



# Federally-Based Contracts Request for Quotation

**For:** Unemployment Insurance Modernization and  
Worker Experience  
Agile Development Services

Event	Date	Time
Questions Regarding Request for Quote Round 1 Due Date	MARCH 15, 2022	2:00 PM ET
Questions Regarding Request for Quote Round 2 Due Date	MARCH 22, 2022	2:00 PM ET
Request for Quote Submission Due Date	MARCH 31, 2022	2:00 PM ET

Dates are subject to change. All times contained in the Request for Quote refer to Eastern Time. All changes will be reflected in Bid Amendments to the Request for Quote posted on Using Agency website.

Request For Quote Issued By:

State of New Jersey  
New Jersey Department of Labor

Last Updated: ~~3/10/2022~~ 3/17/2022

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## **1.0 INFORMATION FOR BIDDERS**

**NOTICE: *The Bidder is advised to thoroughly read all sections and follow all instructions contained in this Request for Quote (RFQ) before preparing and submitting its Quote.***

The Contract will be awarded in the State of New Jersey's eProcurement system, **NJSTART** ([www.njstart.gov](http://www.njstart.gov)). The awarded Contractor is advised to read through all Quick Reference Guides (QRGs) located on the [NJSTART Vendor Support Page](#) for information.

This solicitation request and any amendments will be posted at <https://www.nj.gov/labor/aboutlwd/>.

Quote submissions and questions shall be filed at [Agile-bid@dol.nj.gov](mailto:Agile-bid@dol.nj.gov) in accordance with the deadlines specified. Email messages (including attachments) exceeding 25MB may not be received. Bidders may send multiple emails, if necessary. It is recommended that attached file(s) be sent as zipped attachment(s) due to file attachment limitations of the email system. As a convenience, the email address above has been configured to auto-respond to each email received with text confirming receipt. In the event this auto-response confirming receipt is not received by the sender, this may indicate the sender's email has not been received by the State.

### **1.1 PURPOSE AND INTENT**

This RFQ is issued by the New Jersey Department of Labor (NJ DOL, Using Agency). The purpose of this RFQ is to solicit Quotes for agile development and human-centered design services for two discrete projects (Programs). NJ DOL intends to issue two awards (i.e., one for each project).

**IMPORTANT:** The bidder must indicate for which Program(s) it intends to be considered.

- **Program A – Unemployment Insurance Modernization Program (UI Program):** Designing, building, integrating, and maintaining reliable, scalable, modern, tested digital services and delivery programs using agile development, human-centered design, and the practices described in the scope of work in support of the State's UI Program. The goal of the UI Program is to improve the processes and experiences enabling New Jerseyans to receive unemployment insurance benefits and support, the State to administer the unemployment insurance program, and partners or entities such as employers and other State agencies to efficiently interact with the unemployment insurance system related to the delivery of benefits and services and/or meeting compliance requirements.
- **Program B – Worker Experience Program (WE Program):** Designing, building, integrating, and maintaining reliable, scalable, modern, tested digital services and delivery programs using agile development, human-centered design, and the practices described in the scope of work in support of the State's WE Program. The goal of the WE Program is to improve the processes and experiences enabling New Jerseyans to understand, navigate and access programs, benefits, and information that support them in their ability to find, obtain, and maintain meaningful employment and to advance their careers.

The intent of this RFQ is to award two Blanket P.O. Contracts to those responsible Bidders whose Quotes, conforming to this RFQ are most advantageous to the State, price and other factors considered. The State may award any and/or all price lines. The State, however, reserves the right to separately procure individual requirements that are the subject of the Contract during the Contract term, when deemed by the Director of the Division of Purchase and Property (Director) to be in the State's best interest.

Quotes will only be accepted from Bidders with an active GSA contract under SIN 54151S.

Details regarding evaluation criteria can be found in Section 6.4.4 (Technical and Price Evaluation). The Using Agency intends to issue two awards in response to this RFQ.

The State of NJ Standard Terms and Conditions (SSTC) accompanying this RFQ will apply to all Contracts made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in this RFQ and should be read in conjunction with them unless the RFQ specifically indicates otherwise.

### **1.1.1 SCOPE**

The Contractor shall provide product, technical and design support for the awarded Program's development and sustainment, including project management, product management, technical implementation, DevOps, design, testing, rollout, and content management across multiple channels.

- **UI Program:** The Using Agency requests that Bidders submit a proposal to perform the scope of work with a total cost up to \$4.0M during the two-year base period. This set of individuals and/or roles and associated hours provided will be referred to as the program's "base team".
- **WE Program:** The Using Agency requests that Bidders submit a proposal to perform the scope of work with a total cost up to \$2.5M during the two-year base period. This set of individuals and/or roles and associated hours provided will be referred to as the program's "base team".

Although not guaranteed, the size of the team and hours per role, as well as the time and materials for the contract(s) may expand or decrease in the base and option periods at the discretion of the State. Additional funding to support the scope of work may become available and may be applied to the awarded contract(s). The contract(s) may be amended to enable the use of additional funding. However, the scope of services will remain the same.

