, or commodities required under the contract.

The successful Bidder shall comply with all program requirements under Section 2911 (Funding for LIHEAP) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021) and applicable laws and regulations. Without additional compensation, the successful Bidder shall correct or revise any errors, omissions, or other deficiencies in its deliverables and other services. The approval of deliverables furnished under this contract shall not in any way relieve the successful Bidder of responsibility for the technical adequacy of its work. The review, approval, and acceptance of or payment for any of the services shall not be construed as a waiver of any rights that the Department may have arising out of the successful Bidder's performance of this contract.

The Bidder agrees to the following:

1. **Independent price determination** - By submission of a quotation and through assurances given in its Transmittal Letter, the Bidder certifies that in connection with this procurement the following requirements have been met:
 - **Costs** - The costs proposed have been arrived at independently, without consultation, communication, or agreement for restricting competition, as to any matter relating to such process with any other organization or with any competitor.
 - **Disclosure** - Unless otherwise required by law, the costs quoted have not been knowingly disclosed by the Bidder on a prior basis directly or indirectly to any other organization or to any competitor.
 - **Competition** - No attempt has been made or will be made by the Bidder to induce any person or firm to submit or not submit a quotation for restricting competition.
 - **Prior knowledge** - The Bidder has no prior knowledge of the RFQ contents before actual receipt of this RFQ and had no part in RFQ development.
 - **Offer of gratuities** - The Bidder certifies that no elected or appointed official or employee of the State of New Jersey has or will benefit financially or materially from this procurement. Any resultant contracts may be terminated by the State if it is determined that gratuities of any kind were either offered to or received by: any of the aforementioned officials, the Consultant Firm, its agent(s), or its employees.
2. **Valid and binding offer** - The quotation represents a valid and binding offer to provide services in accordance with the terms and provisions described in this RFQ and any amendments or attachments hereto.
3. **Press releases and advertising** - The Bidder agrees to obtain prior written consent and approval of the Department for press releases that relate in any manner to this RFQ or any resultant contracts. The Bidder agrees to obtain prior written consent and approval of the Department to use any names, logos, images, data, or results arising from this contract as a part of any commercial advertising.
4. **Restrictions on communications with Department staff** - The Bidder agrees that from the RFQ posting/release date until the Department makes an award that it shall not communicate

with Department staff on matters relating to this RFQ except as provided herein. Any other communication concerning this RFQ with Department staff may, at the decision of the Department, result in disqualification of that Bidder's quotation.

VIII. AWARD

It is the intent of the Department to award a contract to expire on or about **August 30, 2022**, for these Consulting Services. Prices, terms and conditions shall remain firm throughout the initial term of the contract and any extensions thereto. This is an estimated one year engagement. Should the Department be allocated additional funds for this program, at its option the Department may seek to expand the term and amount of this contract.

The Department will notify all Bidders of any award issued by it as a result of this RFQ. A final decision on the winning Bidder will be made no later than two weeks following the quotation submittal deadline. The contract award will be made to the Bidder whose bid quotation conforms to this RFQ, is most advantageous to the Department with price and other factors considered, and best aligns with the work of the Department. The Bidder must be capable and available to being performing the work required by the RFQ as noted in Section IV. Scope of Services.

IX. INSURANCE

The selected Bidder shall maintain professional liability insurance in amounts/limits that the Department dictates are reasonable and adequate to protect the Department from acts, omissions, and negligence on the part of the firm and/or of its partners, attorneys, or employees.

The Bidder shall furnish the Department with original certificates of insurance naming the Department as an additional insured and evidencing such coverage dictated by the Department on the effective date of the contract resulting from this RFQ.

If the Bidder fails to provide complete and adequate evidence of insurance coverage, the Department reserves the right to rescind its offer and award the contract to an alternate Bidder.

X. QUOTATION SUBMITTAL

The State of New Jersey and the Department of Community Affairs assume no liability for payment of expenses incurred by Bidders in preparing and submitting quotations in response to this procurement.

Questions regarding this RFQ, including questions regarding exceptions to the State of New Jersey Standard Terms and Conditions, must be submitted to [REDACTED] by 5:00 PM on July 30, 2021. Responses to questions will be posted on DCA's website by 5:00 PM on August 2, 2021.

Quotations with all supporting material must arrive by **12:00 PM on August 6, 2021**.

Submissions must be sent to:

John Harrison
[REDACTED]

DCA cannot accept attachments o more than 10MB in size. Transmit files using a secure file transfer system if an attachment exceeds this limit.

All bid submissions must include completed mandatory compliance forms, which include:

- Ownership Disclosure
- Disclosure of Investigations and Other Actions Involving Vendor
- Disclosure of Investment Activities in Iran
- MacBride Principles
- Source Disclosure
- Business Registration Certificate
- Affirmative Action Compliance
- Evidence of Insurance
- State of New Jersey Standard Terms and Conditions
- Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions

These documents can be found at the following links:

- <https://www.state.nj.us/treasury/purchase/forms.shtml>
- [Waiver and DPA Contract Checklist.pdf](#)

It is the bidding firm's sole responsibility to ensure that all required documentation and submissions indicated by this RFQ are included with the bid quotation. A quotation cannot be reviewed and evaluated unless and until all required information is received. Failure to provide all items as indicated in this document, in the level of detail specified, may prevent the Department from effectively and accurately evaluating the quotation and may result in rejection of the quotation.

Bidders should be aware that responses to this RFQ will be available, upon request, for public inspection. The Department, 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 New Jersey Right-to-Know statutory law and relevant case law.

**Notice of Executive Order 166 Requirement for Posting of Winning Proposal
and Contract Documents**

Pursuant to Executive Order No. 166, signed by Governor Murphy on July 17, 2020, the Office of the State Comptroller (“OSC”) is required to make all approved State contracts for the allocation and expenditure of COVID-19 Recovery Funds available to the public by posting such contracts on an appropriate State website. Such contracts will be posted on the New Jersey transparency website developed by the Governor’s Disaster Recovery Office (GDRO Transparency Website).

The contract resulting from this RFQ is subject to the requirements of Executive Order No. 166. Accordingly, the OSC will post a copy of the contract, including the RFQ, the winning bidder’s proposal and other related contract documents for the above contract on the GDRO Transparency website.

In submitting its proposal, a bidder/proposer may designate specific information as not subject to disclosure. However, such bidder must have a good faith legal or factual basis to assert that such designated portions of its proposal: (i) are proprietary and confidential financial or commercial information or trade secrets; or (ii) must not be disclosed to protect the personal privacy of an identified individual. The location in the proposal of any such designation should be clearly stated in a cover letter, and a redacted copy of the proposal should be provided. A Bidder’s/Proposer’s failure to designate such information as confidential in submitting a bid/proposal shall result in waiver of such claim.

The State reserves the right to make the determination regarding what is proprietary or confidential and will advise the winning bidder/proposer accordingly. The State will not honor any attempt by a winning bidder/proposer to designate its entire proposal as proprietary or confidential and will not honor a claim of copyright protection for an entire proposal. In the event of any challenge to the winning bidder’s/proposer’s assertion of confidentiality with which the State does not concur, the bidder /proposer shall be solely responsible for defending its designation.

IBM PROPOSAL TO

New Jersey Department of Community Affairs

For

**American Rescue Plan Utility Arrearage Program
Case Management Consulting Services RFQ**

Prepared for New Jersey Department of Community Affairs

By Chris Bradley

461 From Rd – 3rd Floor

Paramus, NJ 07652-3524

Telephone [REDACTED]

Email [REDACTED]

August 6, 2021





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III. Bidder's Submission Requirements

Transmittal Letter



*1 New Orchard Road
Armonk, NY 10504-1722*

August 6, 2021

Mr. John Harrison
New Jersey Department of Community Affairs
101 S Broad Street
Trenton, NJ 08625

RE: American Rescue Plan Utility Arrearage Program Case Management Consulting Services
RFQ

Dear Mr. Harrison:

IBM is pleased to respond to the Request for Quote (RFQ) for the implementation and administration of the case management for a new American Rescue Plan (ARP) program that provides utility arrearage (past due debt) relief for households impacted economically by the pandemic.

We look forward to the opportunity to continue our work with the State by providing the products and services as described in our proposal. We are the better value choice for the requested implementation and administration of the ARP utility arrearage program.

Every day across the state of New Jersey and the United States, households struggle to keep up with their utilities bills due to the economic impacts caused by the COVID-19 pandemic. New Jersey Department of Community Affairs (NJ DCA) being the cornerstone agency supporting the local communities and citizens of The Garden State. NJ DCA is tasked with the critical mission of supporting 300,000+ low-income households with potentially life-saving services that safeguard the health and well-being of the citizens of New Jersey through the ARP utility arrearage program. Given the critical mission of the ARP utility arrearage program, delays and service interruption are not an option. NJ DCA requires a lowered risk vendor with the right experience, resources, approach, and capabilities to implement and operationalize the ARP utility arrearage program services aligned to New Jersey's vision and mandate for this program.

Nationwide, state, and local agencies such as NJ DCA are increasingly demanding more from their information technology infrastructure: increased flexibility, increased scalability, and increased agility to meet changing business needs. At the same time, requiring reduced cost, reduced time to deploy, and realized recovery of investment. Over the years, our solution and services capabilities have given the State of New Jersey the reliability, availability, security, and manageability to substantially improve operations and achieve efficiency while accommodating growth at reduced costs. These characteristics have been and will remain fundamental to the IBM portfolio.

IBM has been a long-standing strategic vendor supplying solutions, products, and professional services that support your information technology environment. Working with you, we have delivered significant performance, productivity, and cost-reduction benefits for your business.

IBM complies with the following items cited in section VII. Bidder Assurances:

- Independent price determination
- Valid and binding offer
- Press releases and advertising
- Restrictions on communication with Department staff

The proposed quote is valid for 90 days from the RFQ submission date of 8/6/2021. IBM can accept the State's Standard Terms and Conditions, as modified by the Waivered Contract Supplement to them, with the exception of the sections regarding Indemnity and Liability (4.1). For those provisions, IBM seeks a discussion with the State to reach agreement on mutually acceptable terms. IBM has successfully concluded a number of contracts with the State in the past and, if selected for contract negotiations, would expect to draw on our common experience in closing those prior contracts to reach agreement quickly with the State.

Thank you for your consideration of our response. IBM looks forward to the opportunity to answer any questions you or any member of the evaluation committee may have about our proposal. I am authorized by IBM to commit contractually to all statements, including services and prices, contained in the proposal. Should you have any questions, please do not hesitate to contact me at [REDACTED] or via cell phone at [REDACTED]

Sincerely,



Yong Pak
Delivery Executive - IBM Global Business Services



Description of Bidder’s Organization

In an effort to establish the Bidder’s ability to successfully provide the requisite services, for projects of similar scope, size, and complexity, interested Bidders must provide a narrative that imparts general information about their organization. The narrative should address:

- the Bidder’s business name and type (corporation, 501(c)(3), etc.), location, number of years in business, and details of any failure to complete a contract or any litigation within the past two years;

IBM has been in business for 110 years. IBM was founded June 16, 1911, as a Computing-Tabulating-Recording Company in Endicott, New York, U.S. It was renamed International Business Machines Corporation (IBM) in 1924.

Additional information on the history of IBM is available at the following website:

http://www-1.ibm.com/ibm/history/history/history_intro.html.

IBM as a large publicly traded company with clients in more than 175 countries. IBM its employees, officers, and occasionally directors may become involved either as a plaintiff or defendant in a variety of ongoing claims, demands, suits, investigations, and proceedings that arise from time-to-time during its business. To the extent that any such matter is considered a reportable event under SEC regulations, it would be disclosed in IBM’s SEC filings.

- the number of years the Bidder has provided benefit program case management consulting services to other clients, as evidenced by submitting a copy of the Bidder’s list of clients and years serviced;

IBM’s work in benefit program case management consulting began in 1935, when we assisted the US Government in the implementation of the management and accounting systems for the Social Security Act of 1935. Described at the time as “the largest bookkeeping operation in the history of the world”, IBM provided the new Social Security Administration (SSA) with the tools to keep track of 26 million workers, assign 3.5 million Employer ID numbers, and develop a centralized system of recordkeeping that encompassed 24,000 square feet of floor space. IBM continued to support our clients in the social services industry throughout the twentieth century, expanding to the state and local level. We currently have a long list of engagements across the globe. Specific to the United States, we have current multi-year engagements in California, Rhode Island, New York, North Carolina, and South Carolina as referenced in the table below.

Clients	Years Served
California Department of Social Services	1992 - Present
New York Department of Health	2014 - Present
New York Department of Labor	2020 - Present
North Carolina Department of Health and Human Services	2009 - Present
Rhode Island Department of Health	2020 - Present



Clients	Years Serviced
San Diego County	2015 - Present
South Carolina Department of Health and Human Services	2012 - Present

We can provide a list of additional clients and years serviced upon request.

- the Bidder’s experience and knowledge in each of the areas listed under Section II. Qualifications of this RFQ;

Qualifications	Requirement Met	Requirement Not Met	Document Reference Section
Experience in quickly developing plans and strategies to process applications for a large volume of applicants (300,000+) to result in the provision of assistance to qualified applicants	✓		Description of Bidders Organization <ul style="list-style-type: none"> Second bullet, pg. 3 Fourth bullet, pg. 5 and 6
Experience with initiating and implementing outsourced: <ul style="list-style-type: none"> Case Management Customer Support <ul style="list-style-type: none"> Provide in English, with 35% of staff able to support Spanish and the ability to integrate with a language line interpreter for other languages Multiple Weekday Evening Hours support At least one Weekend Day support Integrated Interactive Voice Response (IVR) functionality with Connectivity to Data Sources 	✓		Description of Bidders Organization <ul style="list-style-type: none"> Second bullet, pg. 3 Fourth bullet, pg. 5 and 6 Assumptions/Basis of Estimate <ul style="list-style-type: none"> Item 12 and 13, pg. 23 Additional Submission Requirements <ul style="list-style-type: none"> Frist bullet, pg. 11 thru 15
Experience with aspects of benefit program administration, including determining eligibility, working with customers to complete applications, reviewing submitted documentation, and management reporting	✓		Description of Bidders Organization <ul style="list-style-type: none"> Second bullet, pg. 3 Fourth bullet, pg. 5 and 6
Knowledge and experience utilizing Microsoft Dynamics 365 (D365) instances that stores the applicant submissions	✓		Description of Bidders Organization <ul style="list-style-type: none"> Fourth bullet, pg. 5
Experience in working with large governmental systems to implement and/or advise on benefit programs	✓		Description of Bidders Organization <ul style="list-style-type: none"> Second bullet, pg. 3 Fourth bullet, pg. 5 and 6
Demonstrated capacity to quickly begin acceptance and processing of applications to result in full expenditure of funds prior to June 30, 2022	✓		Description of Bidders Organization <ul style="list-style-type: none"> Second bullet, pg. 3 Fourth bullet, pg. 5 and 6 Additional Submission Requirements <ul style="list-style-type: none"> Frist bullet, pg. 11, 16, and 17 Third bullet, pg. 19 thru 22



- [the Bidder’s history of engagements of a similar size and scope for benefit programs with other clients](#)

As mentioned previously, IBM has a long history helping our state and local clients who focus on delivering improved social services to the public. In January 2017, the City of New York contracted IBM to replace its 311 citizens call center platform. IBM helped the City replace its legacy architecture (Siebel) with a modern cloud-hosted Microsoft Dynamics solution. IBM managed the program management office, implementation, infrastructure upgrade, process definition, and trained city contact center agents and departmental staff.

NYC311 is the largest 311 operation in North America and had more than 44 million customer interactions after going live in 2018. It was also awarded 2019 “Best Application Serving the Public” from Best of New York City Awards. Today, IBM manages the Microsoft Dynamics application and infrastructure maintenance and operations. NYC311 is used directly by more than 30 NYC agencies and city residents (approximately 8 million people). NYC311 offers over 5,000 services to the public through the call center and a self-service portal that was search and content-driven with actions based on business rules. The solution uses a repository of knowledge articles with embedded actions that follow business rules based on dynamic client selections.

More recently, many of our clients in the public services industry were put under extraordinary strain due to COVID-19. As a trusted vendor with a long history of delivering benefit program case management, IBM was contracted to support benefit programs for New York State Department of Labor and Rhode Island Department of Health.

New York State Department of Labor

In April of 2020, New York State Department of Labor (NYS DOL) saw an unprecedented unemployment rate of 15.10% due to business closings because of COVID-19. Consequently, DOL was inundated with high volumes of applications, phone calls, and web traffic.

NYS DOL contracted with IBM to rapidly deploy large volumes of staff to address the urgent needs of the Unemployment Insurance and Pandemic Unemployment Assistance programs. Throughout the duration of the contract, IBM has completed the following tasks:

- Perform mainframe data entry and review claims and submitted documentation to expediate the processing and determining of eligibility on unemployment insurance claims
- Support inquiries from claimants via Two-Way Communication
- Leverage NICE InContact Interactive Voice Response (IVR) to handle incoming calls and place outgoing calls to resolve claim discrepancies. In addition to English, incoming

Unprecedented Economic Impact

April 2020:

- *16,000% increase in phone calls*
- *1,600% increase in web traffic*
- *3,109% increase of initial claims for UI*

calls in Spanish are handled via native speakers or the use of a language line translation service

- Review, process, and route fraudulent claims
- Create and maintain user agent guide to provide consistent guidance to agents on processing claims and scripts to use with claimants
- Report daily on number of agents working, inbound and outbound calls handled, English and Spanish calls handled, and fraud tickets completed
- Provide support within a variety of schedules suited to handle backlog and call volume including 7 days/week, 12 hours/day at peak volumes

To date, the IBM Team has handled over 2.3 million calls on behalf of the NYS DOL. As of April 29, 2021, IBM has helped NYS DOL distribute over \$81.3 billion in legitimate unemployment benefits to 4.6 million New Yorkers. We also have helped NYS DOL identify over 1.1 million fraudulent claims and stopped over \$12 billion in payments to criminals.

Rhode Island Department of Health

By August 2020, Rhode Island reported more than 27,000 cases of COVID-19, with 120 people, on average, testing positive each day. In addition, the governor had just announced plans to reopen schools, from kindergarten through 12th grade (K-12), on September 14, 2020. As a result, Rhode Island Department of Health (RIDOH) contracted IBM to develop a roadmap aimed at supporting children, parents, and school staff. This included putting together a specialty K-12 case investigation and contact tracing team, setting up a K-12 testing call center, and adding human resources to support new business processes — all in two weeks. The call center went live on September 14, 2020, with 40 trained agents armed with documented call scripts. Following IBM's guidance, the state expanded the capabilities of its call center for the general public too, staffing it with trained agents and adding a COVID-19 hotline. Today, the COVID-19 Operations Contact Center, which also offers contact tracing services, is managed by IBM seven days a week.

A United Front to Safeguard Residents

"I honestly don't know where we would have been without IBM and the resources and the resources and the supports they brought to the table."

*Kristine Campagna,
Chief Operating Officer for
COVID Operations*

In addition, residents can also get answers to their most frequently asked questions by visiting the state's website and chatting with RHODA, an online virtual agent based on IBM Watson Assistant software. IBM launched the project in only 12 days, integrating it with the Salesforce platform before handing it over to live agents. Since October 2020, RHODA has had more than 100,000 conversations on topics related to test scheduling, test results, travel restrictions, vaccine eligibility and other questions.

During the first phase of K-12 testing, Watson Assistant technology handled more than 18,000 phone calls about test scheduling, test cancellations and rescheduling, and test results retrieval — in only three weeks. When callers had more complex questions, additional support was provided



through intelligent routing and outbound text notifications. And in the second phase of testing, IBM Watson Assistant software automatically managed 70% of all vaccination-related calls, while also providing human agent routing for complex issues, “call-backs” and bilingual support in English and Spanish. Today, IBM continues to work with the state in the areas of overall governance, operations, automation, data insights and others.

In addition, IBM has seven years’ experience with our current Communications Platform as a Service vendor, NICE inContact, and the telephony team on-boarding more than 50 accounts on the platform from simple to complex solutions with integration into Watson (Voice and Chat virtual assistants) and multiple Customer Relationship Management systems such as Microsoft Dynamics and Salesforce. Below are a sample of accounts we have recently on-boarded onto the platform that have similar technical capabilities as the solution we are proposing for NJ DCA.