The Contractor should specify a cross-functional team consisting of product management, design, engineering, content, and/or additional skillsets deemed appropriate to complete the scope of work within the budgets specified above. The Contractor should specifically include three Key Personnel roles (Product Management Lead, Technical Lead, Design Lead) as well as any additional base team roles deemed necessary to perform the scope of work, specific to each program that it seeks to be considered for. Key Personnel are expected to be assigned full-time to the program. The Using Agency anticipates that most of the team will consist of individuals assigned full-time to the program, however the Contractor may also specify a combination of part-time roles, as necessary.

Additionally, the Contractor must list all additional roles that it may seek to leverage in the future to complete the scope of work. All roles that may be needed or made available must be specified in the pricing submission. There is no limit to the number of additional roles that may be submitted by the Contractor.

The team (e.g., role(s) in use, anticipated hours per role) may be adapted throughout the length of the Contract to meet the needs of the Program as determined via consultation between the State and Contractor, subject to approval from the State's Contract Manager/Project Manager/Product Owner, provided the changes comply with the Contract (e.g., the role(s) are available through this Contract, the activities are within the scope of this Contract, the costs remain within the approved budget). The Contractor shall maintain and provide the State with up-to-date cost projections for each role. The State reserves the right to expand and/or reduce the size or hours of the team if

doing so would best meet the needs of the State and/or project.

The Contractor's team will be working at the overall direction of the State's designated Product Owner, and in collaboration with the Program team and relevant leaders at NJ DOL and throughout the State. The Contractor should be prepared to operate both with and without additional engineering, product, and design support. This document specifies specific methodologies and playbooks that are followed by the team and these may be adapted by the State throughout the course of the contract to meet the needs of the State and New Jerseyans.

The base term of this Contract shall be for a period of two years with options to extend as detailed in Section 5.2.

## **1.2 BACKGROUND**

**UI Program:** New Jersey is embarking on a comprehensive effort to improve the experience of receiving unemployment insurance (UI) benefits, modernize the case management and technology systems underpinning the UI program, and improve the equity of outcomes for all NJ residents. This effort encompasses multiple efforts, including NJ's selection as a key partner to the US Department of Labor ([https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=7984](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7984)) and multiple state-level projects. This combined effort is unique in the number of areas it seeks to improve, the level of partnership between the state and federal government, and availability of funding to make critical improvements to the process. The effort will follow modern practices of agile, iterative development and human-centered design, and involve close collaboration across the domains of policy, customer experience, operations, data, and product development. The new system will be developed using modular components that enable discrete functions involved in the end-to-end processing of Unemployment Insurance claims.

During the COVID-19 pandemic and resulting economic faltering, state unemployment systems across the country, including NJ, faced a confluence of challenges in processing unemployment claims, resulting in a difficult experience for unemployed workers seeking life-sustaining benefits: an unprecedented surge in claims as economic lockdowns rolled across the country; an abrupt transition to an all-remote workforce to protect the health and safety of NJ DOL staff; the spontaneous availability of novel federal benefits and programs for which current systems were not designed; and an insidious corresponding increase in fraudulent schemes targeting these benefits.

New Jersey aims to build a resilient and flexible program that is ready to support residents in their moments of greatest need. Working with federal and state partners, the program will use modern, modular components that enable flexibility for the state, maximize the ability to leverage best-in-class private and public sector solutions including from the federal government, and enable re-use by others across the country in service of raising the bar of Unemployment Insurance service delivery. To enable us to take advantage of this opportunity, the State of New Jersey Department of Labor is establishing an Office of Unemployment Insurance Modernization and building the team that will lead this effort for the state. This effort will operate with the support of senior leadership at the Department and State.

The Contractor awarded and assigned to this program as a result of this RFQ will be an integral part of the New Jersey Office of Unemployment Insurance Modernization. This Contractor will be uniquely positioned to work alongside colleagues at the state and federal level to tackle challenges at their root, ensuring that the system is designed equitably with claimants at the center. Solutions are anticipated to include changes to technology, process, content, user experience, customer service, employer services, and policy.

**WE Program:** NJ DOL projected that a total of 4.6 million New Jerseyans made up the total workforce population in 2019. These workers now rely on digital services for activities ranging from finding jobs and getting access to employment and coaching tools to navigating information about



programs that support individuals with disabilities. This shift is reflected in the demand that New Jerseyans have for accessing digital services from government as well.

NJ DOL is seeking to invest in making career advancement and related support programs more accessible and easy to navigate for individuals. The department will embrace principles that take the burden off the individuals seeking assistance and create a more cohesive experience that ensures they can access the resources and benefits available to them.