Client	Technical Capabilities
Rhode Island Department of Health	IVR, ACD, Watson Voice Virtual Agent, Quality Management, Workforce Management, Salesforce Integration, 350 Agents
Fort Bend Independent School District	IVR, ACD, Quality Management, Workforce Management, Salesforce Integration, 45 agents
Pfizer	IVR, ACD, Watson Chat Virtual Agent, Quality Management, Workforce Management, Salesforce Integration, 110 Agents
Providence Saint John Hospital	IVR, ACD, Watson Chat Virtual Agent, Quality Management, Workforce Management, Salesforce Integration, 65 Agents

- the Bidder’s staff qualifications, capacity, and experience in providing these services, by indicating the number of full-time employees (and, if applicable, part-time employees) qualified to do so;

As disclosed in IBM’s 2020 Annual Report, IBM has 345,900 employees worldwide. IBM has successfully demonstrated with its extensive pool of quality resources; it is able to quickly respond to client needs and scale up or down as needed. For RIDOH, in the span of just 12 days, the IBM team implemented a Contact Center as a Solution (CCaS) staffed by multi-lingual, US-based agents trained in HIPAA protocols. As the number of COVID cases fluctuated, IBM scaled from a team of 40 to as much 750 at one point. For NYS DOL, IBM was able to on-board and train customer service representatives on the new Pandemic Unemployment Assistance program within two weeks. As the volume of unemployment insurance claims surged, IBM was able to ramp up to a team as large as 1,000 full-time employees.

IBM also further expands its extensive reach back by using core suppliers such as Artech, who have their own workforce of 10,500 employees. Artech has more than a decade of experience providing Tier-1, Tier-2, and Tier-3 contact center and customer care support to its clients, their end-users and customer base. IBM and Artech partnered in delivering qualified staff to NYS DOL and we plan to leverage our high-performing leadership team such as Kelly Swindell and Ramy Kailoby to assemble the right team, with the right skill sets, at the right time for NJ DCA.



- a staffing chart to show each position or title for those individuals who will, or who it is expected will, perform work against the resulting contract;

At IBM, we understand that implementing our Contact Center as a Solution (CCasS) depends on the organization of the project resources in a structure that is well defined and yet flexible. Our proposed organizational framework is built on structured roles and clearly identified and defined responsibilities. Our organizational structure promotes continuous learning and increases resource use through sharing of resources as demand increases. This structure forms the framework for the distribution of activities and the measurement and reporting of progress of these activities against the capacity models defined for the ARP utility arrearage program.

Project success is based on the following key factors:

- Assembling the right group of people
- Defining roles and responsibilities
- Communicating and collaborating
- CCaaS (IVR), Case Management and Customer Support Experience

IBM recommends the following staffing structure, levels and resource counts and staffing ratios outlined in the below tables. These recommendations are based on the below claim and call capacity models outlined in Assumptions/Basis of Estimates to efficiently manage and operate the ARP arrearage program.

Team Structure			
Staffing Level	Staffing Category	Role	Count of Resources
Level 3	PMO	PMO	3
Level 3	Manager	Focals	1
Level 2	Supervisor	Squad Leaders	4
Level 1	Agents	Adjudicators/Call Center Professionals	35
Level 2	Tier 2 Support	Application Support	4

Example Adjudicator/Call Center Professionals Staffing Ratio:

Level 1 Resources	Level 2 Resources	Level 3 Resources	Total
35	8	4	47

- if available, an organizational chart for the Bidder’s entire organization, to evidence its depth of staff;

We will facilitate success by assembling the right team, with the right skill sets, and the right resources at the right time. Figure 1 represents the IBM Team organizational structure for the ARP utility arrearage program:

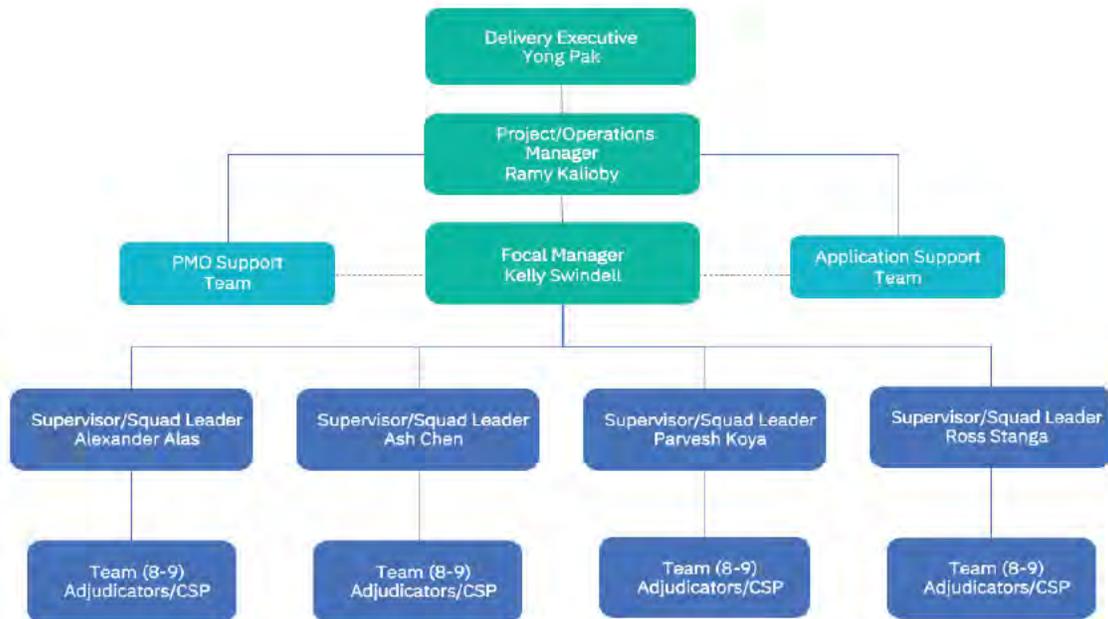


Figure 1: ARP Utility Arrearage Program Organization Structure

- the location and contact information (address, telephone, e-mail, etc.) of the Bidder’s office that will be responsible for managing the resulting contract, as well as the locations of its corporate headquarters and any regional business offices; and

New Jersey Office Responsible for Managing the Contract			
Point of Contact for RFQ - Name/Title:		Chris Bradley/Client Executive	
Tel:	██████████	E-mail:	██████████
Street Address:	461 From Rd – 3 rd Floor		
City/State/Zip:	Paramus, NJ 07652-3524		
Bidder’s Organization Name:	IBM		
Headquarters Street Address:	1 New Orchard Road		
Headquarters City/State/Zip:	Armonk, NY 10504		
New Jersey Office Responsible for Managing the Contract			
Alternate Point of Contact for RFQ - Name/Title:		Yong Pak/Delivery Executive	
Tel:	██████████	E-mail:	██████████
Street Address:	461 From Rd – 3 rd Floor		
City/State/Zip:	Paramus, NJ 07652-3524		



Bidder's Organization Name:	IBM
Headquarters Street Address:	1 New Orchard Road
Headquarters City/State/Zip:	Armonk, NY 10504-1722

- the name, phone number, and e-mail address of the individual who will be responsible for managing the performance against the resulting contract.

Contact Details	
Title	Delivery Executive
Name	Yong Pak
Phone Number	[REDACTED]
Email Address	[REDACTED]

As part of the quotation submission, the Bidder should provide a plan for making qualified replacement(s) available to provide the requisite services during the contract term and any extensions thereto, to ensure uninterrupted performance of the requisite services in the event of vacation, illness, or personal emergency of the Consultant's staff assigned to perform the work against the resulting contract. This submittal can be as simple as identifying alternate staff for key positions identified in the Bidder's staffing chart.

Our resource management approach will support project continuity and stability through staff retention and replacement. Our three core tenets to resource management are shown in the below Table.

Approach	Description
A Commitment from Key Personnel to be Ready on Day One	<ul style="list-style-type: none"> We have assembled a team that is highly committed to the success of NJ DCA ARP arrearage program. The key personnel resources have a history of successfully seeing projects through to completion.
Strategies to Minimize the Impact to Staff and ARP utility arrearage Program	<ul style="list-style-type: none"> We will employ disciplined archiving of work products and work products, redundancies where necessary, and succession/back-up strategies for key personnel to maintain service continuity.
A Culture that Promotes a Long-term, Satisfying, Career-focused Environment	<ul style="list-style-type: none"> Internal and external training and education programs, proactive management development programs, career development centered on empowerment, team building, and a supportive environment that builds trust and confidence. The right vendor who is so committed to the success of the ARP utility arrearage program and has extensive reach back to quality resources to quickly backfill resources as the need arises.

Additional Submission Requirements

Detailed plan demonstrating the Bidder’s capacity to quickly begin acceptance and processing of applications within 15 business days of contract execution and to result in full expenditure of funds prior to June 30, 2022

- A preliminary work plan that includes a timeline, significant milestones, and anticipated deliverables.

There are three major implementation milestones (IVR, Phase 1 and 2 Watson Assistant Go Live) for our CCaaS solution that are proposed to be completed within the first two months of the ARP utility arrearage program timeline. Figure 2 represents our ARP Utility Arrearage Program Timeline.

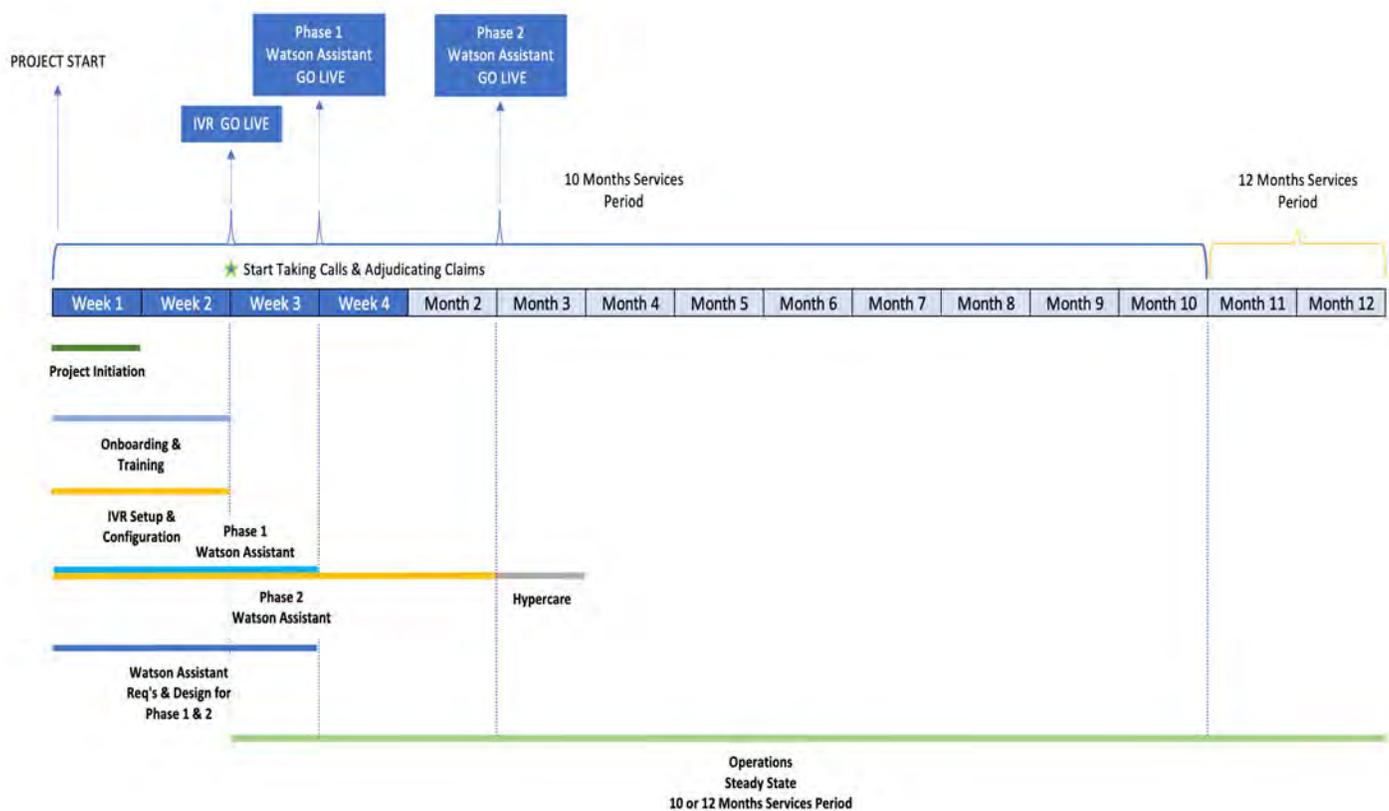


Figure 2: ARP Utility Arrearage Program Timeline

From our experiences standing up similar pandemic related operations and/or contact centers. We are the right choice to assist NJ DCA implement and administer the potentially life-saving services that safeguard the health and well-being of the citizens of New Jersey. IBM will be bringing operational assets, processes, resources, and capabilities to accelerate our ability to start accepting calls and adjudicating claims in as little as two weeks from the project start date. To show our understanding of NJ DCA’s vision and goals, we have proposed the below components of our CCaaS solution that provides NJ DCA with the industry-recognized components, while providing the following additional business and operational values that we can only bring to this RFQ. Table below provides a summary of our solution benefits/inclusions.



Solution Component	Descriptions	Benefits/Inclusions
Contact Center-as-a-Service	Managed services model that includes the following: adjudication/call center staff and Nice inContact Interactive Voice Response (IVR) Platform-as-a-Service (PaaS).	<ul style="list-style-type: none"> ▪ Accelerated delivery of operational services ▪ Lower program operating costs to NJ DCA ▪ Omni channel routing ▪ CRM integrations ▪ Project management and oversight ▪ Direct Inward Dialing (DID) – Toll free number ▪ IVR – automated telephony system interacts with claimants and employees <ul style="list-style-type: none"> ○ Gathers required data for skill-based routing ○ Call recording ▪ Promise Keeper <ul style="list-style-type: none"> ○ Claimant can request callback during business hours verse holding ▪ Quality Management <ul style="list-style-type: none"> ○ Supervisors to randomly select contacts and verify call handling is correct ▪ Workforce Management <ul style="list-style-type: none"> ○ ability to optimize workforce, including scheduling breaks and training based on call volume ○ ability to analyze the performance of the call center individually and as a team ▪ Incident Management/Technical Support <ul style="list-style-type: none"> ○ Included incident management service for IVR issues and/or enhancements ○ Provide technical support for IVR users (i.e. password resets) ○ Provide technical support for IBM team members with CRM incidents (i.e. access, password reset) via appropriate ticketing system ○ Provide technical support for external users with CRM incidents (i.e. access, password reset) via appropriate ticketing system ▪ Adjudication/Call Center Support Resources <ul style="list-style-type: none"> ○ A ratio of level 1, level 2, and level 3 resources to efficiently administer the ARP utility arrearage program ○ Qualified and proactive resources with the appropriate skills and experience meet NJ DCA goals
Watson Assistant – Virtual Agent	IBM Watson Assistant is an AI-powered virtual agent that provides customers with fast, consistent, and accurate answers across messaging platforms, applications, devices, or channels.	<ul style="list-style-type: none"> ▪ Web and Voice channel integration ▪ CRM integration ▪ 24X7 Virtual Agent Availability ▪ Call deflections and promotes more self-service

Solution Component	Descriptions	Benefits/Inclusions
		<ul style="list-style-type: none"> ▪ Intents include FAQs, Claim Status and SMS links to callers (voice only) ▪ One AI serving Voice, Email, Text, Web, and between systems ▪ True conversational Voice AI, avoiding complex decision tree logic with dynamic conversation orchestration ▪ Accelerate AI learning through automatically recommended intents based on accumulated context ▪ Deep pre-built integration into IVR and back-end data systems for contextual responses

Business support hours, 8:00 AM to 8:00 PM local time, Monday through Saturday, except observed New Jersey and Federal holidays or as otherwise mutually agreed. Some personnel may work hours other than those defined as normal business hours to accommodate administrative and technical tasks as necessary. Figure 3 represents our ARP Utility Arrearage Program Work Coverage.



Figure 3: ARP Utility Arrearage Program Work Coverage

Proposed IVR Process Flow.

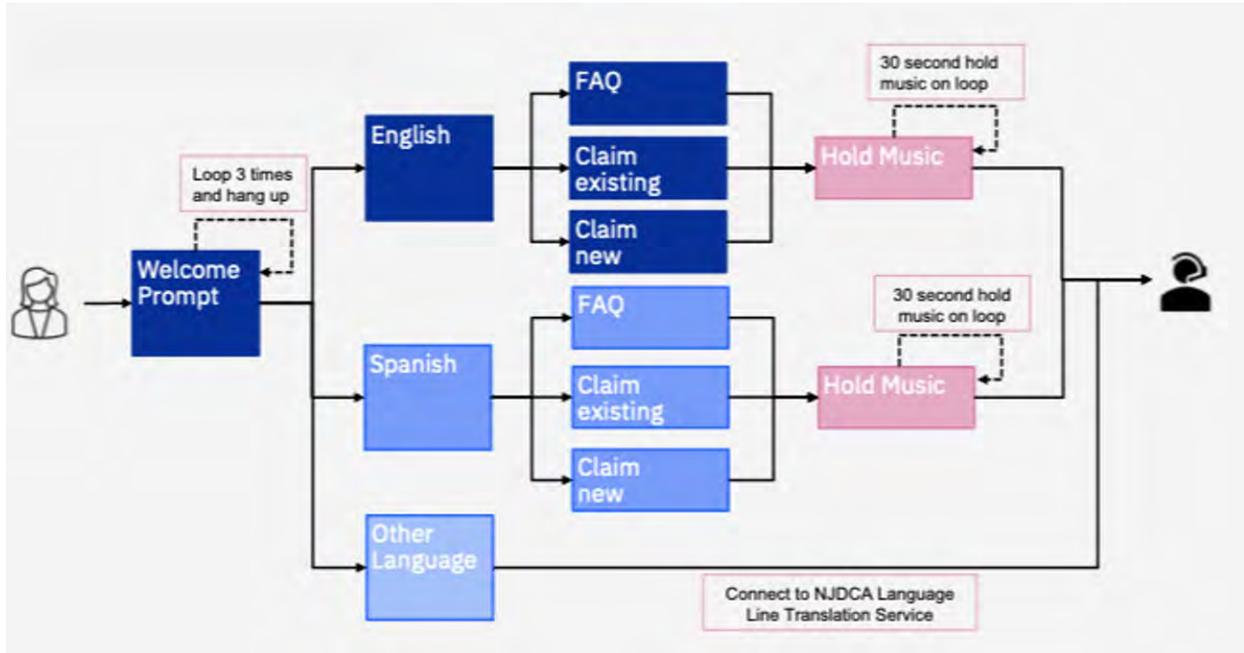


Figure 4: ARP Utility Arrearage Program IVR Process Flow

Proposed Claimant Process Flow.

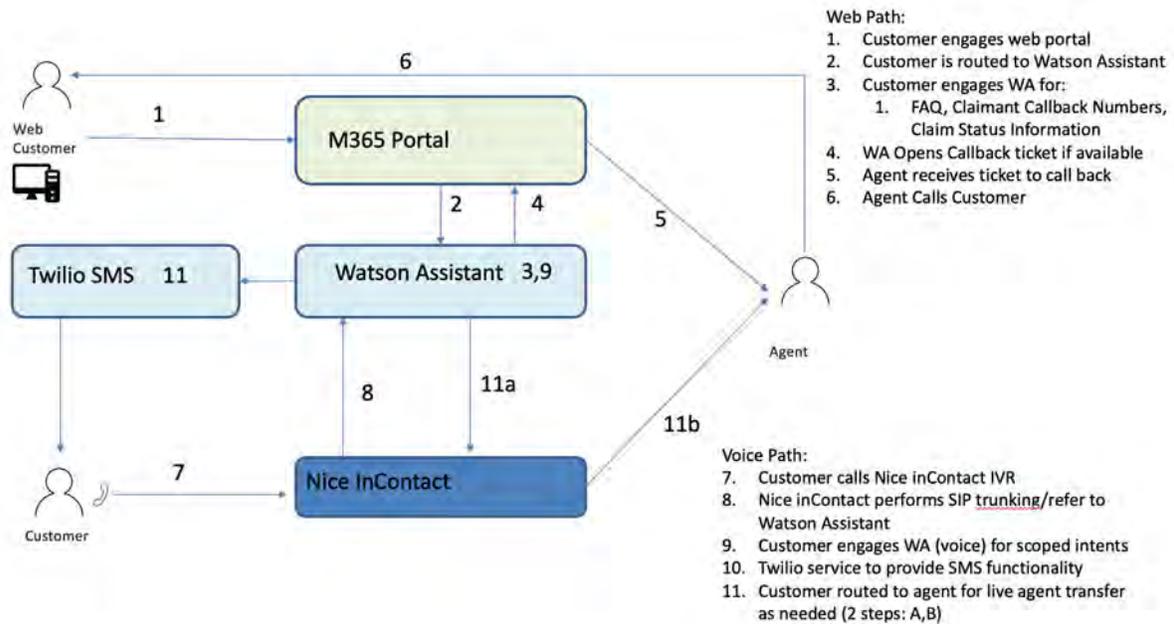


Figure 5: ARP Utility Arrearage Program Claimant Process Flow

Watson Assistant Logical Architecture.

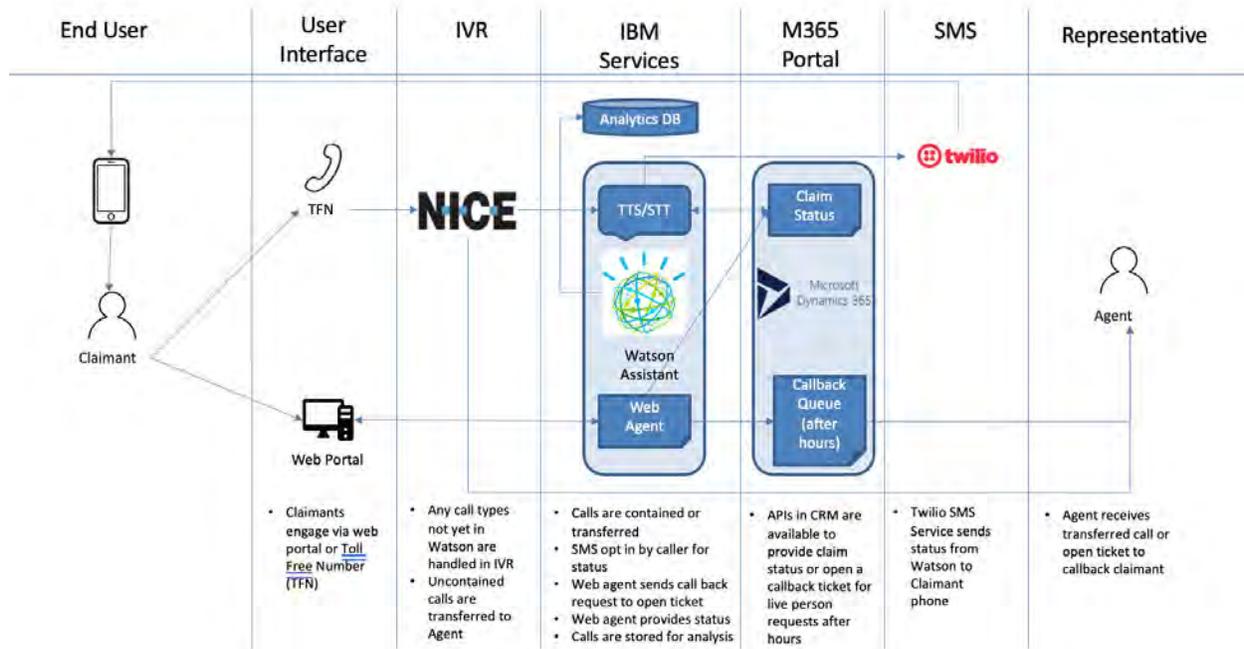


Figure 6: ARP Utility Arrearage Program Watson Assistant Logical Architecture

Watson Assistant Physical Architecture.

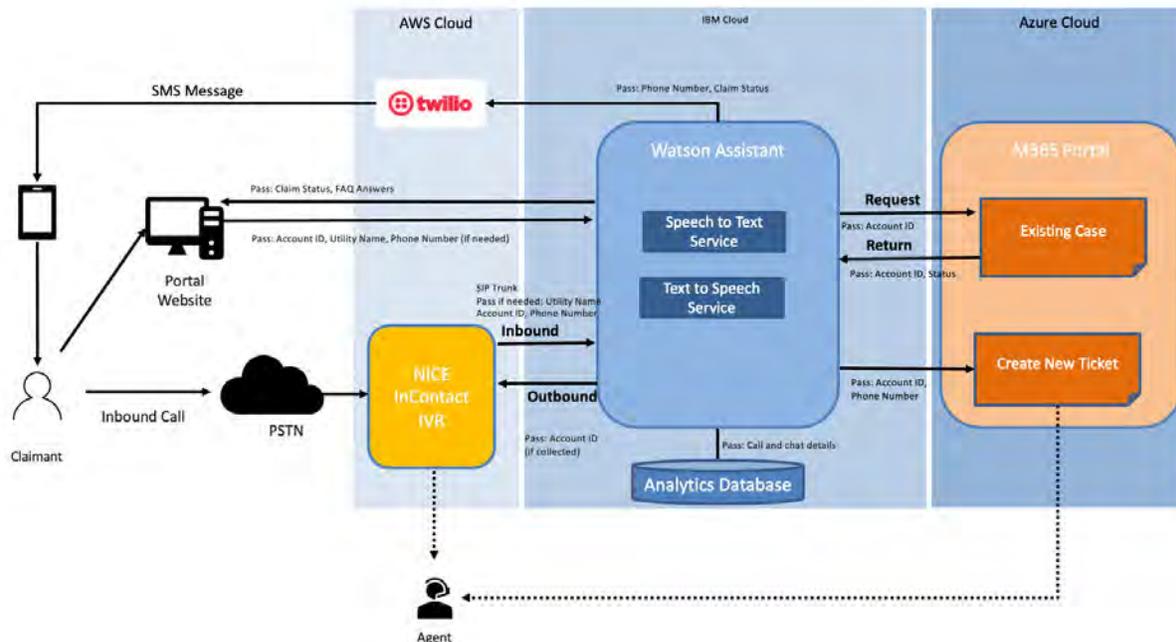


Figure 7: ARP Utility Arrearage Program Watson Assistant Physical Architecture



Our delivery approach integrates key elements of proven IBM methods and approaches to bring leading practices to a variety of disciplines to help deliver the proposed CCaaS solution successfully, including IBM’s Worldwide Project Management Method (WWPMM) to govern our work and evaluate for continuous process improvements by conducting monthly meetings during the program performance period to review the project status, issues, staffing, project budget, claims and inbound/outbound contact capacities, and product considerations. Table below provides a summary of the ARP utility arrearage program milestones.

Milestone	#	Proposed Work Products	Description
Project Initiation	1	Team Charter	<ul style="list-style-type: none"> ▪ Includes team agreements and supporting project documents/assets: <ul style="list-style-type: none"> ○ Change Management Plan ○ Communication Plan ○ Agent/Operational Guide ○ Team Assignments ○ Work Schedules ○ Weekly and Monthly Status Report Templates ○ Onboarding & Training Plan
IVR GO LIVE	2	N/A	<ul style="list-style-type: none"> ▪ Team starts taking calls and adjudicating claims
Watson Assistant Design	3	Requirements and Conversational Design	<ul style="list-style-type: none"> ▪ Watson Assistant design team collects necessary virtual agent conversational requirements and designs virtual agent intents
Phase 1 Watson Assistant	4	N/A	<ul style="list-style-type: none"> ▪ Deploy Phase 1 virtual agent functionality: Web and Voice channel FAQ responses
Phase 2 Watson Assistant	5	N/A	<ul style="list-style-type: none"> ▪ Deploy Phase 2 virtual agent functionality: Web and Voice channel provide claim status and SMS links to caller (Voice only)
Operations Steady State	6	Weekly Operational Reports	<ul style="list-style-type: none"> ▪ Claims processing reports <ul style="list-style-type: none"> ○ Claim age ○ Claim status ○ Claim backlog ○ Claim processed ▪ IVR reports <ul style="list-style-type: none"> ○ Available agents ○ Inbound/Outbound Call Volumes Handled ○ English/Spanish Calls Handled
Operations Steady State	7	Monthly Operational & Program Review	<ul style="list-style-type: none"> ▪ Budget review ▪ Staff review ▪ Project Milestones review ▪ Issue and Risk review



Milestone	#	Proposed Work Products	Description
			<ul style="list-style-type: none"> ▪ Upcoming events and meetings ▪ Work productivity <ul style="list-style-type: none"> ○ Claims and Inbound/Outbound call capacity review

- Staffing plan demonstrating the qualifications and experience of the Bidder’s management, supervisory, and other key personnel assigned to perform work against the resulting contract.

IBM’s approach to staffing is forward-looking, with a focus on speed and quality. We are fast, because of our reach-back. We bring quality, because we are committed to using experienced industry and technical leaders throughout the engagement. For instance, our project team has direct access to IBM’s global thought leaders in the Social Services Industry, Interactive Voice Response (IVR), Watson Assistant - Virtual Agent, and we have extensive CCaaS/Customer Support experience for additional support and experience, as required.

Also, we have already identified the proposed key resources for the ARP utility arrearage program including the delivery executive that will oversee the project against the resulting contract. These key resources have the experience to successfully implement and administer the ARP utility arrearage program, “the how” is detailed below.

We have included the names of the proposed key staff and their positions. In addition, IBM has significant experience nationwide in the domains of Case Management, Customer Support, Integrated IVR, and Watson Assistant - Virtual Agent specifically with State Agencies and our proposed CCaaS. Table below provides a summary of each key resource.

Proposed Position	Candidate Summary
DELIVERY EXECUTIVE	<p>YONG PAK</p> <p>Yong Pak is an Associate Partner and Delivery Executive with over 14+ years of public sector experience leading large scale Social Service Modernization projects. He supports multiple industry and client engagements from start to finish for a tailored business solution on highly complex projects.</p> <p>Yong is providing IT resiliency and business continuity services supporting New York Department of Labor (NYS DOL) case management, claim adjudication, and contact center support assisting 4.6 million New Yorkers impacted economically by the pandemic.</p> <p>Yong has a passion for creating and implementing innovative public sector solutions, and for operationalizing programs in an efficient way to deliver high value to his clients. He has led and provided executive oversight for several successful social services and modernization programs in New York, South Carolina, The District of Columbia, Oklahoma, Pennsylvania, and Colorado.</p>



Proposed Position	Candidate Summary
<p>PROJECT / OPERATIONS MANAGER</p>	<p>RAMY KALIOBY</p> <p>Ramy has over 7 years' experience delivering large-scale public-sector enterprise applications. Ramy has led cross-functional teams on multiple accounts to drive projects to completion, from design to deployment. Ramy has served as key point of contact for all functional and design aspects of releases. He has facilitated discussion with key stakeholders to identify business requirements through collaborate workshops design sessions involving client, ends users, developers, and business analysts. Experience working with project leadership to monitor resource allocation for optimal quality & output.</p> <p>Ramy is the Project Management Office Lead on the NYS DOL project. He has used his delivery experience to develop enhanced operational processes on NYS DOL and continues to drive and lead collaborative process improvements with NYS DOL SMEs using operational analytics. In addition, he is responsible for onboarding/offboarding, team assignments and scheduling, communication plan management (i.e. reporting) and facilitating project operational guides/procedures.</p> <p>Ramy brings with him not only his CCaaS experience from NYS DOL, he brings the necessary project assets to accelerate the project initiation and entry into operations/steady state.</p>
<p>FOCAL MANAGER</p>	<p>KELLY SWINDELL</p> <p>Kelly has over 20 years of experience implementing and supporting CRM solutions. Her specialty includes developing and executing change management and end-user training programs. For over the past year, Kelly has been a squad leader of teams ranging from 10-75 agents either handling incoming calls or responding to inquiries through the State's Two-Way Communication system for NYS DOL.</p> <p>Kelly provides support to her teams by answering claim process questions, delivering system training and demonstrations, and providing management reporting on results. In support of the full IBM team, Kelly is also responsible for facilitating process meetings held with NYS SMEs and is a member of the Document Review Board, which is responsible for documenting and communicating all processes and process changes.</p>
<p>SUPERVISOR SQUAD LEADER</p>	<p>ALEXANDER ALAS</p> <p>Alex has 3 years of experience leading high-performing teams in contact center environments. He has a proven track record of motivating teams of 10-25 agents in meeting or exceeding SLAs.</p> <p>He also has experience implementing and maintaining Watson Assistant. In 2019 he was the lead business analyst on a Watson Assistant implementation for a large U.S. provider of health insurance. In this role, he created dialog flows covering various conversation intents from FAQs, finding a provider, to various claims and billing inquiries.</p>



Proposed Position	Candidate Summary
SUPERVISOR SQUAD LEADER	<p>ASH CHEN</p> <p>Ash is proficient in people management, process improvement, communication, and project management. She has experience in the public sector and healthcare industry. In her most recent role, Ash leads a team of professionals administering NYS DOL's Pandemic Unemployment Assistance program.</p> <p>In this role, she is responsible for auditing her team's actions, properly escalating complex claim issues, advising agents on standard operating procedures, and validating her team is meeting the applicable SLAs. In addition, she also created a two-week training program for new agents.</p>
SUPERVISOR SQUAD LEADER	<p>PARVESH KOYA</p> <p>Parvesh is an experienced manager with proven leadership abilities. He has a track record of leading teams focused on customer service. Prior to joining IBM, Parvesh worked for Apple Inc. providing customers IT support across a multitude of devices including iPhone, iPad, MacBook, and more.</p> <p>Currently Parvesh is leading a team of approximately 20 agents working on behalf of NYS DOL. He has demonstrated he is dependable and hard working with excellent communication and time management skills.</p>
SUPERVISOR SQUAD LEADER	<p>ROSS STAGNA</p> <p>Ross is a team manager with key leadership skills. His supervision of a team enables agents to provide customers excellent service and a comfort knowing that their claims are handled competently and in a timely manner. Ross' team can depend on his timely and efficient handling of issues and questions so that they can perform at a high level, and leadership can rely on Ross to manage his team so that processes are executed quickly and smoothly.</p>

- [Price Quotation. See Section V. Evaluation Criteria and Selection Process.](#)

Estimated Schedule

The estimated start date for the program is September 1, 2021, or the issuance date of the State of New Jersey Purchase Order. The estimated completion dates are provided below based on two performance periods outlined in the RFQ sections IV Schedule and Scope of Service and VIII Award.

1. Based on a 10-month performance period is June 30, 2022

or

2. Based on a 12-month performance period is August 30, 2022

To assist NJ DCA in the operation of this program, IBM proposes a Time and Materials (T&M) model for our CCaaS. Our CCaaS managed services model that includes the following: adjudication/call center staff and Nice inContact Interactive Voice Response (IVR) Platform-as-



a-Service (PaaS). Our quote is based on remote delivery and does not include any travel and will be valid for 90 days from the RFQ submission date of 8/6/2021.

Billing Schedule mapped to Project Milestones

The monthly managed service fee is based on the estimated processing capacity model described in our Assumptions and our Basis of Estimate sections. The model can be adjusted based on consumption needs. The estimated hours and services fees associated to managing and operating the ARP arrearage program for NJ DCA are provided in the tables below. IBM will work with NJ DCA to monitor metrics around estimated claim application volumes, claim adjudication processing volumes, and call volumes to recommend appropriate changes to services and staffing levels. NJ DCA can decide to add or reduce the number of IBM resources at any stage during the program with the stipulated notice period of 30 days if certain staffing ratios are mutually agreed to.

10-month performance period

The total estimated value of the 10-month performance period is \$6,459,852.42. \$5,830,685.72 for CCaaS Managed Services and \$629,166.70 Watson Assistant – Virtual Agent.

1. CCaaS Managed Services Fees

Month ID	Milestone ID	Est. Adjudication Processing Capacity	Est. Inbound & Outbound Call Handling Capacity	# of Resources Adjudicators/Call Center Professionals	Total Monthly Hours	Managed Services Monthly Costs
1	1, 2, 3, 4	21,504	10,752	48	8,448	\$ 774,393.68
2	1, 2, 3, 5	21,504	10,752	47	7,896	\$ 723,794.09
3	6, 7	21,504	10,752	47	7,520	\$ 689,327.70
4	6, 7	18,432	9,216	42	6,384	\$ 585,195.22
5	6, 7	18,432	9,216	42	7,056	\$ 646,794.72
6	6, 7	18,432	9,216	40	6,720	\$ 615,994.97
7	6, 7	18,432	9,216	40	6,080	\$ 557,328.78
8	6, 7	11,674	5,837	29	5,104	\$ 467,862.85
9	6, 7	11,674	5,837	28	4,704	\$ 431,196.48
10	6, 7	7,987	3,994	22	3,696	\$ 338,797.23
				TOTAL	63,608	\$ 5,830,685.72

2. Watson Assistant – Virtual Agent Fees

Month ID	Milestone ID	IBM Cloud Watson Enterprise Monthly Cost	SIP & SMS Services (Twilio) Monthly Cost	Phase 1 Services Cost	Phase 2 Services Cost	Total Monthly Costs
1	1, 2, 3, 4	\$ 11,250.00	\$ 4,166.67	\$ 125,000.00	\$ 0.00	\$ 140,416.67
2	1, 2, 3, 5	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 350,000.00	\$ 365,416.67



Month ID	Milestone ID	IBM Cloud Watson Enterprise Monthly Cost	SIP & SMS Services (Twilio) Monthly Cost	Phase 1 Services Cost	Phase 2 Services Cost	Total Monthly Costs
3	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
4	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
5	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
6	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
7	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
8	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
9	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
10	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
					Total	\$ 629,166.70

12-month performance period

The total estimated value of the 12-month performance period is \$6,490,685.72. \$5,830,685.72 for CCaaS Managed Services and \$660,000.00 Watson Assistant – Virtual Agent.

1. CCaaS Managed Services Fees

Month ID	Milestone ID	Est. Adjudication Processing Capacity	Est. Inbound & Outbound Call Handling Capacity	# of Resources Adjudicators/Call Center Professionals	Total Monthly Hours	Managed Services Monthly Costs
1	1, 2, 3, 4	21,504	10,752	47	8,272	\$ 758,260.47
2	1, 2, 3, 5	21,504	10,752	47	7,896	\$ 723,794.09
3	6, 7	21,504	10,752	47	7,520	\$ 689,327.70
4	6, 7	18,432	9,216	42	6,384	\$ 585,195.22
5	6, 7	18,432	9,216	42	7,056	\$ 646,794.72
6	6, 7	12,288	6,144	29	4,872	\$ 446,596.35
7	6, 7	12,288	6,144	29	4,408	\$ 404,063.37
8	6, 7	12,288	6,144	29	5,104	\$ 467,862.85
9	6, 7	9,216	4,608	21	3,528	\$ 323,397.36
10	6, 7	9,216	4,608	21	3,528	\$ 323,397.36
11	6, 7	6,144	3,072	15	2,520	\$ 230,998.11
12	6, 7	6,144	3,072	15	2,520	\$ 230,998.11
				TOTAL	63,608	\$ 5,830,685.72



2. Watson Assistant – Virtual Agent Fees

Month ID	Milestone ID	IBM Cloud Watson Enterprise Monthly Cost	SIP & SMS Services (Twilio) Monthly Cost	Phase 1 Services Cost	Phase 2 Services Cost	Total Monthly Costs
1	1, 2, 3, 4	\$ 11,250.00	\$ 4,166.67	\$ 125,000.00	\$ 0.00	\$ 140,416.67
2	1, 2, 3, 5	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 350,000.00	\$ 365,416.67
3	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
4	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
5	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
6	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
7	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
8	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
9	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
10	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
11	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
12	6, 7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
					Total	\$ 660,000.00

Assumptions/Basis of Estimates

The following operational assumptions were used to estimate staffing, pricing, and expected volumes. Should any of these assumptions prove to not be accurate, IBM will work with NJ DCA to modify staffing, timelines, and/or pricing as mutually agreed via the agreed change management process.