To address these challenges, this work seeks to improve service delivery to New Jersey workers, promoting efficiency and potentially reducing costs. This principle to “meet the user where they are” in their journey rather than requiring them to navigate the complexity of government will greatly increase customer satisfaction, material outcomes, and more efficiently utilize government resources. This will be accomplished by applying the following key approaches related to improving delivery of services to New Jersey workers:

- Leveraging data from and working alongside complementary initiatives, including with partners supporting the State, to better inform and assist New Jerseyans in obtaining employment and advancing their careers
- Leveraging analytics that enable iterative improvement of service delivery
- Reducing friction to receiving relevant services from the State
- Building digital services that meet or exceed the standards of in-person services
- Collective embrace of a user-centered workforce service delivery model and use of plain language in products and services
- Leveraging data to provide users with the actionable, relevant information needed to make informed decisions

The WE Program is anticipated to include the following major components, which may evolve throughout the project and are subject to prioritization:

- Build on the initial release of the New Jersey Training Explorer by providing improved training recommendations leveraging data from other initiatives at the state. This work involves using data models to provide unique insights to training seekers.
- Curate and make available career pathways information and guidance to assist New Jerseyans in accessing data-driven information to inform their career choices. As relevant, leverage information regarding State-owned workforce connected products and services and the Training Explorer to complement pathways and guidance information.
- Evaluate the best methods to integrate with, enable, and/or support digital coaching efforts by the State alongside other partners and initiatives.

**UI and WE Programs:** The Contractor should expect to work alongside, support, and/or integrate with related efforts to improve service delivery at NJ DOL and the State, as necessary.

### **1.2.1 TECHNICAL BACKGROUND INFORMATION**

**UI Program:** The current Unemployment Insurance system depends on several production systems, which are supported by a mainframe that has been in service for over 30 years. Underlying systems will be improved or replaced iteratively as part of this initiative. New modules may require integration with legacy systems as needed. Further, to enable a modular approach and interoperability, the Contractor may need to make enhancements to existing/legacy systems. Additionally, some components to be integrated will be third-party services, including both commercial services and new shared services that the team will have an opportunity to inform. Salesforce is an example of one such third-party system in use for a limited aspect of case management and adjudication. Other components will be developed and implemented directly by the team, with lessons and code being shared openly and with our partners.

**WE Program:** NJ DOL runs multiple independent workforce-connected programs and operations in collaboration with affiliated State agencies and departments. It is anticipated that many systems will remain independent in the near future, and the team will leverage content improvements as well as work across the department to implement and/or leverage standard APIs. NJ DOL may also seek to leverage new third-party services in the future to improve service delivery. Further, to enable a modular approach and interoperability, the Contractor may need to make enhancements to existing/legacy systems at the direction of the State. Additionally, beta versions of certain tools (e.g., Training Explorer) have been developed and may need refactoring and/or migration to AWS cloud environment to improve maintainability.

The planned technology stack for **both programs** (unless noted) includes the following primary elements (not exhaustive):

- Client-side:
  - Modern JavaScript framework like React
- Server-side:
  - Node.js
  - Express.js
  - Python (UI Program only)
  - Java (UI Program only: ability to read code and understand configuration of existing UI systems necessary)
- Platform & Infrastructure:
  - Serverless framework
  - AWS Amplify
  - AWS DynamoDB
  - AWS Lambda
  - AWS SQS and related (UI Program only)
  - Docker
- Data stores:
  - PostgreSQL, Redis
  - Oracle Database (UI Program only: necessary to interface with existing UI systems)
- Development:
  - Version control with git
  - CI/CD
  - Testing with jest and Cypress

Appropriate experience to do this work includes:

- Design: user research, user interface design, information architecture, and interaction design across web and mobile web applications
- Engineering: technical requirements analysis of commercial solutions, integration and custom development using client- and server-side JavaScript, standard-compliant HTML and CSS; experience with data management and analysis through SQL and related technologies
- Development Operations / Site Reliability Engineering: configuration, administration, and operations and monitoring of cloud based service in AWS
- Product: user-centered product lifecycle and management, technical requirements definition and scoping, technical team leadership and performance management
- Data Science: understanding data needs, processing and integrating data, conducting data analysis
- All: agile development methodology experience, project management and source version control, accessibility, and cross-agency collaboration and partnership

## **1.2.2 PRODUCT BACKLOG / USER STORIES**

This initial product backlog is not a binding document, but rather a representative sample of the user stories and functionality that is anticipated will be required to be delivered under this contract. These preliminary user stories are provided only for illustrative purposes, and do not comprise the full scope or detail of the project. They are not prioritized. The specific user stories will be identified through the agile development process.

The State expects that the Contractor will work closely with the State to perform user research, prepare user personas, and to develop and prioritize a full gamut of user stories as the project progresses. The State also expects that the Contractor will work closely with the State including Agencies and Departments, and end-users to perform usability testing at regular intervals throughout the development process.

Individual user stories may be modified, added, retracted, or reprioritized by the State at any time, and the State expects that the user stories will be continuously refined during the development process. Development and the backlog of user stories will be maintained in a software development system, or other systems as designated by the State.

**UI Program:** The illustrative set of user stories includes:

- As a UI claimant, I would like to file an initial benefits claim online or over the phone, to initiate the process of getting paid UI benefits
- As NJ DOL, I would like to validate the authenticity of a claimant, to limit and avoid fraudulent claims and erroneous payments
- As NJ DOL, I would like to simplify the process of cross-checking claimant-supplied information with employer-supplied records to reduce the time it takes to discover discrepancies
- As a UI claimant, I would like to get paid in a simple way, to limit undue burden on accessing benefits payments
- As NJ DOL, I would like an automated process to adjudicate claims, to ensure accurate information, reduce errors, and efficiently process claims
- As a UI claimant, I would like a simple way to re-certify my benefits with clear alerts and notifications, to avoid delay in payments due to missed certification windows or deadlines for submitting required information
- As NJ DOL, I would like a way to audit and monitor claim statuses individually and in aggregate, to monitor program health and detect potential cases of fraud
- As a UI claimant, I would like my benefits to resume at the end of the year as appropriate, to avoid interruption in payments
- As NJ DOL, I would like a way to refer cases for appeal and record the appeals decisions status
- As an employer, I would like a seamless way to remain in compliance with the State with regards to my unemployment insurance obligations

**WE Program:** The illustrative set of user stories includes:

- Career Mapping:
  - As Chris (an individual seeking to kick-start their professional career), I want to identify the types of entry-level positions in my desired field of work that will allow me to reach my long-term career goals.
  - As Chris, I want to understand the competencies, education, and experience required to advance in my career so that I can invest in my development most effectively.
  - As Chris, I want to identify educational and training opportunities in New Jersey that I can pursue to launch and sustain my career.
- Training Exploration:

- As Ash (an individual seeking to obtain new skills and qualify for new job opportunities), I want to understand my return on investment for training programs, so that I know which training opportunity is the right one for my goals and experience.
- As Ash, I want to see job search and training recommendations, so that I know which direction I can take my job search in.
- As Ash, I want to know more information about the quality of training providers, so that I know which providers are performing the best and worth pursuing.

### **1.3 QUESTION AND ANSWER PERIOD**

The Using Agency will electronically accept questions and inquiries from all potential Bidders.

- A. Questions should be directly tied to the RFQ and asked in consecutive order, from beginning to end, following the organization of the RFQ; and
- B. Each question should begin by referencing the RFQ page number and section number to which it relates.

A Bidder shall submit questions only to the Using Agency designee at Agile-bid@dol.nj.gov in writing. The Using Agency will not accept any question in person or by telephone concerning this RFQ.

The cut-off date for electronic questions and inquiries relating to this RFQ is indicated on the RFQ cover sheet. In the event that questions are posed by Bidders, answers to such questions will be issued by Addendum. Any Addendum to this RFQ will become part of this RFQ and part of any Contract awarded as a result of this RFQ. Addenda to this RFQ, if any, will be posted to the Using Agency's website.

#### **1.3.1 SUBMISSION OF QUOTES**

In order to be considered for award, the Quote must be received by the Using Agency at the designated time and place.

**QUOTES NOT RECEIVED PRIOR TO THE QUOTE OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE OPENING IS INDICATED ON THE RFQ COVER SHEET.**

**IF THE QUOTE OPENING DEADLINE HAS BEEN REVISED, THE NEW QUOTE OPENING DEADLINE SHALL BE SHOWN ON THE POSTED ADDENDUM.**

**The following information is provided as a convenience. See Section 4.0 (Quote Preparation and Submission – Requirements of the Bidder) for full details.**

All quote submissions must include the following:

- Technical Submission inclusive of
  - Program Preference(s) (optional template provided with RFQ),
  - Technical Proposal,
  - Staffing Plan, and
  - Similar Experience Submission
- Completed State-Supplied Price Sheet (template provided with RFQ)
- [Ownership Disclosure Form](#)
- If applicable, [Subcontractor Utilization Form](#)

- State of New Jersey Security Due Diligence Third-Party Information Security Questionnaire including Confidentiality/Non-Disclosure Agreement (template provided with RFQ)

It is recommended that quote submissions include the following, which may otherwise be requested:

- Copy of GSA Schedule 70 Contract Document(s)
- Confidentiality and Commitment to Defend Form (template provided with RFQ)
- [Offer and Acceptance Page](#)
- If applicable, Joint Venture agreement between parties

For efficiency, submissions may include the following, which may otherwise be requested:

- Business Registration
- [Disclosure of Investigations and Other Actions Involving Bidder Form](#)
- [Disclosure of Investment Activities in Iran Form](#)
- [Source Disclosure Form](#)
- Certificate(s) of Insurance
- [Chapter 51 Certification](#) (see [Division's website](#) for additional details)
- [Affirmative Action Compliance/Report](#) (see [Division's website](#) for additional details)

Note: In the case of a Joint Venture, authorized signatories from each party comprising the Joint Venture must sign the Offer and Acceptance Page. Each party to the Joint Venture must individually comply with all the forms and certification requirements of this RFQ. In the case of a Joint Venture, all parties of the Joint Venture must have an active GSA contract under the designated SIN (see section 1.1).