No.	Description
1	Level 1 staff (adjudicators/call center professionals) will work no more than 40 hours/week, 8 hours/days within the allotted period Monday – Saturday (8:00am – 8:00pm ET).
2	NJ DCA or designee will provide formal training at least one-week before IBM begins call handling. Formal training to include ARP arrearage program FAQs, available resources (i.e., program rules and policies) and other support program knowledge materials/references (i.e., LIHEAP, Rental Assistance, and Homelessness) and appropriate transfer reference to provide (i.e., NJ 211 services).
3	NJ DCA or designee will provide ARP arrearage program platforms, available system and/or user training/knowledge materials at least one-week before adjudications activities begin.
4	The program will have a possible target population of 300,000 households. IBM assumes 50% of target population/households will apply for program.
5	IBM assumes distribution of work will be 80% of time spent on adjudication process and 20% of time spent on Inbound/Outbound call handling.
6	IBM assumes adjudication process of 10 mins per case (assuming determination is manually created).
7	IBM assumes 5 mins per outbound call for follow-up adjudication activities.



No.	Description
8	IBM assumes 5 mins per inbound call from claimants.
9	Any system related (Non IVR) defects or enhancement requests identified by Level 2 Technical Support either through use by external users or IBM Adjudicators/Call Center Professionals will be documented and submitted through the established process by the ARP Case Management Implementation Team for disposition and/or prioritization.
10	IBM assumes another communication channel is provided by the state for users (internal/external) to report system/application issues for appropriate disposition.
11	IBM assumes that the state will provide all required user licenses for the adjudication and call center activities on the ARP arrearage program platforms, so that we can manage and operate the ARP arrearage program for NJ DCA.
12	IBM assumes 35% of the Level 1 staff (adjudicators/call center professionals) will be bilingual in both English and Spanish.
13	If the need for Spanish speaking Level 1 staff be more than 35% of available Level 1 staff or a need arises for any other language, IBM will leverage existing NJ 211 language line for translation services. NJ DCA will provide IBM with appropriate language line access codes to use this service.
14	IBM has allocated 240 hours for IVR customization in this SOW.
15	Initial Virtual Agent in English language, and then will add Spanish language once configuration is accepted in English.
16	IBM Public Cloud will be used to deploy the Virtual Agent and approved data elements for authentication will not contain SPI subject to additional security requirements.
17	For the Virtual Agent, dialog flows will be approved by the NJ DCA in a timely manner in keeping with the project plan to support project milestones.
18	NJ DCA will reimburse IBM for any fees related to background checks required to provide the services described herein.
19	All claim application types (i.e. paper applications from local NJ offices) for the ARP utility arrearage program unless taken by phone via the IVR, will be made available to the adjudicators/CSR via the Case Management application for data entry, follow-up, and adjudication.

The below table provides details around how the application backlog, application adjudication capacity, and call handling capacity were estimated.

Description	Value
Total Households	300,000
Total Anticipated Applications (50% of Households)	150,000
Monthly Applications	12,500
Average Adjudication Handling Time (10 mins/claim)	10
Total Anticipated Adjudications Processed/Resource/Month	614.4
Total Anticipated Inbound/Outbound Call Contact (20% of Total Applications)	30,000
Average Inbound/Outbound Call Handling Time (5 mins/call)	5
Total Anticipated Inbound/Outbound Calls Handled/Resource/Month	307.2



The below table outlines how application count, adjudication processing capacity by month were estimated.

10-month performance period

Month	Application Count	# of Resources	Adjudication Processing Capacity	Application Backlog
1	40,000	48	21,504	18,496
2	30,000	47	21,504	26,992
3	20,000	47	21,504	25,488
4	10,000	42	18,432	17,056
5	10,000	42	18,432	8,624
6	10,000	40	18,432	6,336
7	10,000	40	18,432	4,048
8	7,500	29	11,674	0
9	7,500	28	11,674	0
10	5,000	22	7,987	0
Total Applications	150,000	Total Capacity	169,574	

12-month performance period

Month	Application Count	# of Resources	Adjudication Processing Capacity	Application Backlog
1	40,000	47	21,504	18,496
2	30,000	47	21,504	26,992
3	20,000	47	21,504	25,488
4	10,000	42	18,432	17,056
5	10,000	42	18,432	8,624
6	10,000	29	12,288	6,336
7	10,000	29	12,288	4,048
8	5,000	29	12,288	0
9	5,000	21	9,216	0
10	5,000	21	9,216	0
11	2,500	15	6,144	0
12	2,500	15	6,144	0
Total Applications	150,000	Total Capacity	168,960	



The below table outlines how inbound & outbound call volume and call handling capacity by month were estimated.

10-month performance period

Month	Inbound & Outbound Call Contacts	# of Resources	Inbound & Outbound Call Handling Capacity	Inbound & Outbound Call Backlog
1	8,000	48	10,752	0
2	6,000	47	10,752	0
3	4,000	47	10,752	0
4	2,000	42	9,216	0
5	2,000	42	9,216	0
6	2,000	40	9,216	0
7	2,000	40	9,216	0
8	1,500	29	5,837	0
9	1,500	28	5,837	0
10	1,000	22	3,994	0
Total Contacts	30,000	Total Capacity	84,787	

12-month performance period

Month	Inbound & Outbound Call Contacts	# of Resources	Inbound & Outbound Call Handling Capacity	Inbound & Outbound Call Backlog
1	8,000	47	10,752	0
2	6,000	47	10,752	0
3	4,000	47	10,752	0
4	2,000	42	9,216	0
5	2,000	42	9,216	0
6	2,000	29	6,144	0
7	2,000	29	6,144	0
8	1,000	29	6,144	0
9	1,000	21	4,608	0
10	1,000	21	4,608	0
11	500	15	3,072	0
12	500	15	3,072	0
Total Contacts	30,000	Total Capacity	84,480	



Resumes of Key Team Members

The Bidder should provide a resume for each key individual who will perform work against the resulting contract (including executive, middle management, and support personnel) to clearly demonstrate their respective appropriate qualifications, capabilities, and background.

The resumes should indicate the individual’s name, title, number of years employed with the bidding organization, and any certifications or licenses held that are germane to performing the requisite tasks. At a minimum, the resume should include:

- demonstrable experience specific to providing the types of services required herein;
- employment history;
- education;
- degrees, professional certifications, and/or licenses; and
- any additional information that would allow the Department to assess the individual’s abilities to perform against the contract, including particular skills relevant to conducting the assessment sought by the Department.

The below table provides details of key individuals’ qualifications and background as requested in the RFQ. All individuals are currently serving in leadership roles on IBM’s contract with New York State Department of Labor.

We can provide a package of detailed resumes upon request.

Name	Title	Years employed w/ IBM	Experience specific to proposed project	Employment History	Education	Other
Yong Pak	Executive Developer	11	Developer Executive, project management, change management, CCaaS, CRM implementation	IBM, 10 - Present	BA, University of Colorado	
Ramy Kalloby	Project / Operations Manager	7	Project management, change management, CCaaS, CRM implementation	IBM, 14 - Present	BA, University of North Carolina	Fluent in Arabic and German
Kelly Swindell	Focus Manager	23	Project management, change management, CCaaS, CRM implementation	IBM, 98 – Present PWC, 93 – 98	BA, Framingham State College	
Alexander Alas	Supervisor Squad Leader	4	Project management, Watson Assistant, CCaaS, CRM implementation	IBM, 17 – Present Hewlett-Packard, 09 – 17	BS, Florida State University	Fluent in Spanish
Ash Chen	Supervisor Squad Leader	2	Process improvement, operations, CCaaS	IBM, 19 – Present Core Pacific, 18- 18	BS, University of Texas at Austin	
Parvesh Koya	Supervisor Squad Leader	1	Customer service, CCaaS, team management	IBM, 20 – Present App e, Inc. – 15 – 16	BS, San Diego State University	
Ross Stagna	Supervisor Squad Leader	1	CCaaS, team management	IBM 20 - Present	BS, University of New Orleans	

Joint Ventures and Subcontractors

Two or more consultants may submit a joint quotation. A lead Consultant must be identified. The lead Consultant will be held accountable for contract performance and must maintain all research, notes, draft documents, and financial records for at least five years. Authorized signatories from each party comprising the joint venture must sign the bid quotation cover letter. All quotation submissions (compliance documents, evidence of experience, references, resumes, etc.) must be submitted for every party to the joint venture. The quotation must include a description of the organizational structure of the joint venture with a specific, detailed description of how the Consultants will work together and the key responsibilities of each partner.

Quotations may include a role for subcontractors. The Bidder must provide a detailed description of services to be provided by each subcontractor and/or subconsultant, and descriptions of prior projects in working with the subcontractor and/or subconsultant on similar projects. This information must be included with the quotation to evidence the subcontractor’s capabilities and experience.

Detailed resumes should be provided for each member of the subcontractor's management, supervisory, and other key personnel who will perform work against the resulting contract. Such resumes must clearly demonstrate knowledge, ability, and experience relevant to that part of the work that the subcontractor is designated to perform. Subcontractors and subconsultants must also possess a valid New Jersey Business Registration Certificate prior to commencing work under the Contract.

Bidders intending to use subcontractors and/or subconsulting firms should note that the lead partner retains the sole and absolute responsibility for the management and supervision of all subcontractors and subconsultants to a high quality of service. Additionally, the lead partner assumes sole and absolute responsibility for all payments and monies due to its subcontractors and subconsultants.

IBM will use personnel from the listed third-party supplier to support the delivery of services on the ARP utility arrearage program.

Third Party Supplier
Artech Information Systems

We have selected a third-party supplier that demonstrated the capabilities and reach to bring high quality resources, continuity, and business support for the ARP utility arrearage program.

Artech’s corporate headquarters is based in New Jersey: 360 Mt. Kemble Ave, Suite 2000, Morristown, NJ 07960 and is a minority and women owned business enterprise (MWBE).

#1 U.S. Woman Owned Business Enterprise

- MWBE, NMSDC, WBENC, CAMSC enterprise certifications
- Tier-1, Preferred MWBE Supplier for 80 of the Fortune 500

- Helping customers meet their diversity spend and equal opportunity requirements
- Artech is a supporter of Women in STEM
- Artech receives an abundance of awards and recognition as a leading minority and woman-owned business and partner

In addition, Artech is a long-time business partner that supports IBM on many service engagements, including our work in New York Department of Labor. On the ARP utility arrearage program, Artech will be providing all Level 1 resources (Adjudicators/Call Center Professionals) and performing the tasks associated to Level 1 activities outlined below.

- ARP arrearage program claim application adjudication/call center support activities:
 - Evaluation of application and submitted documents to determine program eligibility
 - Perform approval, denial, or follow-up as needed to render an approval or denial decision
 - Provides customer service and problem solving in response to claimant inquiries and advises claimant of their rights and responsibilities under current ARP arrearage program policies and procedures; evaluates utility's arrears claims and issues.
 - Research, reviews, and advises claimants on unfamiliar concepts, filing options, and programs that apply to ARP arrearage program activities.
 - Assist claimants with filing their ARP arrearage program applications.
 - Assist external users by answering questions about the application and the program in both English and Spanish, where possible
 - Conduct proactive case management for ARP arrearage program with the following activities:
 - Conduct follow-up activities with claimants with incomplete applications or outstanding documents via outbound calls or emails
 - Support NJ DCA outreach/campaign activities for non-responders to the ARP arrearage program via outbound calls or emails
 - Monitor shared ARP arrearage program mailbox and respond to ARP arrearage program, application status and/or application follow-up questions

Conflicts of Interest

The Bidder must disclose any potential conflicts of interest with regard to the Bidder's performance of the requisite services and the Bidder's relationship with any Department staff member including, but not limited to:

- any firms for which the Bidder, its joint venture partner(s) or subcontractor(s) have provided, or may provide, other related services, including the preparation of applications to the Department;

IBM is currently engaged with NJ DCA as a vendor for the following two programs:

1. Program ULTRA – Inspection Systems Modernization

Program ULTRA is an initiative to modernize the following 3 Inspection Systems using Microsoft Dynamics 365 and Microsoft Azure Cloud Platforms. The program was initiated in July 2017.

- a. Fire Safety Inspection – Currently under configuration
- b. Housing Safety Inspection – Went Live in November 2020
- c. Elevator Safety Inspection – Went live in March 2018

As part of this program, IBM is working closely with the Division of Codes & Standards as well as the Bureau of Fire Code Enforcement (BFCE).

2. American Rescue Plan (ARP) Arrearage

IBM is configuring a public facing portal and the application management system for the ARP Arrearage Program using Microsoft Dynamics 365 and Microsoft Azure Cloud Platforms. The program is initiated in June 2021. IBM is working closely with the Division of Housing & Community Resources as part of this program

- representation of a previous or known future applicant to the Department's programs;

There is no prior representation or known future applicant to the Department's programs.

IV. Schedule and Scope of Services

The contract's term will be August 31, 2021 – June 30, 2022. This contract may be extended up to 90 days, in the event the State receives reallocated funds and is granted an extension by the US Treasury. The Consultant shall execute the following tasks:

- Within 5 business days of contract execution, develop plans and materials for launch of new program
- Within 15 business days of contract execution, demonstrate capacity to begin accepting and processing applications
- Communicate in hard copy, digitally and via phone with applicants regarding pre-application process, application process, guidelines of the program, and status of applications and payments
- Assist applicants in navigating application process
- Communicate with applicants regarding incomplete applications and collect missing data
- Ensure entry of all needed applicant information into DCA's D365 application database and abide by all applicable policies issued by the New Jersey Office of Information Technology
- Review and determine eligibility of applications
- Communicate with all applicants regarding determination of eligibility
- Work with DCA staff and Utility partners to facilitate weekly subsidy payments
- Work with DCA staff and Utility partners to ensure quality administration of program

IBM has depicted our proposed work plan for both 10-month and 12-month durations in the Additional Submission Requirements section. As shown in Figure 2: ARP Utility Arrearage Program Timeline, there are three major implementation milestones (IVR, Phase 1 and 2 Watson Assistant Go Live) for our CCaaS solution that are proposed to be completed within the first two months of the ARP utility arrearage program timeline. IBM confirms we will execute the tasks outlined within IV. Schedule and Scope of Services as part of our work plan.



IX. Insurance

The selected Bidder shall maintain professional liability insurance in amounts/limits that the Department dictates are reasonable and adequate to protect the Department from acts, omissions, and negligence on the part of the firm and/or of its partners, attorneys, or employees.

The Bidder shall furnish the Department with original certificates of insurance naming the Department as an additional insured and evidencing such coverage dictated by the Department on the effective date of the contract resulting from this RFQ.

If the Bidder fails to provide complete and adequate evidence of insurance coverage, the Department reserves the right to rescind its offer and award the contract to an alternate Bidder.

As requested, attached is IBM's Certificate of Liability Insurance naming New Jersey Department of Community Affairs as an insured/certificate holder.

For actual file(s), it will be included in a separate folder named Completed Mandatory Compliance Forms in our secure Box location that we will use for our secured file transmission protocol. Secure Box link: <https://ibm.ent.box.com/folder/142556779151>

ACORD **CERTIFICATE OF LIABILITY INSURANCE** DATE (MM/DD/YYYY) 8/2/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Services Northeast, Inc.
One Liberty Plaza
165 Broadway, Suite 3201
New York, NY 10006

INSURER A: ACE American Insurance Company 23667
INSURER B: AON American Capacity Insurance Co 20038
INSURER C:
INSURER D:
INSURER E:
INSURER F:

INSURED: International Business Machines Corp., including Merge Healthcare Incorporated, Red Hat, Inc., and any other Subsidiary Corp. Owned or Controlled by the Insured
One New Oxford Road
Armonk, NY 10504
United States

COVERAGES **CERTIFICATE NUMBER:** 537038 **REVISION NUMBER:**

LINE	TYPE OF INSURANCE	INSURANCE	POLICY NUMBER	POLICY EFF. DATE	POLICY EXP. DATE	LIMITS
A	COMMERCIAL GENERAL LIABILITY	HOO 072490567 (USA)	5/21/2021	5/21/2022	EACH OCCURRENCE \$ 15,000,000 DAMAGE TO RENTALS \$ 10,000,000 MEDICAL EXP. ADJ. INVT. \$ 25,000 PERSONAL & ADV. INJURY \$ 15,000,000 GENERAL AGGREGATE \$ 15,000,000 PRODUCTS - COMP/OP AGG. \$ INCLUDED	
A	AUTOMOBILE LIABILITY	ISA A05543075 (USA)	5/21/2021	5/21/2022	COMBINED SINGLE LIMIT \$ 5,000,000 BODILY INJURY (per person) \$ BODILY INJURY (per accident) \$ PROPERTY DAMAGE (per accident) \$ UNEMPLOYMENT BENEFIT \$	
B	PROFESSIONAL EMERGENCY SERVICES LIABILITY & OTHER LIABILITY	NA, NA	11/1/2001	11/1/2001	Per Occurrence \$ 10,000,000 Aggregate \$ 10,000,000	

CERTIFICATE HOLDER
New Jersey Department of Community Affairs
101 South Broad Street
Trenton, NJ 08608
United States

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Aon Risk Services Northeast, Inc.
[Signature]

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ACORD **ADDITIONAL REMARKS SCHEDULE**

AGENCY: Aon Risk Services Northeast, Inc.
One Liberty Plaza
165 Broadway, Suite 3201
New York, NY 10006

INSURED: International Business Machines Corp., including Merge Healthcare Incorporated, Red Hat, Inc., and any other Subsidiary Corp. Owned or Controlled by the Insured
One New Oxford Road
Armonk, NY 10504
United States

EFFECTIVE DATE: Various (see prior page)

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM. **FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance - EMPLOYERS LIABILITY/WORKERS COMP POLICIES

Policy Number	ER Date	Exp. Date	Company Affording Coverage
WA7-020-004158-001 (NA)	1/1/2021	1/1/2022	Liberty Insurance Corporation (42404)
EL7-020-000158-001 (Paolo Auto)	1/1/2021	1/1/2022	Liberty Insurance Corporation (42404)
WCO-021-004158-151 (BN WI)	1/1/2021	1/1/2022	LM Insurance Corporation (33906)
EWD-020-004158-001 (Series OH)	1/1/2021	1/1/2022	LM Insurance Corporation (33906)
WA6-020-004158-441 (AOE)	1/1/2021	1/1/2022	LM Insurance Corporation (33906)
EL6-021-004158-001 (VI)	1/1/2021	1/1/2022	The First Liberty Insurance Corporation (33886)

New Jersey Department of Community Affairs is hereby listed as an additional insured on the Commercial General Liability insurance Policy issued in the USA but only to the extent the interests may appear.

New Jersey Department of Community Affairs is hereby listed as an additional insured on the Automobile Liability Insurance Policy issued in the USA but only to the extent the interests may appear.

With respect to Voluntary Compensation and Contractor's Employer's Liability:
All operations incidental to the conduct of named insured's business in the United States of America.

If there is a question regarding this certificate please contact Eric Rippe.
E-mail: eric.rippe@aon.com Phone: (703) 460-1572

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X. Quotation Submittal

The State of New Jersey and the Department of Community Affairs assume no liability for payment of expenses incurred by Bidders in preparing and submitting quotations in response to this procurement.

Questions regarding this RFQ, including questions regarding exceptions to the State of New Jersey Standard Terms and Conditions, must be submitted to John.Harrison@dca.nj.gov by 5:00 PM on July 30, 2021. Responses to questions will be posted on DCA's website by 5:00 PM on August 2, 2021.

Quotations with all supporting material must arrive by 12:00 PM on August 6, 2021.

Submissions must be sent to:

John Harrison John.Harrison@dca.nj.gov

DCA cannot accept attachments of more than 10MB in size. Transmit files using a secure file transfer system if an attachment exceeds this limit.

All bid submissions must include completed mandatory compliance forms, which include:

- Ownership Disclosure
- Disclosure of Investigations and Other Actions Involving Vendor
- Disclosure of Investment Activities in Iran
- MacBride Principles
- Source Disclosure
- Business Registration Certificate
- Affirmative Action Compliance
- Evidence of Insurance
- State of New Jersey Standard Terms and Conditions
- Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions

These documents can be found at the following links:

<https://www.state.nj.us/treasury/purchase/forms.shtml>

Waiver and DPA Contract Checklist.pdf

It is the bidding firm's sole responsibility to ensure that all required documentation and submissions indicated by this RFQ are included with the bid quotation. A quotation cannot be reviewed and evaluated unless and until all required information is received. Failure to provide all items as indicated in this document, in the level of detail specified, may prevent the Department from effectively and accurately evaluating the quotation and may result in rejection of the quotation.