## **1.4 ADDITIONAL INFORMATION**

### **1.4.1 BIDDER RESPONSIBILITY**

The Bidder assumes sole responsibility for the complete effort required in submitting a Quote in response to this RFQ. No special consideration will be given after Quotes are opened because of a Bidder's failure to be knowledgeable as to all of the requirements of this RFQ.

### **1.4.2 COST LIABILITY**

The State assumes no responsibility and bears no liability for costs incurred by a Bidder in the preparation and submittal of a Quote in response to this RFQ.

### **1.4.3 CONTENTS OF QUOTE**

Quotes can be released to the public pursuant to N.J.A.C. 17:12-1.2(b) and (c), or under the New Jersey Open Public Records Act (OPRA), N.J.S.A. 47:1A-1.1 et seq., or the common law right to know.

After the opening of sealed Quotes, including Quotes submitted electronically, all information submitted by a Bidder in response to a RFQ is considered public information notwithstanding any disclaimers to the contrary submitted by a Bidder. Proprietary, financial, security and confidential information may be exempt from public disclosure by OPRA and/or the common law when the Bidder has a good faith legal/factual basis for such assertion.

When the RFQ contains a negotiation component, the Quote will not be subject to public disclosure until a notice of intent to award a Contract is announced.

As part of its Quote, a Bidder may designate any data or materials it asserts are exempt from public disclosure under OPRA and/or the common law, explaining the basis for such assertion. Vendor {Bidder} must provide a detailed statement clearly identifying those sections of the Quote that it claims are exempt from production, and the legal and factual basis that supports said exemption(s) as a matter of law. The State will not honor any attempts by a Vendor {Bidder} to designate its entire Quote as proprietary, confidential and/or to claim copyright protection for its entire Quote.

The State reserves the right to make the determination as to what is proprietary or confidential, and will advise the Vendor {Bidder} accordingly. Any proprietary and/or confidential information in a Quote will be redacted by the State. Copyright law does not prohibit access to a record which is otherwise available under OPRA.

In the event of any challenge to the Vendor's {Bidder's} assertion of confidentiality with which the State does not concur, the Vendor {Bidder} shall be solely responsible for defending its designation, but in doing so, all costs and expenses associated therewith shall be the responsibility of the Vendor {Bidder}. The State assumes no such responsibility or liability.

A Vendor {Bidder} shall not designate any price lists and/or catalogs submitted as exempt from public disclosure as the same must be accessible to State Using Agencies and Cooperative Purchasing Program participants (if the Bid Solicitation has been extended to these participants) and thus must be made public to allow all eligible purchasing entities access to the pricing information.

In order not to delay consideration of the Quote or the State's response to a request for documents, the State requires that Vendor {Bidder} respond to any request regarding confidentiality markings within the timeframe designated in the State's correspondence regarding confidentiality. If no response is received by the designated date and time, the State will be permitted to release a copy of the Quote with the State making the determination regarding what may be proprietary or confidential.

#### **1.4.4 ELECTRONIC SIGNATURES**

Bidders submitting Quotes electronically may sign the forms required with the Quote, or required before Contract award, by electronically by typing the name of the authorized signatory in the "Signature" block as an alternative to downloading, physically signing the form, scanning the form, and uploading the form.

## 2.0 DEFINITIONS

### 2.1 CROSSWALK

The following definitions will be part of any Contract awarded or order placed as a result of this RFQ.

When this Contract is awarded in the State of New Jersey's eProcurement system, **NJSTART**, the **NJSTART** terminology listed below will be used

<b>NJSTART Term</b>	<b>Equivalent Existing New Jersey Term</b>
Bid/Bid Solicitation	RFQ/Solicitation
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order (Blanket P.O.)	Contract
Offer and Acceptance Page	Signatory Page
Vendor	Bidder/Contractor/Offeror

### 2.2 GENERAL DEFINITIONS

**All-Inclusive Hourly Rate** – An hourly rate comprised of all direct and indirect costs including, but not limited to: labor costs, overhead, fee or profit, clerical support, travel expenses, per diem, safety equipment, materials, supplies, managerial support and all documents, forms, and reproductions thereof. This rate also includes portal-to-portal expenses as well as per diem expenses such as food.

**Addendum** – Written clarification or revision to this RFQ issued by the Using Agency. Bid Amendments, if any, will be issued prior to Quote opening due date.

**Bidder** – An entity offering a Quote in response to the Using Agency's RFQ.

**Business Day** - Any weekday, excluding Saturdays, Sundays, State legal holidays, and State-mandated closings unless otherwise indicated.

**Calendar Day** – Any day, including Saturdays, Sundays, State legal holidays, and State-mandated closings unless otherwise indicated.

**Change Order** – An amendment, alteration or modification of the terms of a Contract between the State and the Contractor(s). A Change Order is not effective until it is signed and approved in writing by the Director or Deputy Director, Division of Purchase and Property.

**Contract** – The Contract consists of the State of NJ Standard Terms and Conditions (SSTC), the RFQ, the responsive Quote submitted by a responsible Bidder as accepted by the State, the notice of award, any subsequent written document memorializing the agreement, any modifications to any of these documents approved by the State and any attachments, Bid Amendment or other supporting documents, or post-award documents including Change Orders agreed to by the State and the Contractor, in writing.