Bidders should be aware that responses to this RFQ will be available, upon request, for public inspection. The Department, 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 New Jersey Right-to-Know statutory law and relevant case law.

Notice of Executive Order 166 Requirement for Posting of Winning Proposal and Contract Documents

Pursuant to Executive Order No. 166, signed by Governor Murphy on July 17, 2020, the Office of the State Comptroller (“OSC”) is required to make all approved State contracts for the allocation and expenditure of COVID-19 Recovery Funds available to the public by posting such contracts on an appropriate State website. Such contracts will be posted on the New Jersey transparency website developed by the Governor’s Disaster Recovery Office (GDRO Transparency Website).

The contract resulting from this RFQ is subject to the requirements of Executive Order No. 166. Accordingly, the OSC will post a copy of the contract, including the RFQ, the winning bidder’s proposal and other related contract documents for the above contract on the GDRO Transparency website.

In submitting its proposal, a bidder/proposer may designate specific information as not subject to disclosure. However, such bidder must have a good faith legal or factual basis to assert that such designated portions of its proposal: (i) are proprietary and confidential financial or commercial information or trade secrets; or (ii) must not be disclosed to protect the personal privacy of an identified individual. The location in the proposal of any such designation should be clearly stated in a cover letter, and a redacted copy of the proposal should be provided. A Bidder’s/Proposer’s failure to designate such information as confidential in submitting a bid/proposal shall result in waiver of such claim.

The State reserves the right to make the determination regarding what is proprietary or confidential and will advise the winning bidder/proposer accordingly. The State will not honor any attempt by a winning bidder/proposer to designate its entire proposal as proprietary or confidential and will not honor a claim of copyright protection for an entire proposal. In the event of any challenge to the winning bidder’s/proposer’s assertion of confidentiality with which the State does not concur, the bidder/proposer shall be solely responsible for defending its designation.

As outlined in the RFQ quotation submittal, we have provided images for the 9 required documents for this solicitation per the Waiver and DPA Contract Checklist and Evidence of Insurance from section IX. Insurance.

For all required documents (original files), it will be included in a separate folder named Completed Mandatory Compliance Forms in our secure Box location that we will use for our secured file transmission protocol. Secure Box link:

<https://ibm.ent.box.com/folder/142556779151>

Image of Completed Waiver and DPA Contract Checklist:



**INFORMATION SHEET AND CHECKLIST FOR WAIVERS
AND DELEGATED PURCHASING AUTHORITY (DPA) TRANSACTIONS**

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230

VENDOR NAME: International Business Machine, Corp

THIS CHECKLIST IS ONLY A GUIDE TO ASSIST VENDORS IN LOCATING AND COMPILING ALL REQUIRED COMPLIANCE FORMS FOR WAIVERS AND DPA TRANSACTIONS. VENDORS ARE REQUIRED TO ENSURE THAT ALL COMPLIANCE REQUIREMENTS HAVE BEEN MET.

	THE COMPLETED & SIGNED FORM IS INCLUDED IN THE PACKET
STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS (For Waiver and DPAs)	<input checked="" type="checkbox"/>
WAIVERED CONTRACTS SUPPLEMENT TO THE STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS (For Waivers only)	<input checked="" type="checkbox"/>
OWNERSHIP DISCLOSURE FORM	<input checked="" type="checkbox"/>
DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS INVOLVING VENDOR	<input checked="" type="checkbox"/>
DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM	<input checked="" type="checkbox"/>
TWO-YEAR CHAPTER 51/EXECUTIVE ORDER 117 VENDOR CERTIFICATION AND DISCLOSURE OF POLITICAL CONTRIBUTIONS	<input checked="" type="checkbox"/>
CHAPTER 271 VENDOR CERTIFICATION AND POLITICAL DISCLOSURE FORM	<input checked="" type="checkbox"/>
MACBRIDE PRINCIPALS FORM	<input checked="" type="checkbox"/>
PROOF OF BUSINESS REGISTRATION You may register your business HERE or obtain a copy of the Business Registration Certificate HERE .	<input checked="" type="checkbox"/>
CERTIFICATE OF INSURANCE / ACORD	<input checked="" type="checkbox"/>
SOURCE DISCLOSURE FORM (To be used only where the contract is primarily for services)	<input checked="" type="checkbox"/>
AFFIRMATIVE ACTION COMPLIANCE (Submit one of the following)	
NEW JERSEY CERTIFICATE OF EMPLOYEE INFORMATION REPORT	<input checked="" type="checkbox"/>
FEDERAL LETTER OF APPROVAL VERIFYING A FEDERALLY APPROVED OR SANCTIONED AFFIRMATIVE ACTION PROGRAM (Dated within one year of the submission)	<input type="checkbox"/>
AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT (FORM AA302) <i>INSTRUCTIONS FOR AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT</i>	<input type="checkbox"/>

VENDORS SHOULD RETURN ALL COMPLETED AND SIGNED FORMS TO THE USING AGENCY.

DPP Rev. 4.13.2021



This proposal is not an offer or contract. Neither IBM nor you have any obligations or liability to the other unless our authorized representatives enter into definitive written agreement. Terms included in this proposal are not binding unless they are included in such a written agreement.

This proposal is valid for 90 days unless otherwise noted. Prices and charges in this proposal are subject to change without notice and do not include applicable sales taxes. The prices quoted here reflect IBM's current prices as of the date of quote, for the applicable model/configuration. IBM products are subject to withdrawal from marketing and or service upon notice, and changes to product configurations, or follow-on products, may result in price changes. This document and all information herein are provided AS IS, without warranty, and nothing herein, in whole or in part, shall be deemed to constitute a warranty. IBM Machines are subject to the Statements of Limited Warranty accompanying the applicable Machine. IBM Program Products are provided subject to their applicable license terms.

IBM is not responsible for printing errors in this proposal that result in pricing or information inaccuracies. Products, programs, services or features discussed in this proposal may be subject to change without notice.



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American Rescue Plan (ARP) Utility Arrearage Program Case Management Consulting Services

Statement of Work

Prepared for

State of New Jersey

Department of Community Affairs

(NJDCA)

Division of Housing and Community Resources

September 2 , 2021

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1. Overview

New Jersey Department of Community Affairs (NJDCA) is planning to utilize different Platforms for the enablement of American Rescue Plan (ARP) Arrearage Program to support both in-take of applications and adjudication of benefits.

To assist NJDCA in the operation of this program, IBM proposes a Time and Materials (T&M) model for our Contact Center-as-a-Service (CCaaS). Our CCaaS managed services model that includes the following: adjudication/call center staff and Nice inContact Interactive Voice Response (IVR) Platform-as-a-Service (PaaS). Through CCaaS IBM will provide professional services to manage and operate the ARP arrearage program for NJDCA for a period of 10-Months from August 23, 2021, to June 30, 2022.

2. IBM Statement of Work

This section describes the work to be provided by IBM (the “Services”) to State of New Jersey Department of Community Affairs (“Client”, also called “you” and “your”) under the terms and conditions of the agreement identified in the signature block of this SOW (the “Agreement”). In addition, your responsibilities are listed.

2.1 Project Scope

Under this agreement, IBM will provide resources (as outlined in the “IBM Responsibilities” section) on a T&M basis.

The overall program will include the following phases

- Project Kick-off
- NICE inContact Interactive Voice Response (IVR) Setup and Configure
 - ServiceNow Setup and Configure in support of NICE inContact IVR Maintenance and Operations
- Watson Virtual Agent
 - Voice and web based virtual agent to support participant self-service and provide 24x7 coverage
- Staff and On-Board Adjudicators (Initial and As Needed)
- ARP Arrearage Program Operational Reporting in a Word or Power Point Document
 - Weekly Reports:
 - Claim Processing Reports (at minimum will include Claim Age, Claims Status, Backlog and Processed)
 - IVR Reports (at minimum will include Available Agents, Inbound/Outbound Call Volumes/Handled and English/Spanish Calls Handled)
 - Monthly Reports:
 - Budget, Staff, Work Productivity, and Issue/Risk Reports

- NICE inContact IVR Maintenance and Operations
- Project Close-Out

2.2 Facilities and Hours of Coverage

IBM will:

- Perform work under this SOW remotely.
- Provide the Services under this SOW during following business hours as described below.

ARP Arrearage Program Support:

- Business hours, 8:00 AM to 8:00 PM local time, Monday through Saturday, except observed New Jersey and Federal holidays or as otherwise mutually agreed.



Example work coverage for providing support from 8:00 AM to 8:00 PM

Some personnel may work hours other than those defined as normal business hours to accommodate administrative and technical tasks as necessary.

- IBM will use personnel from the listed third-party suppliers to support the delivery of services.

Third Party Supplier
Artech Information Systems

- Staffing levels may fluctuate to meet the approved FTE headcount as hiring and training activities surge to backfill any vacant positions as needed.

2.3 IBM Responsibilities

Prior to the start of the Services, IBM will designate a person called the IBM Project/Operations Manager who will be the focal point for Client communications relative to this Agreement. The IBM Project/Operations Manager is included in our CCaaS managed services model and will have the authority to act on behalf of IBM in all matters regarding this Agreement. The IBM Project/Operations Manager will provide ongoing delivery oversight for the IBM responsibilities.

In addition to the Project/Operations Manager cited above, IBM’s CCaaS managed services will also provide the following resources to NJDCA’s IT team. The team will be scaled based on the direction of NJDCA’s Program Manager and mutually agreed upon capacity models.

Team Structure		
Staffing Level	Staffing Category	Role
Leve 3	Project/Operations Manager	PMO
Leve 3	PMO Support Staff	PMO
Leve 3	Manager	Focals
Leve 2	Supervisor	Squad Leaders
Leve 1	Agents	Adjudicators
Leve 1	Agents	Ca Center Profess on a s
Leve 2	Technical Support	Application Support

IBM team’s activities will include:

- Program Management
 - Project/Operations Manager to work with the NJDCA Program Manager
 - Manage risk, issues, and changes
 - Establish weekly operations leadership meeting, unless otherwise agreed, in support of overall governance and management of ARP arrearage program operations
 - Provide weekly and monthly ARP arrearage operational reports
 - Directly provide operational management of IBM staff performing ARP arrearage program activities
 - Assess and monitor metrics around estimated claim application volumes, claim adjudication processing volumes, and call volumes to recommend appropriate changes to staffing levels
 - Recruit, hire, staff, and on-board ARP arrearage program adjudicators as needed
- NICE inContact IVR Setup, Configure, and Maintain – NICE inContact is a cloud-based contact center management platform, including the following components:
 - Direct Inward Dialing (DID) – Toll free number

- IVR (Interactive Voice Response) – An automated telephony system that interacts with the employees, gathers the required information to route the employee to the appropriate Service Center Resource. Supports skill-based routing and call recording
- Promisekeeper Functionality – Configurable option that allows end user to request a callback during business hours.
- Quality Management – Allows Supervisors to randomly select contacts and verify handling is correct
- Workforce Management – Provides ability to optimize workforce, including scheduling breaks and training based on call volume. Also, includes the ability to analyze the performance of the call center individually and as a team
- 240 hours of NICE inContact IVR to NJ 211 IVR integration is included in this SOW
- NICE inContact ServiceNow Setup and Configure – ServiceNow is a platform-as-a-service provider that will provide technical management support for NICE inContact including providing help desk functionality
- ARP arrearage program claim application adjudication/call center support
 - Evaluation of application and submitted documents to determine program eligibility
 - Perform approval, denial, or follow-up as needed to render an approval or denial decision
 - Provides customer service and problem solving in response to claimant inquiries and advises claimant of their rights and responsibilities under current ARP arrearage program policies and procedures; evaluates utility's arrears claims and issues.
 - Research, reviews, and advises claimants on unfamiliar concepts, filing options, and programs that apply to ARP arrearage program activities.
 - Assist claimants with filing their ARP arrearage program applications.
 - Assist external users by answering questions about the application and the program in both English and Spanish, where possible
 - Conduct proactive case management for ARP arrearage program with the following activities:
 - Conduct follow-up activities with claimants with incomplete applications or outstanding documents via outbound calls or emails
 - Support NJDCA outreach/campaign activities for non-responders to the ARP arrearage program via outbound calls or emails
 - Monitor shared ARP arrearage program mailbox and respond to ARP arrearage program, application status and/or application follow-up questions
 - All level 2 supervisors and level 3 Manager to provide operational management to level 1 agents

- Level 2 Technical Support
 - Provide technical assistance to all IVR users; including password resets, IVR outages, call flow issues and configuration changes via included NICE inContact IVR ServiceNow
 - Provide technical assistance to IBM team members related to American Rescue Plan (ARP) Case Management system including access and password resets via NJ Enterprise ServiceNow or equivalent ticketing system
 - Provide technical assistance to external users related to American Rescue Plan (ARP) Case Management system including access and password resets via NJ Enterprise ServiceNow or equivalent ticketing system
- Watson Assistant Virtual Agent Setup, Configure, and Maintain – Watson Assistant Virtual Agent is a cloud-based Software-as-a-Service, including the following components: Integration with NJDCA ARP arrearages customer service application and NICE inContact and SIP transfer applications.
 - Phase 1
 - Requirements gathering and conversational design
 - Web Channel: Deploy to NJDCA ARP Arrearage program website to support FAQ
 - Voice Channel: Deploy in concert with IVR to support screening of callers and FAQ responses
 - Phase 2 – Both web and voice channels
 - Integrate with MS Dynamics
 - Authentication for existing applications
 - Provide claim status
 - SMS links to callers (Voice only)
 - Hypercare
 - Focus on evaluating initial user interactions with the Virtual Agent to identify opportunities for improvement
 - Continuous Improvement
 - Evaluate system performance to enhance user experience
 - Update conversational dialog flows as program information is updated

2.4 Client's Responsibilities

IBM's performance is dependent upon the fulfillment of the Client's responsibilities at no charge to IBM. Any delay in performance of these responsibilities may result in a delay of the overall completion of the program.

IBM expects that the Client will:

- Designate a Program Manager who will work day-to-day with the project team
- Provide a centrally managed documentation repository for storing current program eligibility requirements and documentation including, but not limited to determination decision template and a list of acceptable documents for IBM project team access
- Business subject matter experts (SME(s)) that will work with the project team on an as-needed basis
- Create and perform a targeted and phased outreach campaign, which may include standard website announcements and communications to target population
- Help guides available to applicants during the application process
- Provide remote access to NJDCA network and environments as needed to perform IBM activities

2.5 Approach

IBM will work with NJDCA to monitor metrics around estimated claim application volumes, claim adjudication processing volumes, and call volumes to recommend appropriate changes to services and staffing levels. NJDCA can decide to add or reduce the number of IBM resources at any stage during the program with the stipulated notice period of 30 days if certain staffing ratios are mutually agreed to.

IBM recommends the following staffing ratios based on the below claim and call capacity models outlined in section 2.9 Assumptions to manage and operate the ARP arrearage program.

Example Adjudicator Staffing Ratio:

Level 1 Resources	Level 2 Resources	Level 3 Resources	Total
35	8	5	48

2.6 Completion Criteria

IBM will have fulfilled its obligations under this SOW when one of the following occurs first:

- 1) IBM completes 63,608 hours of Contact Center-as-a-Services in addition to the Watson Assistant Virtual Agent delivery or
- 2) the Client or IBM terminates the project in accordance with the provisions of the Agreement, or
- 3) this contract end date expires, and an extension is not mutually agreed upon.

2.7 Estimated Schedule

The revised estimated start date for the program is August 23, 2021, or the issuance date of the State of New Jersey Purchase Order. The estimated completion date is June 30, 2022.

2.8 Charges

The total estimated value of this SOW based on a 10-month delivery is \$6,459,852.42. \$5,830,685.72 for CCaaS Managed Services and \$629,166.70 Watson Assistant – Virtual Agent.

2.8.1 Charges Detail

The monthly managed service fee is based on the estimated processing capacity model described in Section 2.9 Assumptions. The model can be adjusted based on consumption needs. The estimated hours and services fees associated to managing and operating the ARP arrearage program for NJDCA are provided in the table below.

Month ID	Est. Adjudication Processing Capacity	Est. Inbound & Outbound Call Handling Capacity	# of Resources Adjudicators/Call Center Professionals	Total Monthly Hours	Managed Services Monthly Costs
1	21,504	10,752	48	8,448	\$ 774,393.68
2	21,504	10,752	47	7,896	\$ 723,794.09
3	21,504	10,752	47	7,520	\$ 689,327.70
4	18,432	9,216	42	6,384	\$ 585,195.22
5	18,432	9,216	42	7,056	\$ 646,794.72
6	12,288	6,144	40	6,720	\$ 615,994.97
7	12,288	6,144	40	6,080	\$ 557,328.78
8	12,288	6,144	29	5,104	\$ 467,862.85
9	9,216	4,608	28	4,704	\$ 431,196.48
10	9,216	4,608	22	3,696	\$ 338,797.23
			TOTAL	63,608	\$ 5,830,685.72

The estimated charges by month results in a blended rate of \$91.67.

Watson Assistant – Virtual Agent:

Month ID	IBM Cloud Watson Enterprise Monthly Cost	SIP & SMS Services (Twilio) Monthly Cost	Phase 1 Services Cost	Phase 2 Services Cost	Total Monthly Costs
1	\$ 11,250.00	\$ 4,166.67	\$ 125,000.00	\$ 0.00	\$ 140,416.67
2	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 350,000.00	\$ 365,416.67
3	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
4	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
5	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
6	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
7	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
8	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
9	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
10	\$ 11,250.00	\$ 4,166.67	\$ 0.00	\$ 0.00	\$ 15,416.67
				Total	\$ 629,166.70

Any estimate given by IBM of any change whether for planning or any other purpose is only an estimate. As these are estimated amounts, actual charges may differ, and IBM may adjust the mix of hours and rates shown above without a PCR as described in Appendix A-1: Project Change Control Procedure, if the Total Estimated Services Charges are not exceeded.

Payment of invoices are in accordance with the State of New Jersey Prompt Payment Act.

2.9 Assumptions

The following operational assumptions were used to estimate staffing, pricing, and expected volumes. Should any of these assumptions prove to not be accurate, IBM will use the process outlined in the Appendix A to work with NJDCA to modify staffing, timelines, and/or pricing as mutually agreed.

No.	Description
1	Level 1 staff (adjudicators/call center professionals) will work no more than 40 hours/week, 8 hours/days within the allotted period Monday – Saturday (8:00am – 8:00pm ET).
2	NJDCA or designee will provide formal training at least one-week before IBM begins call handling. Formal training to include ARP arrearage program FAQs, available resources (i.e., program rules and policies) and other support program knowledge materials/references (i.e., LIHEAP, Rental Assistance, and Homelessness) and appropriate transfer reference to provide (.e., NJ 211 serv ces).
3	NJDCA or designee will provide ARP arrearage program platforms, available system and/or user training/knowledge materials at least one-week before adjudications activities begin.
4	The program will have a possible target population of 300,000 households. IBM assumes 50% of target population/households will apply for program.
5	IBM assumes distribution of work will be 80% of time spent on adjudication process and 20% of time spent on Inbound/Outbound call handling.

No.	Description
6	IBM assumes adjudication process of 10 mins per case (assuming determination is manually created).
7	IBM assumes 5 mins per outbound call for follow-up adjudication activities.
8	IBM assumes 5 mins per inbound call from claimants.
9	Any system-related (Non IVR) defects or enhancement requests identified by Level 2 Technical Support either through use by external users or IBM Adjudicators/Agents will be documented and submitted through the established process by the ARP Case Management Implementation Team for disposition and/or prioritization.
10	IBM assumes another communication channel is provided by the state for users (internal/external) to report system/application issues for appropriate disposition.
11	IBM assumes that the state will provide all required user licenses for the adjudication and call center activities on the ARP arrearage program platforms, so that we can manage and operate the ARP arrearage program for NJDCA.
12	IBM assumes 35% of the Level 1 staff (adjudicators/call center professionals) will be bilingual in both English and Spanish.
13	If the need for Spanish speaking Level 1 staff be more than 35% of available Level 1 staff or a need arises for any other language, IBM will leverage existing NJ 211 language line for translation services. NJDCA will provide IBM with appropriate language line access codes to use this service.
14	IBM has allocated 240 hours for IVR customization in this SOW.
15	Initial Virtual Agent in English language, and then will add Spanish language once configuration is accepted in English.
16	IBM Public Cloud will be used to deploy the Virtual Agent and approved data elements for authentication will not contain SPI subject to additional security requirements.
17	For the Virtual Agent, dialog flows will be approved by the NJDCA in a timely manner in keeping with the project plan to support project milestones.
18	NJDCA will reimburse IBM for any fees related to background checks required to provide the services described herein.
19	All claim application types (i.e. paper applications from local NJ offices) for the ARP utility arrearage program unless taken by phone via the IVR, will be made available to the adjudicators/CSR via the Case Management application for data entry, follow-up, and adjudication.