**Contractor** – The Bidder awarded a Contract resulting from this RFQ.

**Days After Receipt of Order (ARO)** - The number of calendar days 'After Receipt of Order' in which the Using Agency will receive the ordered materials and/or services.

**Director** – Director, Division of Purchase and Property, Department of the Treasury, who by statutory authority is the Chief Contracting Officer for the State of New Jersey.

**Discount** - The standard price reduction applied by the Bidder / Contractor to all items.

**Division** – The Division of Purchase and Property.

**Evaluation Committee** – A committee established or Using Agency staff member assigned by the Director to review and evaluate Quotes submitted in response to this RFQ and recommend a Contract award to the Director.

**Firm Fixed Price** – A price that is all-inclusive of direct cost and indirect costs, including, but not limited to, direct labor costs, overhead, fee or profit, clerical support, equipment, materials, supplies, managerial (administrative) support, all documents, reports, forms, travel, reproduction and any other costs.

**May** – Denotes that which is permissible or recommended, not mandatory.

**Must** – Denotes that which is a mandatory requirement.

**No Bid** – The Bidder is not submitting a price Quote for an item on a price line.

**No Charge** – The Bidder will supply an item on a price line free of charge.

**Project** – The undertakings or services that are the subject of this RFQ.

**QRGs** – Quick Reference Guides.

**Quote** – Bidder’s timely response to the RFQ including, but not limited to, technical Quote, price Quote, and any licenses, forms, certifications, or other documentation required by the RFQ.

**Request For Quotes (RFQ)** – This series of documents, which establish the bidding and contract requirements and solicits Quotes to meet the needs of the Using Agencies as identified herein, and includes the RFQ, State of NJ Standard Terms and Conditions (SSTC), price schedule, attachments, and Bid Amendments.

**Shall** – Denotes that which is a mandatory requirement.

**Should** – Denotes that which is permissible or recommended, not mandatory.

**Small Business** – Pursuant to N.J.A.C. 17:13-1.2, “small business” means a business that meets the requirements and definitions of “small business” and has applied for and been approved by the New Jersey Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit as (i) independently owned and operated, (ii) incorporated or registered in and has its principal place of business in the State of New Jersey; (iii) has 100 or fewer full-time employees; and has gross revenues falling in one (1) of the three (3) following categories: For goods and services - (A) 0 to \$500,000 (Category I); (B) \$500,001 to \$5,000,000 (Category II); and (C) \$5,000,001 to \$12,000,000, or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher (Category III); For construction services: (A) 0 to \$3,000,000 (Category IV); (B) gross revenues that do not exceed 50 percent of the applicable annual revenue standards established at 13 CFR 121.201 (Category V); and (C) gross revenues that do not exceed the applicable annual revenue standards established at CFR 121.201, (Category VI).

**State** – The State of New Jersey.



**State Contract Manager (SCM)** – The individual, as set forth in Section 8.0, responsible for the approval of all deliverables, i.e., tasks, sub-tasks or other work elements in the Scope of Work. The SCM cannot direct or approve a Change Order.

**State-Supplied Price Sheet** – the bidding document created by the State and attached to this RFQ on which the Bidder submits its proposal pricing as is referenced and described in RFQ Section 4.1.4.

**Subtasks** – Detailed activities that comprise the actual performance of a task.

**Subcontractor** – An entity having an arrangement with a Contractor, whereby the Contractor uses the products and/or services of that entity to fulfill some of its obligations under its State Contract, while retaining full responsibility for the performance of all the Contractor's obligations under the Contract, including payment to the Subcontractor. The Subcontractor has no legal relationship with the State, only with the Contractor.

**Task** – A discrete unit of work to be performed.

**Unit Cost** – All-inclusive, firm fixed price charged by the Bidder for a single unit identified on a price line.

### **2.3 CONTRACT -SPECIFIC DEFINITIONS/ACRONYMS**

NOT APPLICABLE FOR THIS RFQ.

## **3.0 SCOPE OF WORK – REQUIREMENTS OF THE CONTRACTOR**

### **3.1 TECHNICAL DETAILS**

#### **3.1.1 WORKING PRINCIPLES**

The Contractor shall follow practices described in the “Digital Services Playbook” (<https://playbook.cio.gov>) and Digital Service Best Practices (Attachment A, Section 3.1.17.1). Using the Digital Services Playbook, the Contractor will operate with a **user-centered agile delivery process** – learning from research and prototypes, using that knowledge to iteratively design, build, and maintain digital applications, services, and features for New Jerseyans, State staff and partners, and iteratively launching those applications, features, and supporting processes continuously.

The Contractor shall:

1. Follow the practices described in the “Digital Services Playbook” (<https://playbook.cio.gov>). The Contractor shall be familiar with the concepts in each play and implement them in their solutions and support.
2. Incorporate Agile methodology and iteration ceremonies into all work, such as (but not limited to) sprint planning, daily scrum, sprint review, sprint retrospective, backlog grooming, and estimating activities.
3. Incorporate best practices for modern user research and usability testing into all solutions.
4. Actively involve users in the design of all solutions.
5. Maintain a consistent look, feel, and voice across products.
6. When possible and appropriate, re-use existing components.
7. Whenever possible, personalize solutions for the individual using the service.
8. Protect user information with best-in-class security, given the constraints of the environment.
9. Incorporate robust accessibility principles into design, development and testing for all products to deliver high-quality digital experiences to users of assistive devices.
10. Design, develop, configure, customize, deploy, and operate these solutions.
11. Use DevOps techniques of continuous integration and continuous deployment across all environments including, at a minimum, development, staging, and production.
12. Deliver secure, scalable, and tested modern web application designs using automated testing frameworks to create unit tests, integration tests, and functional/black box tests (or their equivalents as applicable) to test 100% of functionality delivered. The Contractor should strive for compliance with Test Driven Development practices.
13. Ensure configuration and sensitive data, including data defined as sensitive, are not present in source code, and are stored in encrypted credential management systems.
14. Deliver all code not containing configuration or sensitive data to an open source repository on a continuous basis.
15. Support and enable the successful rollout and adoption of services.
16. Work across boundaries, including with other existing systems, applications, and teams, to ensure the delivery of the projects and services.
17. Contribute to and/or integrate with common shared services that support the delivery of the project and the State’s ability to provide consistent services.
18. Support the growth and development of State team members.
19. Ensure the State is equipped to continue to develop, operate, and maintain solution(s) beyond the length of the Contract.

20. Participate in the New Jersey Office of Information Technology's System Architecture Review along with State Agency Staff (<https://nj.gov/it/whatwedo/sar/>)
21. Cultivate positive, trusting, and cooperative partnerships and working relationships with the State and all other vendors supporting this work.

### **3.1.2 APPLICABLE DOCUMENTS**

The Contractor shall comply with the following documents in the performance of this effort:

1. US Digital Service Playbook (<https://playbook.cio.gov>)
2. United States Web Design Standards (<https://designsystem.digital.gov>) adapted for New Jersey (<https://github.com/newjersey/njwds>)
3. New Jersey Statewide Information Security Manual (<https://www.cyber.nj.gov/NJ-Statewide-Information-Security-Manual.pdf>)
4. State of New Jersey Accessibility Statement (<https://www.nj.gov/nj/accessibility.html>)

### **3.1.3 SPECIFIC TASKS AND DELIVERABLES**

The Contractor shall perform the following:

### **3.1.4 BUILD NEW PRODUCTS AND CONTINUOUSLY IMPROVE EXISTING FUNCTIONALITY**

At the direction of State, the Contractor shall build new products and continuously improve new and existing functionality. For each product to be developed or enhanced, the Contractor shall support agile product initiation, requirements refinement and design, development, testing, deployment, project management, and rollout. The State anticipates that the development support personnel will function as a collaborative, multi-disciplinary team including Product Managers, Engineers, Designers, and Quality Assurance Software Testers.

### **3.1.5 PRODUCT DEVELOPMENT**

For all new and existing products, the Contractor shall use agile development and UX design methods to support product initiation; requirements refinement; human-centered research and design; development; testing; deployment; ongoing maintenance and bug fixes; and ongoing testing, evaluation, and enhancement. The Contractor is also expected to provide expert guidance on product direction and strategy. The Contractor will create and maintain documentation for all product activities, recommendations, and decisions.

The Contractor shall:

- Collaborate with State to determine which of the items in the current backlog should be implemented and when. List and prioritization of elements are subject to change at the direction of State.
- At the start of work on a new or existing product, conduct a product kick-off meeting with State and designated stakeholders.
- Facilitate discovery activities to include formative research with users and business stakeholders, an assessment of current related features, a content review, business process review; and collection of any available data and analytics.
- For new products, apply user research to define minimum viable product (MVP) functionality, including epics, user stories, interaction design, and information architecture, as well as operational, business, functional, technical, data, and integration requirements.