The below table provides details around how the application backlog, application adjudication capacity, and call handling capacity were estimated.

Description	Value
Total Households	300,000
Total Anticipated Applications (50% of Households)	150,000
Monthly Applications	12,500

Description	Value
Average Adjudication Handling Time (10 mins/claim)	10
Total Anticipated Adjudications Processed/Resource/Month	614.4
Total Anticipated Inbound/Outbound Call Contact (20% of Total Applications)	30,000
Average Inbound/Outbound Call Handling Time (5 mins/call)	5
Total Anticipated Inbound/Outbound Calls Handled/Resource/Month	307.2

The below table outlines how application count, adjudication processing capacity by month were estimated.

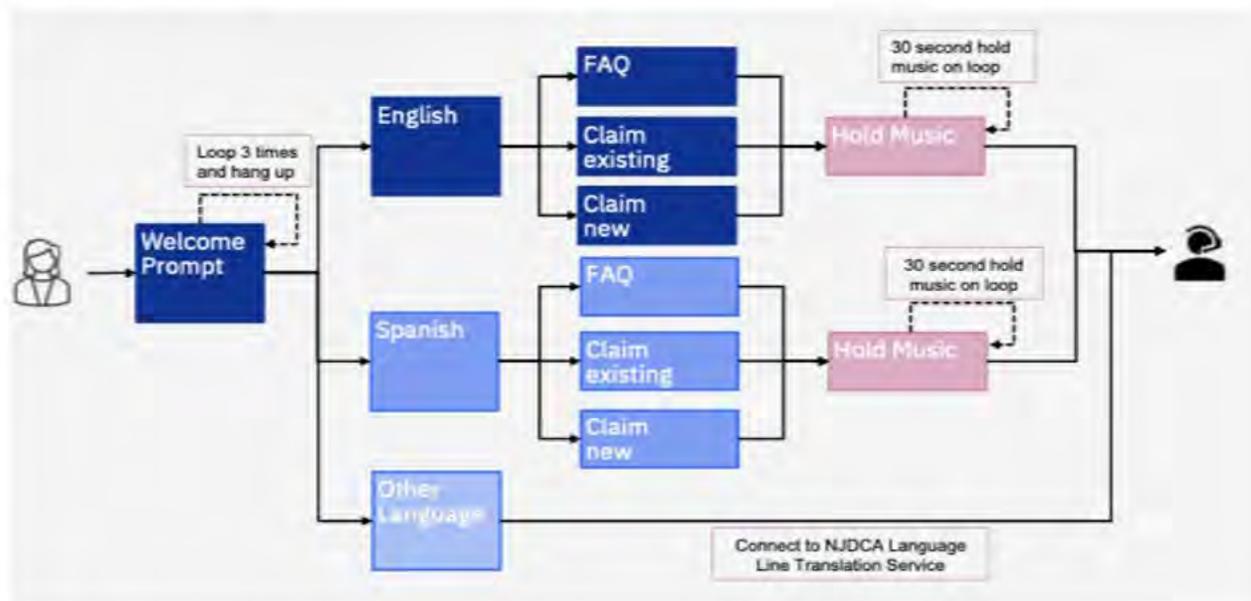
Month	Application Count	# of Resources	Adjudication Processing Capacity	Application Backlog
1	40000	48	21504	18496
2	30000	47	21504	26992
3	20000	47	21504	25488
4	10000	42	18432	17056
5	10000	42	18432	8624
6	10000	40	18,432	6,336
7	10000	40	18,432	4,048
8	7500	29	11,674	0
9	7500	28	11,674	0
10	5000	22	7,987	0
Total Applications	150000	Total Capacity	169574	

The below table outlines how inbound & outbound call volume and call handling capacity by month were estimated.

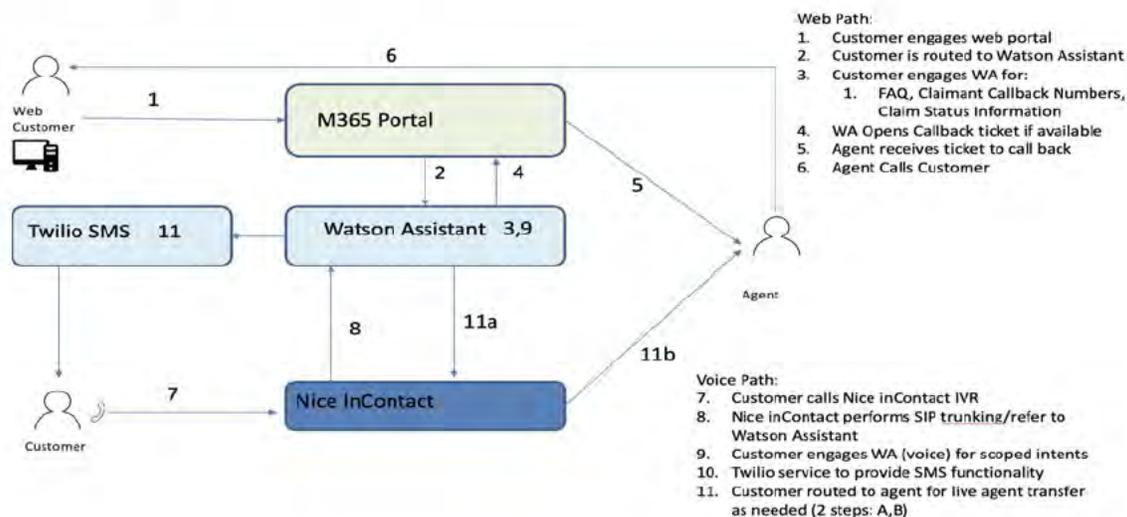
Month	Inbound & Outbound Call Contacts	# of Resources	Inbound & Outbound Call Handling Capacity	Inbound & Outbound Call Backlog
1	8000	48	10752	0
2	6000	47	10752	0
3	4000	47	10752	0
4	2000	42	9216	0
5	2000	42	9216	0
6	2000	40	9,216	0
7	2000	40	9,216	0
8	1500	29	5,837	0

Month	Inbound & Outbound Call Contacts	# of Resources	Inbound & Outbound Call Handling Capacity	Inbound & Outbound Call Backlog
9	1500	28	5,837	0
10	1000	22	3,994	0
Total Contacts	30000	Total Capacity	84787	

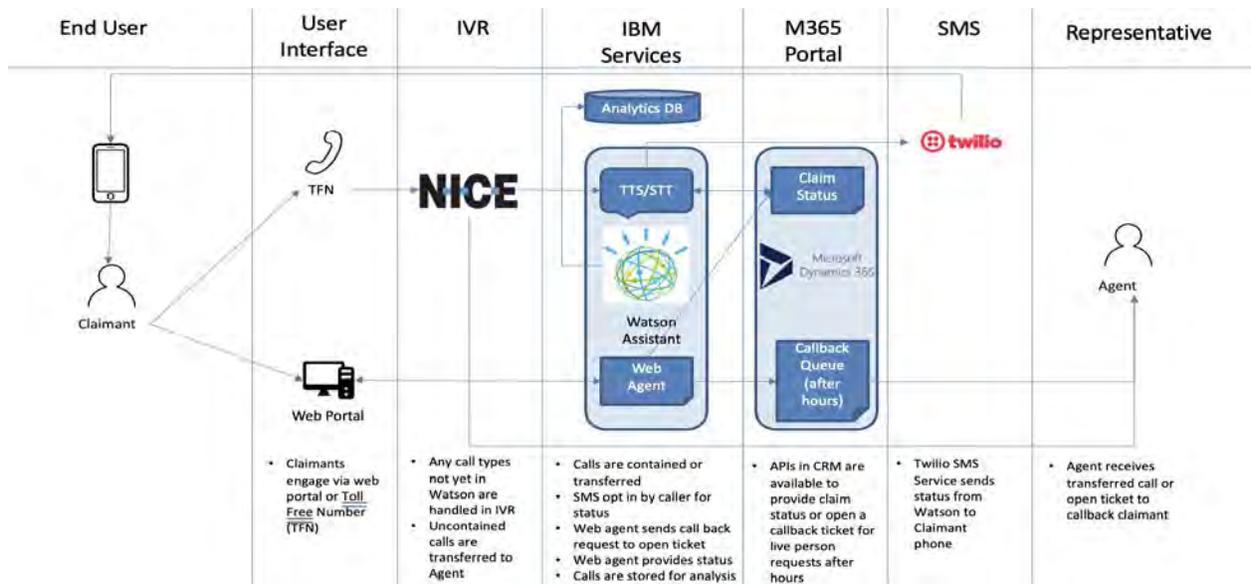
2.9.1 IVR Flow



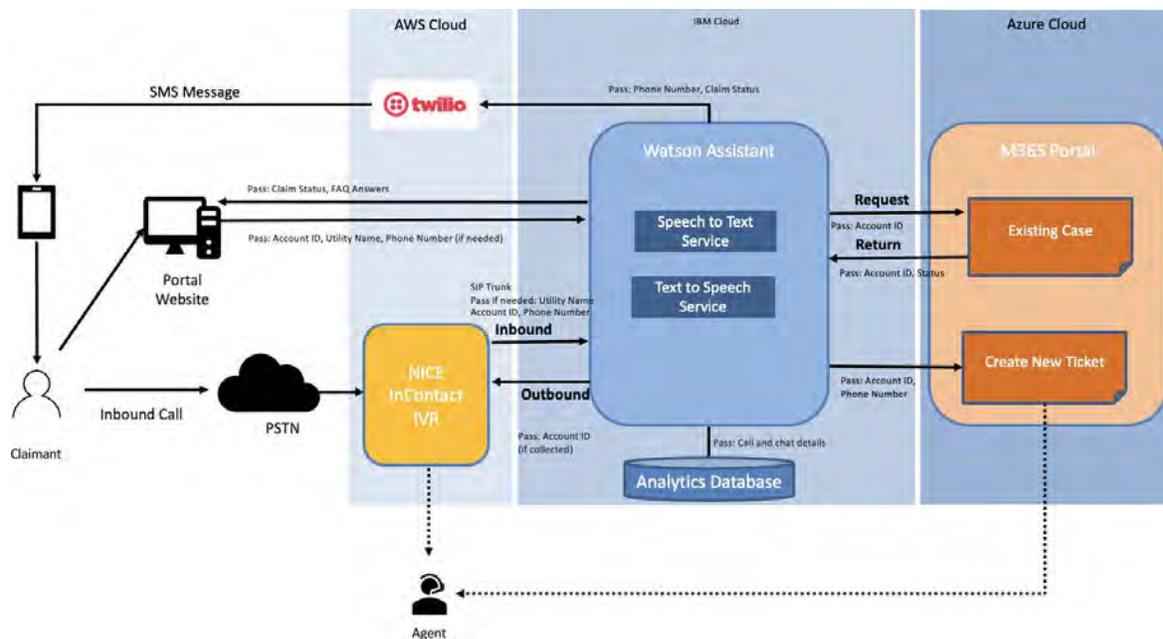
2.9.2 Claimant Process Flow



2.9.3 Watson Assistant Logical Architecture



2.9.4 Watson Assistant Physical Architecture



2.10 Additional Terms and Conditions

IBM and NJDCA agree to the following changes to the Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions, Part D Section 4.1 Indemnification and Limitation of Liability to replace sub-section 3(a)(ii) Limitation of Liability in whole with the following language:

"ii. The contractor's misappropriation, contractor's misuse, or contractor's intentional disclosure of State Confidential Information in breach of its obligations of confidentiality described in Section 5.17 of this Supplement; and."

2.10.1 Information Security

In addition to NJDCA and IBM (the "Parties") obligations under this SOW and the Agreement, the following provisions apply in the event that one Party makes Sensitive Personal Information and/or Business Sensitive Information available to the other, which the providing Party agrees are appropriate security measures to protect the information:

"Sensitive Personal Information" (SPI) refers to an individual's name in conjunction with that individual's social security number, driver license number, state identification number, medical information, date of birth, electronic signature or mother's maiden name. "Business Sensitive Information" (BSI) refers to information the parties agree is due special handling as a result of its content and which is marked as "sensitive" by the owning Party.

- a) The Parties will agree in advance prior to providing the other any SPI or BSI.
- b) If the Party providing the SPI or BSI requires additional security measures beyond those specified in this SOW and the Agreement, the Parties will mutually agree to them pursuant to the Project Change Control Procedure in Appendix A – Project Procedures. These security measures will be set forth in an additional Appendix. For example, the providing party may require that "real" or "live" SPI will be masked, scrambled or otherwise de-identified to mitigate risks in providing this information to the other Party.
- c) Each Party agrees not to use or disclose SPI and/or BSI other than as permitted or required by this SOW and the Agreement or as required by laws and regulations ("Laws"). 5
- d) Each Party agrees to implement the security measures specified in this SOW and the Agreement, and security measures agreed pursuant to b., above, if any, which the Party providing the information has determined are appropriate security measures to protect their information.
- e) Each Party agrees to communicate, manage and mitigate risk by implementing the security measures to protect SPI and/or BSI specified in this SOW and the Agreement. Additional or different services will be deemed a request for new services and managed through the Project Change Control Procedure in Appendix A – Project Procedures.

- f) Each Party agrees to inform the other of cases where it learns that an unauthorized third party has accessed or acquired the other Party’s SPI or BSI.
- g) Each Party agrees that prior to providing any agent, including a subcontractor, SPI or BSI received from the other Party, the disclosing Party will enter an agreement with the agent containing the same restrictions and conditions that apply to this SOW and the Agreement.
- h) Each Party agrees to promptly return to the other or destroy all SPI and/or BSI belonging to the other Party which is no longer necessary to fulfill the purpose(s) for which it was made available, unless otherwise instructed by the other Party or as required by Laws.
- i) Client agrees that no Client personal data that is subject to i) the European General Data Protection Regulation (E/2016/679) (GDPR); or ii) other data protection laws identified at <http://ibm.com/dpa/dpl> will be provided to IBM for processing on behalf of the Client under this transaction.
- j) The following data elements are identified for API integration for NICE inContact, Watson Assistant – Virtual Agent, and Microsoft 365 Portal.

Solution Component	Data Element
Watson Assistant API	Claimant telephone number
Watson Assistant API	Utility/Case Account ID
Watson Assistant API	Utility Name
Watson Assistant API	Call status
Nice InContact Admin API	Claimant telephone number
Nice InContact Admin API	Utility/Case Account ID
Nice InContact Admin API	Utility Name
SMS API	Claimant telephone number
Microsoft 365 Portal API	Claimant telephone number
Microsoft 365 Portal API	Utility/Case Account ID
Microsoft 365 Portal API	Utility Name
Microsoft 365 Portal API	Claim status

2.11 Each party agrees the complete agreement between the parties for these Services consists of,

- 1) The referenced Statement of Work above executed with NJDCA,
- 2) Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions,
- 3) State of New Jersey Standard Terms and Conditions (Revised 2/1/2021), and
- 4) IBM's American Rescue Plan Utility Arrearage Program Case Management Consulting Services RFQ response

In the event of any inconsistencies between above documents, the terms of the Statement of Work shall take precedence over Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions. Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions shall take precedence over State of New Jersey Standard Terms and Conditions (Revised 2/1/2021). State of New Jersey Standard Terms and Conditions (Revised 2/1/2021) shall take precedence over IBM's RFQ response, and IBM's RFQ response shall take precedence over the RFQ to the extent the RFQ is included within the RFQ response.

Agreed to:

**State of New Jersey
Department of Community Affairs**

**International Business Machines
Corporation**

By: John Harrison

By: Yong Pak

(Signature)

(Signature)

John Harrison

Yong Pak

(print name)

(print name)

Date: 9/2/2021

Date: 9/2/2021

Agreement name: **American Rescue Plan Utility Arrearage Program Case Management Consulting Services RFQ**

Agreement number/date: Please see referenced RFQ / 09/02/2021

Appendix A: Project Procedures

A - 1: Project Change Control Procedure

The following provides a detailed process to follow if a change to this Statement of Work (SOW) is required.

- A Project Change Request (PCR) will be the vehicle for communicating changes. The PCR must describe the change; the rationale for the change and the effect the change will have on the project. PCR's must be approved in advance by both the Client and IBM and include a New Jersey State Purchase Order.
- The designated individual of the requesting Party will review the proposed change and determine whether to submit the request to the other Party.
- Both parties will review the proposed change and approve it for further investigation or reject it. The investigation will determine the effect that the implementation of the PCR will have on price, schedule and other terms and conditions of the Agreement. PCR's must be approved in advance by both the State of New Jersey and IBM and include a New Jersey State Purchase Order.
- A written Change Authorization and/or Project Change Request (PCR) must be signed by both parties to authorize implementation of the investigated changes. PCR's must be approved in advance by both the State of New Jersey and IBM and include a New Jersey State Purchase Order.

A – 2: Escalation Procedure

The following procedure will be followed to resolve a conflict arising during the performance of this SOW.

- a. When a conflict arises between the Client and IBM, the project team member(s) will first strive to work out the problem internally.
- b. Level 1: If the project team cannot resolve the conflict within two business days, your Project Manager and the IBM Project/Operations Manager will meet to resolve the issue.
- c. Level 2: If the conflict is not resolved within three business days after being escalated to Level 1, your Executive Sponsor will meet with the IBM Project Executive to resolve the issue.
- d. If the conflict is resolved by either Level 1 or Level 2 intervention, the resolution will be addressed in accordance with the Project Change Control Procedure set forth in Appendix A-1.
- e. If the conflict remains unresolved after Level 2 intervention, then the State Contract Manager should be notified to assist in resolution. At this point, either party may terminate this SOW.
- f. During any conflict resolution, IBM agrees to provide Services relating to items not in dispute, to the extent practicable pending resolution of the conflict.



State of New Jersey Standard Terms and Conditions

(Revised 4/27/2021)

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230

1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT

Unless the bidder/offeror is specifically instructed otherwise in the Bid Solicitation/Request for Proposals (RFP), the following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event that the bidder/offeror would like to present terms and conditions that are in conflict with either these terms and conditions or those set forth in the RFP, the bidder/offeror must present those conflicts during the Question and Answer period for the State to consider. Any conflicting terms and conditions that the State is willing to accept will be reflected in an addendum to the RFP. The State's terms and conditions shall prevail over any conflicts set forth in a bidder/offeror's Proposal that were not submitted through the question and answer process and approved by the State. Nothing in these terms and conditions shall prohibit the Director of the Division of Purchase and Property (Director) from amending a contract when the Director determines it is in the best interests of the State.

1.1 CONTRACT TERMS CROSSWALK

NJSTART Term	Equivalent Statutory, Regulatory and/or Legacy Term
Bid/Bid Solicitation	Request For Proposal (RFP)/Solicitation
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order (Blanket P.O.)	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor	Bidder/Contractor

2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the bidder and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services. A subcontractor named in a bid or other proposal shall provide a copy of its business registration to the bidder who shall provide it to the State.

The contractor shall maintain and submit to the State a list of subcontractors and their addresses that may be updated from time to time with the prior written consent of the Director during the course of contract performance. The contractor shall submit to the State a complete and accurate list of all subcontractors used and their addresses before final payment is made under the contract.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.

The contractor and any subcontractor providing goods or performing services under the 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 sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

2.2 ANTI-DISCRIMINATION

All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Construction Contracts (Exhibit B and Executive Order 151, August 28, 2009, attached) as appropriate.

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.

2.3 PREVAILING WAGE ACT

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on [this proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [this proposal] 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; the bidder's signature on the proposal is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by [this proposal] shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

2.4 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.

2.5 MACBRIDE PRINCIPLES

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.6 PAY TO PLAY PROHIBITIONS

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A- 20.21, it shall be a breach of the terms of the contract for the business entity to:

- A. Make or solicit a contribution in violation of the statute;
- B. Knowingly conceal or misrepresent a contribution given or received;
- C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor or Lieutenant Governor, or to any State or county party committee;
- E. Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
- F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or
- H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

2.7 POLITICAL CONTRIBUTION DISCLOSURE

The contractor is advised of its 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 as amended) if in a calendar year the contractor receives one (1) or more contracts valued at \$50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC.

Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at <http://www.elec.state.nj.us/>.

2.8 STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

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 State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency 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-13i., of any such officer or employee, or 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-13g;

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards, now known as the State Ethics Commission;

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 State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he/she is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, now known as the State Ethics Commission, which may grant a waiver of this restriction upon application of the State officer or employee or special State 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;

No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his/her official position to secure unwarranted privileges or advantages for the vendor or any other person; and

The provisions cited above in paragraphs 2.8a through 2.8e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards, now known as the State Ethics Commission may promulgate under paragraph 3c of Executive Order No. 189.

2.9 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE

Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of

the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

2.10 COMPLIANCE - LAWS

The contractor 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.

2.11 COMPLIANCE - STATE LAWS

It is agreed and understood that any contracts and/or orders placed as a result of [this proposal] shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

2.12 WARRANTY OF NO SOLICITATION ON COMMISSION OR CONTINGENT FEE BASIS

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an 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 the contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

3. STATE LAW REQUIRING MANDATORY COMPLIANCE BY CONTRACTORS UNDER CIRCUMSTANCES SET FORTH IN LAW OR BASED ON THE TYPE OF CONTRACT

3.1 COMPLIANCE - CODES

The contractor 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 shall be responsible for securing and paying all necessary permits, where applicable.

3.2 PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who 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 pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464.

3.3 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS

N.J.S.A. 10:2-1 requires that during the performance of this contract, the contractor must agree as follows:

- A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- B. No contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the contractor must agree as follows:

- A. 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 take affirmative action to ensure that such applicants are recruited and employed, 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 action shall include, but not be 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 contracting officer setting forth the provisions of this nondiscrimination clause;
- B. 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;
- C. 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, N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:
 - 1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;
 - 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, and 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;
 - 3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel 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; and
 - 4. 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.

3.4 BUILDING SERVICE

Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.

3.5 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT

The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.

3.6 SERVICE PERFORMANCE WITHIN U.S.

Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 5.7(b) (1) of the Standard Terms and Conditions, unless previously approved by the Director and the Treasurer.

3.7 BUY AMERICAN

Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract to be used in a public work, they shall be manufactured or produced in the United States and the contractor shall be required to so certify.

3.8 DOMESTIC MATERIALS

Pursuant to N.J.S.A. 52:33-2 et seq., if the contract is for the construction, alteration or repair of any public work, the contractor and all subcontractors shall use only domestic materials in the performance of the work unless otherwise noted in the specifications.

3.9 DIANE B. ALLEN EQUAL PAY ACT

Pursuant to N.J.S.A. 34:11-56.14 and N.J.A.C. 12:10-1.1 et seq., a contractor performing “qualifying services” or “public work” to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see <https://nj.gov/labor/equalpay/equalpay.html>.

3.10 EMPLOYEE MISCLASSIFICATION

In accordance with [Governor Murphy's Executive Order #25](#) and the [Task Force's July 2019 Report](#), employers are required to properly classify their employees. Workers are presumed to be employees and not independent contractors, unless the employer can demonstrate all three factors of the “ABC Test” below:

- A. Such individual has been and will continue to be free from control or direction of the performance of such service, but under his or her contract of service and in fact; and
- B. Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all places of business of the enterprise for which such service is performed; and
- C. Such individual is customarily engaged in an independently established trade, occupation, profession or business.

This test has been adopted by New Jersey under its Wage & Hour, Wage Payment and Unemployment Insurance Laws to determine whether a worker is properly classified. Under N.J.S.A. 34:1A-1.17-1.19, the Department of Labor and Workforce Development has the authority to investigate potential violations of these laws and issue penalties and stop work order to employers found to be in violation of the laws.

4. INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION

The contractor’s liability to the State and its employees in third party suits shall be as follows:

- A. Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract;
- B. The contractor’s indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions; and
- C. In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

4.2 INSURANCE

The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the State of New Jersey at the address shown below. If the contractor's insurer cannot provide 30 days written notice, then it will become the obligation of the contractor to provide the same. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The contractor shall not begin to provide services or goods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order number and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, P.O. Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancellation shall be emailed to the State at: ccau.certificate@treas.nj.gov

The insurance to be provided by the contractor shall be as follows:

- A. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage;
- B. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property;
- C. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 1. \$1,000,000 BODILY INJURY, EACH OCCURRENCE;
 2. \$1,000,000 DISEASE EACH EMPLOYEE; and
 3. \$1,000,000 DISEASE AGGREGATE LIMIT.
- D. This \$1,000,000 amount may have been raised by the RFP when deemed necessary by the Director; and
- E. In the case of a contract entered into pursuant to N.J.S.A. 52:32-17 et seq., (small business set asides) the minimum amount of insurance coverage in subsections a., b., and c. above may have been lowered in the RFP for certain commodities when deemed in the best interests of the State by the Director.

5. TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR

The contractor's status shall be that of any independent contractor and not as an employee of the State.

5.2 CONTRACT AMOUNT

The estimated amount of the contract(s), when stated on the RFP form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of the RFP or any contract entered into as a result of the RFP.

5.3 CONTRACT TERM AND EXTENSION OPTION

If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall be so notified of the Director's Intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director's request to extend the term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions of the original contract shall apply unless more favorable terms for the State have been negotiated.

5.4 STATE'S OPTION TO REDUCE SCOPE OF WORK

The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under this contract. In such an event, the Director shall provide to the contractor advance written notice of the change in scope of work and what the Director believes should be the corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

- A. If the contractor does not agree with the Director's proposed adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price; and
- B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

5.5 CHANGE IN LAW

If, after award, a change in applicable law or regulation occurs which affects the Contract, the parties may amend the Contract, including pricing, in order to provide equitable relief for the party disadvantaged by the change in law. The parties shall negotiate in good faith, however if agreement is not possible after reasonable efforts, the Director shall make a prompt decision as to an equitable adjustment, taking all relevant information into account, and shall notify the Vendor {Contractor} of the final adjusted contract price.

5.6 SUSPENSION OF WORK

The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance. The Director shall make an equitable adjustment, if any is required, to the contract price. The contractor shall provide whatever information that Director may require related to the equitable adjustment.

5.7 TERMINATION OF CONTRACT

A. For Convenience:

Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, for the convenience of the State, upon no less than 30 days written notice to the contractor;

B. For Cause:

1. Where a contractor fails to perform or comply with a contract or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond; and
2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.

C. In cases of emergency the Director may shorten the time periods of notification and may dispense with an opportunity to respond; and

D. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

5.8 SUBCONTRACTING OR ASSIGNMENT

A. Subcontracting: The contractor may not subcontract other than as identified in the contractor's proposal without the

prior written consent of the Director. Such consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws; and

- B. Assignment: The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.9 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE

Nothing contained in any of the contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any contractual relationship between any subcontractor and the State.

5.10 MERGERS, ACQUISITIONS

If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the Director as soon as practicable and in no event longer than 30 days after said merger or acquisition. The contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the contract for cause.

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity 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 shall be made until all parties to the dissolved business entity submit the required documents to the Director.

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR

The contractor hereby certifies that:

- A. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice;
- B. All equipment supplied to the State and operated by electrical current is UL listed where applicable;
- C. All new machines are to be guaranteed as fully operational for the period stated in the contract from time of written acceptance by the State. The contractor shall render prompt service without charge, regardless of geographic location;
- D. Sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters;
- E. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice;
- F. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract; and
- G. All services rendered to the State 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 by the State's using agency is rendered.

5.12 DELIVERY REQUIREMENTS

- A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract;
- B. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice;
- C. Items delivered must be strictly in accordance with the contract; and
- D. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

5.13 APPLICABLE LAW AND JURISDICTION

This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court.

5.14 CONTRACT AMENDMENT

Except as provided herein, the contract may only be amended by written agreement of the State and the contractor.

5.15 MAINTENANCE OF RECORDS

The contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment unless a longer period is required by law. Such records shall be made available to the State, including the Comptroller, for audit and review.

5.16 ASSIGNMENT OF ANTITRUST CLAIM(S)

The contractor 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 contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, 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 State of New Jersey or any of its political subdivisions or public agencies pursuant to this contract.

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

- A. It shall take no action that will in any way diminish the value of the rights conveyed or assigned hereunder;
- B. It shall advise the Attorney General of New Jersey:
 1. In advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action; and
 2. 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 shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the contractor 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 shall be sent to the Attorney General of New Jersey; and
- D. It is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

6. TERMS RELATING TO PRICE AND PAYMENT

6.1 PRICE FLUCTUATION DURING CONTRACT

Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract. In the event of a manufacturer's or contractor's price decrease during the contract period, the State 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 must be notified, in writing, of any price reduction within five (5) days of the effective date. Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

In an exceptional situation the State may consider a price adjustment. Requests for price adjustments must include justification and documentation.

6.2 TAX CHARGES

The State of New Jersey is exempt from State sales or use taxes and Federal excise taxes. Therefore, price quotations must not include such taxes. The State's Federal Excise Tax Exemption number is 22-75-0050K.

6.3 PAYMENT TO VENDORS

- A. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;
- B. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the Bill of Lading, and/or other documentation to confirm shipment and receipt of contracted goods must be received by the using agency prior to payment. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work section of the RFP and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized;
- C. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and
- D. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Chief of Operations, Division of Revenue, P.O. Box 628, Trenton, NJ 08646.

6.4 OPTIONAL PAYMENT METHOD: P-CARD

The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 NEW JERSEY PROMPT PAYMENT ACT

The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires state agencies to pay for goods and services within 60 days of the agency's receipt of a properly executed State Payment Voucher or within 60 days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by state agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds \$5.00 per properly executed invoice.

Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

6.6 AVAILABILITY OF FUNDS

The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenue.

7. TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Section of the Standard Terms and Conditions apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

7.1 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

Pursuant to 2 CFR 200.321, the State must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Accordingly, if subawards are to be made the

Contractor shall:

- (1) Include qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
- (5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

7.2 DOMESTIC PREFERENCE FOR PROCUREMENTS

Pursuant to 2 CFR 200.322, where appropriate, the State has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). If subawards are to be made the Contractor shall include a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

7.3 PROCUREMENT OF RECOVERED MATERIALS

Where applicable, in the performance of contract, pursuant to 2 CFR 200.323, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

To the extent that the scope of work or specifications in the contract requires the contractor to provide recovered materials the scope of work or specifications are modified to require that as follows.

- i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or
 3. At a reasonable price.
- ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

7.4 EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." See, 2 CFR Part 200, Appendix II, para. C.

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color,

religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be 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 setting forth the provisions of this nondiscrimination clause.

- (2) The contractor 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 race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the

agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.5 DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of \$ 2,000 shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.

7.6 COPELAND ANTI_KICK-BACK ACT

Where applicable, the Contractor must comply with Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

- a. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the OGS centralized contract.
- b. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the clauses above may be grounds for termination of the OGS centralized contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

7.7 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of \$ 100,000 that involve the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The unauthorized user shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or

any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7.8 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7.9 CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Where applicable, Contract and subgrants of amounts in excess of \$150,000, must comply with the following:

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7.10 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the State or authorized user. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State or authorized user, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.11 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

7.12 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in *Public Law 115-232*, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES 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 be 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 will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter 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 meet targeted county employment goals established in accordance with 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, and 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 personnel 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; or
- Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase and Property, CCAU, EEO Monitoring Program as may be requested by the office 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 Purchase and Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1 et seq.

EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.S.A. 10:5-39 et seq. (P.L. 1983, c. 197)

N.J.A.C. 17:27-1.1 et seq.

CONSTRUCTION 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 be limited to the following: employment, up grading, 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.

N.J.S.A. 10:5-39 et seq. requires contractors, subcontractors, and permitted assignees performing construction, alteration, or repair of any building or public work in excess of \$250,000 to guarantee equal employment opportunity to veterans.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, 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.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or

subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

(1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) The contractor or subcontractor shall interview the referred minority or women worker.

(ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or

subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and/or off the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program 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 Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXECUTIVE ORDER NO. 151 REQUIREMENTS

It is the policy of the Division of Purchase and Property that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Division of Purchase and Property to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the Division of Purchase and Property's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Division of Purchase and Property's contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at <https://newjersey.usnlx.com/>;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the Division of Purchase and Property with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the Division of Purchase and Property no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

This language is in addition to and does not replace good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B.

State of New Jersey Standard Terms and Conditions

(Rev: 4/27/2021)

I HEREBY ACCEPT THE TERMS AND CONDITIONS OF THIS CONTRACT

Chris Bradley

Signature

10-22-21

Date

Chris Bradley, Client Executive

Print Name and Title

International Business Machine, Corp

Print Name of Contractor

**WAIVERED CONTRACTS SUPPLEMENT TO THE
STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS**
(Rev. 6/14/2018)

- A. WAIVERED CONTRACTS SUPPLEMENT TO THE STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS** - This Supplement to the State of New Jersey Standard Terms and Conditions (“Supplement”) shall apply to all contracts or purchase agreements made with the State of New Jersey (“State”) under N.J.S.A. 52:34-9 or -10 (“Waivered Contracts”). The terms in this Supplement modify the terms of the New Jersey Division of Purchase and Property’s Standard Terms and Conditions as may be updated from time to time (“Standard Terms and Conditions”). The combined terms of the Standard Terms and Conditions and this Supplement, in addition to the terms and conditions set forth in the Request for Proposal, Request for Quotation, and/or other agency request (“Solicitation”), if applicable, shall prevail over any conflicts set forth in or incorporated by reference into a contractor’s proposal submitted in response to a Solicitation including any standard license, service or other agreement (“Contractor Standard Form Agreement”).

The “Contract” shall consist of this Supplement, the Standard Terms and Conditions, the Solicitation, and the proposal submitted by the contractor.

The Standard Terms and Conditions are hereby incorporated by reference. Section numbering of the changes and additions enumerated below continue the number scheme of the Standard Terms and Conditions.

- B. CHANGES/ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL GOODS, SERVICES, AND INFORMATION TECHNOLOGY WAIVERED CONTRACTS:**

2.13 OWNERSHIP DISCLOSURE

Pursuant to N.J.S.A. 52:25-24.2, in the event the contractor is a corporation, partnership or limited liability company, the contractor must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted proposal. A contractor’s failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a Contract to said contractor unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the receipt of the proposal. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the proposal.

In the alternative, to comply with this section, a contractor with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

2.14 PROHIBITED INVESTMENT IN IRAN

Pursuant to N.J.S.A. 52:32-58, the contractor must utilize this Disclosure of Investment Activities in Iran form to certify that neither the contractor, nor one (1) of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury’s List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the contractor, nor one (1) of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the contractor is unable to so certify, the contractor shall provide a detailed and precise description of such activities as directed on the form.

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(Rev. 6/14/2018)

2.15 STATE'S RIGHT TO INSPECT CONTRACTOR'S FACILITIES

The State reserves the right to inspect the contractor's establishment before making an award, for the purposes of ascertaining whether the contractor has the necessary facilities for performing the Contract.

The State may also consult with clients of the contractor to assist the State in making a contract award that is most advantageous to the State.

2.16 STATE'S RIGHT TO REQUEST FURTHER INFORMATION

The Director reserves the right to request all information which may assist him or her in making a contract award, including factors necessary to evaluate the contractor's financial capabilities to perform the Contract. Further, the Director reserves the right to request a contractor to explain, in detail, how the proposal price was determined.

2.17 DELIVERY TIME AND COSTS

Unless otherwise noted elsewhere in the Solicitation, all delivery times are 30 calendar days after receipt of order (ARO) and prices for items in proposals shall be submitted Freight On Board (F.O.B.) Destination (30 calendar days ARO/F.O.B.). The contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the State's Using Agency or designated purchaser. Thirty calendar days ARO/F.O.B. does not cover "spotting" but does include delivery on the receiving platform of the Using Agency at any destination in the State of New Jersey unless otherwise specified.

No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the contractor's convenience when a single shipment is ordered.

The weights and measures of the State's Using Agency receiving the shipment shall govern.

2.18 COLLECT ON DELIVERY (C.O.D) TERMS

C.O.D. terms will not be accepted.

2.19 CASH DISCOUNTS

The contractor is encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts.

Should the contractor choose to offer cash discounts the following shall apply:

- A. Discount periods shall be calculated starting from the next business day after the Using Agency has accepted the goods or services, received a properly signed and executed invoice and, when required, a properly executed performance security, whichever is latest; and
- B. The date on the check issued by the State in payment of that invoice shall be deemed the date of the State's response to that invoice.

2.20 CLAIMS AND REMEDIES

- A. All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

**WAIVERED CONTRACTS SUPPLEMENT TO THE
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- B. Nothing in this Contract shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.
- C. In the event that the contractor fails to comply with any material Contract requirements, the Director may take steps to terminate this Contract in accordance with the Standard Terms and Conditions, authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor's price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor, as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

2.21 NEWS RELEASES & ADVERTISING

- A. The contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this Contract without the prior written consent of the Director.
- B. The contractor shall not use the State's name, logos, images, or any data or results arising from this Contract as a part of any commercial advertising without first obtaining the prior written consent of the Director.

2.22 ORGAN DONATION

As required by N.J.S.A. 52:32-33.1, the State encourages the contractor to disseminate information relative to organ donation and to notify its employees, through information and materials or through an organ and tissue awareness program, of organ donation options. The information provided to employees should be prepared in collaboration with the organ procurement organizations designated pursuant to 42 U.S.C. 1320b-8 to serve in this State.

3.8 PERFORMANCE SECURITY

If performance security is required, such security must be submitted with the bid in the amount listed in the Solicitation. N.J.A.C. 17:12-2.5. Acceptable forms of performance security are as follows:

1. 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,
2. A certified or cashier's check drawn to the order of "Treasurer, State of New Jersey," or
3. An irrevocable letter of credit issued by a federally insured financial institution and naming "Treasurer, State of New Jersey," as beneficiary.

The Performance Security must be submitted to the State within 30 days of the effective date of the Contract award and cover the period of the Contract and any extensions thereof. Failure to submit performance security may result in cancellation of the Contract for cause and nonpayment for work performed.

Although the performance bond is required for the full term of the Contract, the Director recognizes that the industry practice of sureties is to issue a one (1) year performance bond for goods and services contracts. Thus, the contractor is permitted to submit a one (1) year performance bond for the amount required under the Contract and, on each succeeding anniversary date of the Contract, provide a continuation or renewal certificate to evidence that the bond is in effect for the next year of the Contract. This procedure will remain in place for each year of the Contract thereafter until the termination of the Contract. Failure to provide such proof on the anniversary date of the Contract shall result in suspension of the Contract, and possibly, termination of the Contract.

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For performance bonds based on a percentage of the total estimated Contract price. On each anniversary of the effective date of the Contract, the amount of the required performance bond, unless otherwise noted, is calculated by applying the established RFQ performance bond percentage to the outstanding balance of the estimated amount of the Contract price to be paid to the contractor.

In the event that the Contract price is increased by a Contract Amendment, the contractor may be required to provide, within 30 calendar days of the effective date of the Contract Amendment, performance bond coverage for the increase in Contract price. The required increase in the performance bond amount is calculated by applying the established bond percentage set forth above to the increase in Contract price. Failure to provide such proof to the Director of this required coverage may result in the suspension of payment to the contractor until such time the contractor complies with this requirement.

3.9 RETAINAGE

If retainage is required on the Contract as stated in the Solicitation, the state and/or agency will retain the stated percentage or retainage from each invoice. Payment of retainage will be authorized after satisfactory completion and submission of all services, deliverables or work products by the contractor and acceptance by the agency of all services, deliverables or work products required by the Contract.

For ongoing contracts, the agency will retain the stated percentage of each invoice submitted. At the end of the three (3) month period after payment of each invoice, the agency will review the contractor's performance and if performance has been satisfactory, the agency will release the retainage for the preceding three (3) month period. Following the expiration of the Contract, retained fees will be released to the contractor after certification by the agency's project manager, if any, that all services have been satisfactorily performed.

3.10 SUBCONTRACTOR UTILIZATION PLAN

A contractor that will subcontract any of the work or services to be provided under the Contract shall submit to the agency along with its proposal a Subcontractor Utilization Plan located at the following webpage: <http://www.state.nj.us/treasury/purchase/forms/subcontracting.pdf>. See also Section 5.8 of the Standard Terms and Conditions.

5.17 CONFIDENTIALITY

- a. The State's obligation to maintain the confidentiality of the contractor's confidential information provided to the State under the Contract is conditioned upon and subject to the State's obligations under the New Jersey Public Records Act, N.J.S.A. 47:1A-1 et seq., ("OPRA"), the New Jersey common law right to know, and any other lawful document request or subpoena.
- b. By virtue of the Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose only information that is required for the performance of their obligations under the Contract. The contractor's confidential information, to the extent not expressly prohibited by law, shall consist of all information clearly identified as confidential at the time of disclosure ("Contractor Confidential Information"). Notwithstanding the previous sentence, the contractor acknowledges the terms and pricing of the Contract are subject to disclosure under OPRA, the New Jersey common law right to know, and any other lawful document request or subpoena.
- c. The State's Confidential Information shall consist of all information or data in any form whatsoever supplied by the State, any information or data gathered by the contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not).
- d. A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party, except that if the information is personally identifying to a person or entity regardless of whether it has become part of the public

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domain through other means, the other party must maintain full efforts under the Contract to keep it confidential; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.

- e. The parties agree to hold each other's Confidential Information in confidence, using at least the same degree of care in doing so that it uses to protect its own confidential information.
- f. In the event that the State receives a request for Contractor Confidential Information related to the Contract pursuant to a court order, subpoena, lawful document request or other operation of law, the State agrees, if permitted by law, to provide the contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such request. The contractor shall take any action it deems appropriate to protect its documents and/or information.
- g. In addition, in the event the contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, the contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and the contractor's intended response to such request. The State shall take any action it deems appropriate to protect its documents and/or information. Notice to the State shall not relieve the contractor of its obligation to take action to protect such information if the contractor is aware of a legal reason to do so.
- h. Notwithstanding the requirements of nondisclosure described in this Section 5.17, either party may release the other party's Confidential Information (i) if directed to do so by a court or arbitrator of competent jurisdiction, (ii) pursuant to a lawfully issued subpoena or other lawful document request, (iii) in the case of the State, if the State determines the documents or information are subject to disclosure and the contractor does not exercise its rights as described in subsection (f), or if the contractor is unsuccessful in defending its rights as described in subsection (f), or (iv) in the case of the contractor, if the contractor determines the documents or information are subject to disclosure and the State does not exercise its rights as described in subsection (g), or if the State is unsuccessful in defending its rights as described in subsection (g).

C. CHANGES/ADDITIONS TO THE STANDARD TERMS AND CONDITIONS APPLICABLE TO SERVICES AND INFORMATION TECHNOLOGY WAIVERED CONTRACTS:

4.2 INSURANCE

The following paragraph D is added to section 4.2 of the Standard Terms and Conditions:

- D. Professional Liability Insurance: When it is common to the contractor's profession to do so, the contractor shall carry Errors and Omissions, Professional Liability Insurance and/or Professional Liability Malpractice Insurance sufficient to protect the contractor from any liability arising out the professional obligations performed pursuant to the requirements of the Contract. The insurance shall be in the amount of not less than \$5,000,000 and in such policy forms as shall be approved by the State. If the contractor has claims-made coverage and subsequently changes carriers during the term of the Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

5.18 OWNERSHIP

Capitalized terms used but not defined are defined in Subsection D of this Supplement, below.

- a. Contractor Intellectual Property; COTS and Customized Software – The contractor retains ownership of all Contractor Intellectual Property, and any modifications thereto and derivatives thereof, that the contractor supplies to the State pursuant to the Contract. The contractor grants the State a non-exclusive, perpetual royalty-free license to use Contractor Intellectual Property delivered to the State for the purposes contemplated by the Contract.

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- b. Third Party Intellectual Property – Unless otherwise specified in the Solicitation that the State, on its own, will acquire and obtain a license to Third Party Intellectual Property, the contractor shall secure on the State’s behalf, in the name of the State and subject to the State’s approval, a license to Third Party Intellectual Property sufficient to fulfill the business objectives, requirements and specifications identified in the Contract at no additional cost to the State beyond that in the bid price. Under no circumstances will the State accept a license for Third Party Intellectual Property that contains terms and conditions that conflict with the terms and conditions of the Contract. If the contractor uses Third Party Intellectual Property, the contractor must indemnify the State for infringement claims with respect to the Third Party Intellectual Property. The contractor agrees that its use of Third Party Intellectual Property shall be consistent with the license for the Third Party Intellectual Property, whether supplied by the contractor, secured by the State as required by the Solicitation, or otherwise supplied by the State.
- c. Work Product; Custom Software – The State owns all Custom Software which shall be considered “work made for hire”, i.e., the State, not the contractor, subcontractor, or third party, shall have full and complete ownership of all such Custom Software. To the extent that any Custom Software may not, by operation of the law, be a “work made for hire” in accordance with the terms of the Contract, contractor, subcontractor, or third party hereby assigns to the State, or the contractor shall cause to be assigned to the State, all right, title and interest in and to any such Custom Software and any copyright thereof, and the State shall have the right to obtain and hold in its own name any copyrights, registrations and any other proprietary rights that may be available.
- d. Work Product; Services – The State owns all Deliverables developed for the State in the course of providing Services under the Contract, including but not limited to, all data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the Contract, including but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the Services required under the Contract.
- e. State Intellectual Property – Data and Background Information. The State owns all State Intellectual Property and State data and background information provided to the contractor pursuant to the Contract. The State’s data and background information shall include, without limitation, all data, technical information, and materials provided to the contractor by the State to facilitate performance of the Contract, including but not limited to all reports, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents. The items described in the preceding sentence shall be delivered or returned to the State of New Jersey upon thirty (30) days’ notice by the State or thirty (30) days after the expiration or termination of the Contract. Only to fulfill the purposes of the Contract does the State grant the contractor a non-exclusive, royalty-free, world-wide license to use, copy, display, distribute, transmit and prepare derivative works of State Intellectual Property and State data and background information. Notwithstanding anything to the contrary contained in the Terms and Conditions or this Supplement, no part of the State’s data will be disclosed, sold, assigned, leased or otherwise disposed of to any person or entity other than the State unless specifically directed to do so in writing by the Contract Manager. The State’s license to the contractor is limited by the term of the Contract and the confidentiality obligations set forth in Section 5.17 of this Supplement.
- f. No Rights – Except as expressly set forth in the Contract, nothing in the Contract shall be construed as granting to or conferring upon the contractor any right, title, or interest in State Intellectual Property or any intellectual property that is now owned or licensed to or subsequently owned by or licensed by the State. Except as expressly set forth in the Contract, nothing in the Contract shall be construed as granting to or conferring upon the State any right, title, or interest in any Contractor Intellectual Property that is now owned or subsequently owned by the contractor. Except as expressly set forth in the Contract, nothing in the Contract shall be construed as granting to or conferring upon the State any right, title, or interest in any Third Party Intellectual Property that is now owned or subsequently owned by a Third Party.

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D. CHANGES/ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL INFORMATION TECHNOLOGY WAIVERED CONTRACTS:

1.2 DEFINITIONS

The following definitions shall apply to information technology contracts:

- i. The term "Acceptance" means the written confirmation by an Agency that the contractor has completed a Deliverable according to the specified requirements.
- ii. The term "Contractor Intellectual Property" means any intellectual property that is owned by the contractor and contained in or necessary for the use of the Deliverables or which the contractor makes available for the State to use as part of the work under the Contract. Contractor Intellectual Property includes COTS or Customized Software owned by the contractor, the contractor's technical documentation, and derivative works and compilations of any Contractor Intellectual Property.
- iii. The term Commercial Off the Shelf Software ("COTS") means Software provided by the contractor that is intended for general use.
- iv. The term "Custom Software" means Software and Work Product that is developed by the contractor at the request of the Agency to meet the specific requirements of the Agency and is intended for its use.
- v. The term "Customized Software" means COTS that is adapted by the contractor to meet specific requirements of the Agency that differ from the standard requirements of the base product.
- vi. The term "Deliverable" means the goods, products, Services and Work Product that the contractor is required to deliver to the State under the Contract;
- vii. The terms "goods" and "products" shall be deemed to include, without limitation, Software and Hardware.
- viii. The term "Hardware" shall be deemed to include computer equipment and any Software provided with the Hardware that is necessary for the Hardware to operate.
- ix. The term "Information Technology Contract" shall mean, notwithstanding any definition in New Jersey Statutes, a Contract for one or more of the following: Hardware, Software, Services, telecommunication goods and services, and all related goods.
- x. The terms "Services" shall be deemed to include, without limitation (i) Information Technology ("IT") professional services; (ii) Software and Hardware-related services, including without limitation, installation, configuration, and training and (iii) Software and Hardware maintenance and support and/or Software and Hardware technical support services.
- xi. The term "Software" means, without limitation, computer programs, source codes, routines, or subroutines supplied by the contractor, including operating software, programming aids, application programs, application programming interfaces and software products, and includes COTS, Customized Software and Custom Software, unless the context indicates otherwise.
- xii. The term "State Intellectual Property" means any intellectual property that is owned by the State. State Intellectual Property includes any derivative works and compilations of any State Intellectual Property.
- xiii. The term "Third Party Intellectual Property" means any intellectual property owned by parties other than the State or the contractor and contained in or necessary for the use of the Deliverables. Third Party Intellectual Property includes COTS owned by Third Parties, and derivative works and compilations of any Third Party Intellectual Property.
- xiv. The term "Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, Software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by the contractor or the contractor's subcontractors or a third party engaged by the contractor or its subcontractor pursuant to the Contract. Notwithstanding anything to the contrary in the preceding sentence, Work Product does not include State Intellectual Property, Contractor Intellectual Property or Third Party Intellectual Property.

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2.10 COMPLIANCE - LAWS

The following is added to section 2.10 of the Standard Terms and Conditions:

COMPLIANCE – DATA AND PRIVACY LAWS – The contractor must comply with all State and Federal data and privacy laws, rules and regulations applicable to both the contractor and the State under the Contract.

4.1 INDEMNIFICATION

Section 4.1 of the Standard Terms and Conditions is deleted in its entirety and replaced with the following:

INDEMNIFICATION AND LIMITATION OF LIABILITY:

1. INDEMNIFICATION - The contractor's liability to the State and its employees in third party suits shall be as follows:
 - a) The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State and its officers, agents, servants and employees, from and against any and all third party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
 - i. For or 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 products supplied under the Contract or the order; and
 - ii. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopied composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of the Contract; and
 - iii. The contractor's indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations contained in these Standard Terms and Conditions.
 - b) In the event of a claim or suit involving third-party Intellectual Property Rights, the contractor, at its option, may: (1) procure for the State the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties. The State will (1) promptly notify the contractor in writing of the claim or suit; (2) the contractor shall have control of the defense and settlement of any claim that is subject to subsection (a); provided, however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the contractor at its expense. Furthermore, neither the contractor nor any attorney engaged by the contractor shall defend the claim in the name of the State of New Jersey or any Agency, nor purport to act as legal representative of the State of New Jersey or any Agency, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of DPP. The State of New Jersey may, at its election and expense, assume its own defense and settlement.
 - c) Notwithstanding the foregoing, the contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from: (1) the State's unauthorized combination, operation, or use of a product supplied under the Contract with any product, device, or Software not supplied by the contractor; (2) the State's unauthorized alteration or modification of any product supplied under the Contract; (3) the contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides the contractor with such designs, specifications, requests, or instructions, the contractor reviews same and advises that such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the contractor to proceed with one or more designs, specifications, requests or instructions that

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present potential issues of patent or copyright infringement; or (4) the State's failure to promptly implement a required update or modification to the product provided by the contractor.

- d) The contractor will be relieved of its responsibilities under subsection (a)(i) and (ii) for any claims made by an unaffiliated third party that arise solely from the actions or omissions of the State, its officers, employees or agents.
- e) This section states the entire obligation of the contractor and its suppliers, and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and the contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product.
- f) The provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in the Contract, nor shall they be construed to relieve the contractor from any liability, nor preclude the State from taking any other actions available to it under any other provisions of the Contract or otherwise at law or equity.
- g) The contractor agrees that any approval by the State or Using Agency of the work performed and/or reports, plans or specifications provided by the contractor shall not operate to limit the obligations of the contractor assumed in the Contract.
- h) The State of New Jersey will not indemnify, defend or hold harmless the contractor. The State will not pay or reimburse for claims absent compliance with Section 4.1(2) of this Supplement and a determination by the State to pay the claim or a final order of a court of competent jurisdiction.

2. STATE RESPONSIBILITIES

Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Section 4.1(1)(a)(i) and (ii) of this Supplement which results in an unaffiliated third party claim. This is the contractor's exclusive remedy for these claims.

3. LIMITATION OF LIABILITY

- a) The contractor's liability to the State for actual, direct damages resulting from the contractor's performance or non-performance of, or in any manner related to, the Contract for any and all claims, shall be limited in the aggregate to 200% of the fees paid to the contractor for the products or Services giving rise to such damages, except that such limitation of liability shall not apply to the following:
 - i. The contractor's indemnification obligations as described in Section 4.1(1) of this Supplement; and
 - ii. The contractor's breach of its obligations of confidentiality described in Section 5.17 of this Supplement; and
- b) The contractor shall not be liable for consequential or incidental damages.

5.11 CONTRACTOR PERFORMANCE WARRANTIES

Section 5.11 of the Standard Terms and Conditions is deleted in its entirety and replaced with the following:

1. COTS and Customized Software

- a. Unless the Contractor Standard Form Agreement provides greater coverage as determined by the State, in its sole discretion, the contractor warrants that COTS and Customized Software products licensed to the State shall operate in all material respects as described in the Solicitation and/or contractor technical documentation for ninety (90) days after Acceptance. The State shall

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notify the contractor of any COTS or Customized Software product deficiency within ninety (90) days after Acceptance. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.

- b. Except for the portion of the contractor's COTS or Customized Software product that intentionally contains one or more of the following for the purpose of anti-virus protection, the contractor warrants that, at the time of delivery and installation of the COTS or Customized Software provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the COTS or Customized Software, collect unlawful personally identifiable information on users, or prevent the COTS or Customized Software from performing as required under the Contract.
- c. In the event of any breach of this warranty, the contractor shall correct the product errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may end its usage and recover the fees paid to the contractor for the license and any unused, prepaid, technical support fees paid. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.
- d. The contractor does not warrant that COTS or Customized Software is error-free or that it will operate uninterrupted.

2. Custom Software

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that Custom Software Deliverables shall operate in all material respects as described in the applicable specification documentation for one hundred and eighty (180) days after Acceptance. The State shall notify the contractor of any Custom Software deficiency within one hundred and eighty (180) days after Acceptance of the Custom Software Deliverable (the "Notice Period"). Where the contractor is providing multiple Custom Software Deliverables over the term of the Contract, the Notice Period shall begin to run after the Acceptance of the final Custom Software Deliverable under the Contract. At that time, the State may assert defect claims relating to any and all of the Custom Software Deliverables provided under the Contract; however, the State may also assert claims earlier, in its discretion, without waiving the Notice Period.
- b. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.
- c. The contractor warrants that, at the time of Acceptance of the Custom Software Deliverable provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Custom Software, collect unlawful personally identifiable information on users, or prevent the Custom Software from performing as required under the Contract. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.
- d. In the event of any breach of this warranty, the contractor shall correct the Custom Software errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may recover a portion of the fees paid to the contractor for the Custom Software with the uncorrected defect or in the event that the Custom Software is still deemed, by the State in its sole discretion, to be usable by the State even with the uncorrected defect, the State may recover a portion of the fees paid to the

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contractor for the Custom Software (up to the total amount of such charges for such Custom Software) to reflect any reduction in the value of the Custom Software Deliverable as a result of the uncorrected defect. Under no circumstances does this warranty provision limit the contractor's obligations in the event of a breach of confidentiality.

- e. The contractor does not warrant that Custom Software is error-free or that it will operate uninterrupted.

3. IT Services

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that all Services will be provided in a professional manner consistent with industry standards. The State shall notify the contractor of any Services warranty deficiencies within ninety (90) days from performance of the deficient Services.
- b. In the event of any breach of this warranty, the contractor shall re-perform the deficient Services, or if the contractor cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant Services and recover the fees paid to the contractor for the deficient Services.

4. Hardware

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that the equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.
- b. The contractor warrants that all equipment supplied to the State and operated by electrical current is UL listed where applicable.
- c. The contractor warrants that all new machines are to be guaranteed as fully operational for one (1) year from time of Acceptance by the State. For the avoidance of doubt, Acceptance with respect to Hardware in this subsection (d) shall occur no later than sixty (60) days after delivery, as evidenced by a signed delivery receipt. The contractor shall render prompt service without charge, regardless of geographic location.
- d. The contractor warrants that sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters.
- e. The contractor warrants that trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice.
- f. The contractor warrants that all Software included with the Hardware shall perform substantially in accordance with specifications, for one (1) year from the time of Acceptance. The contractor warrants that Software media will be free from material defects in materials and workmanship for a period of one (1) year from the date of Acceptance.
- g. In the event of any breach of this warranty, the contractor shall promptly repair, replace or refund the purchase price of product rejected for failure to conform with the contractor's product specifications.

5. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND THE CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

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5.19 AUDIT NOTICE AND DISPUTE RESOLUTION

To the extent the contractor's proposal or Standard Form Agreement permits the contractor to conduct periodic audits of the State's usage of the Contractor Intellectual Property provided thereunder, such provision is amended to include the following audit notice and dispute resolution process:

- a. **AUDIT NOTICE** – Notwithstanding anything to the contrary in the contractor's proposal or Standard Form Agreement, in the event that the contractor seeks to exercise a right in its proposal or Standard Form Agreement to audit the State's use of Contractor Intellectual Property, the contractor shall deliver simultaneous written notice, no less than thirty days in advance of the audit start date (unless the contractor's notice provides a longer notice period), to the:
 - i. Director of the New Jersey Department of Treasury, Division of Purchase and Property:
Procurement Bureau, Technology Unit
P.O. Box 230
Trenton, NJ 08625-0230
 - ii. Chief of Staff of the New Jersey Office of Information Technology:
Office of the Chief Technology Officer
300 Riverview Plaza
Trenton, NJ 08625
 - iii. State Contract Manager.

The notice shall reference the specific audit provision(s) in the contractor's proposal or Standard Form Agreement being exercised and include copies of same, specify the means by which the contractor will conduct the audit, and shall require the audit to be conducted in accordance with generally accepted standards in the field of such audits.

- b. **AUDIT DISPUTE RESOLUTION** -- If the State, in good faith, provides the contractor with written notice of an alleged error in the amount of underpaid fees due the contractor as a result of an audit (the "dispute"), then the parties will endeavor to resolve the dispute in accordance with this paragraph. Each party will appoint a Vice President, Assistant Director, or the equivalent (hereinafter referred to as "Representative") to discuss the dispute and no formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., may begin until either such Representative concludes, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely. In addition, the parties shall refrain from exercising any termination right related to the dispute being considered under this paragraph and shall continue to perform their respective obligations under the Contract while they endeavor to resolve the dispute under this paragraph.
- c. **STATE NOT LIABLE FOR AUDIT COSTS** -- Notwithstanding anything to the contrary in the contractor's proposal or Standard Form Agreement, the State will not reimburse the contractor for any costs related to an audit.
- d. **NO AUDIT RIGHT CREATED** -- In the event that the contractor's proposal or Standard Form Agreement does not permit audits of the State's usage of Contractor Intellectual Property, Section 5.19 of this Supplement shall not be interpreted to provide such an audit right.

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**I HEREBY ACCEPT THE TERMS AND CONDITIONS
OF THIS CONTRACT**

Chris Bradley
Signature

10-22-21
Date

Chris Bradley, Client Executive
Print Name and Title

International Business Machine, Corp
Print Name of Contractor