- Prepare and maintain a product plan and roadmap, to include epics, user stories, areas for improvement, recommended strategy, an assessment of level of effort and complexity, a plan for evaluation, and a plan for ongoing maintenance and enhancement for State review.
- Use a modular, API-first approach whenever appropriate and feasible.
- Determine if individual components of the solution could be solved via best-in-class, available third-party solutions rather than custom development.
- Upon request and as necessary, support the State in the evaluation of third-party solutions.
- Develop products using an agile, continuous integration and deployment methodology with the capability of multiple code releases per day in production.
- Commit all work to the designated code repository at least daily.
- Follow web application coding best practices as defined in Twelve-Factor App (<https://12factor.net>). Code shall be annotated and linted per industry-accepted standards for the given language or framework being used.
- Create, include, and track analytics for new and existing products that can support Key Performance Indicators (KPIs) defined by State or defined as acceptance criteria in user stories.
- Update any publicly available KPIs, analytics and outcome measures with launch information, and create and maintain a “one-sheet” with product information, e.g. KPIs, value proposition, and screen shots of key service features.
- Develop and execute a pre-launch checklist to mitigate risk.
- Develop a testing and quality assurance plan and provide test reports prior to any launch using approved agile development tools for all user stories and scripts and ensuring traceability for testing. The Contractor is responsible for creating automated test scripts, conducting all testing (including, but not limited to, unit, development, performance, security, Section 508, functional, and integration), and documenting the results in a test report.
  - Supplement automated testing with manual testing as required.
- Upon request, develop periodic reports for State leadership to demonstrate metrics of success. These reports will include slides, screenshots, etc. that are not limited to metrics dashboards and scorecard snapshots.
  - Upon request, produce other analytics reporting materials to support presentations to State leadership.
- Continually review products against established KPIs to ensure that services continue to meet stated goals and address user needs. The Contractor will notify the Product Owner (designated by State) if issues or anomalies arise following these reviews.
- Conduct usability tests on products released to the production environment to evaluate the holistic experience and identify areas for further improvement.
- Track and develop technical debt user stories for inclusion in the product backlog.
- Support custom integrations between products and existing systems.
- Ensure effective coordination and communication across team to enable product delivery.
- Provide the State with the necessary knowledge to operate, maintain, and expand developed systems.

### **3.1.6 DEVOPS**

The Contractor shall continuously improve all new and existing products by conducting continual enhancements, bug fixes, monitoring, testing and evaluation, analytics, and support activities. The Contractor is also expected to provide expert guidance on engineering direction and strategy.

The Contractor shall:

- Ensure all code is tested at the unit, functional, and integrational level prior to release into the production environment.

- Set up monitoring and alerting for new and existing products to ensure compliance with industry-standard uptime numbers.
- Maintain multiple pre-production environments where products can be released.
- Maintain automated pipelines that execute unit, functional, and accessibility tests as part of the code review process.
- Maintain automated pipelines that deploy reviewed code to all environments.
- Develop regular reports for State leadership to demonstrate metrics of success including but not limited to SLAs, error rates, test coverage, operating status, and build quality. Upon request, produce other analytics reporting materials to support presentations to State leadership.
- Provide operational support to ensure the performance of the system meets agreed upon SLAs, including 24/7 support for critical issues. For example,
  - System impaired: < 24 hours
  - Production system impaired: < 4 hours
  - Production ~~system-downoutage~~: < 1 hour
  - Business-critical ~~system-downoutage~~: < 15 minutes

### **3.1.7 USER EXPERIENCE (UX)**

The Contractor shall follow the value: “Design with users, not for them”. The Contractor shall approach design and user research activities as opportunities to learn from users and then quickly apply those learnings, such that new and existing products can be designed, built, and deployed in weeks (vs. months or years). The Contractor is also expected to provide expert guidance on user experience design direction and strategy. The Contractor will create and maintain documentation for all research and design activities, recommendations, and decisions.

The Contractor shall:

- Conduct user research on new and existing products throughout their development or enhancement lifecycle and iteratively apply insights gathered to inform design and development.
  - Conduct generative research studies to better understand user’s needs, context, and pain points.
  - Conduct iterative usability testing to inform the content, information architecture, design, and functionality of products.
  - Conduct user acceptance testing on products before releasing to production.
- Work with State to leverage existing recruiting for user research studies completed outside of this contract.
- Employ design process management by breaking designs into small, bite-sized implementations and collecting data from each deployment to inform priorities and decisions in the next iteration.
- Create and edit “plain language” content for products, as well as static web pages. Plain language is defined as “writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience” (plainlanguage.gov).
- Adhere to and support the development and maintenance of the content style guide, which specifies the writing style and tone across products. This includes conducting ongoing scans of content to ensure currency and consistency, and updating content in accordance with existing workflows and procedures.
- Craft, test, and deploy design deliverables, such as wireframes, low- and high-fidelity prototypes, or interactive web forms to facilitate usability testing and agile development of products.
- As appropriate, create and update prototypes to conduct facilitated demos or usability testing to elicit feedback for improvements to the design.

- Develop designs that adhere to the New Jersey design system, adapted from the U.S. Web Design System. If the Contractor determines a need for a new pattern, the Contractor shall collaborate with the State to design that pattern and include it in the design system.

### **3.1.8 DATA, ANALYTICS, AND PERFORMANCE MANAGEMENT**

The Contractor shall establish a system for performance management to optimize program delivery and apply data analysis techniques to generate insights and inform decision making.

The Contractor shall:

- Implement or improve capabilities to use quantitative and qualitative methods to collect, validate, analyze, and display customer feedback and performance data to aid service improvement and decision-making.
- Develop and optimize KPIs to monitor performance and deliver continual improvement.
- Apply data science techniques and develop/use data models as necessary.
- Work alongside and/or integrate with other relevant data initiatives in the State as necessary.

### **3.1.9 ACCESSIBILITY**

For all new and existing products, the Contractor shall ensure that they serve the needs of New Jerseyans with disabilities that may impact their access to digital tools. The Contractor is also expected to provide expert guidance on accessibility direction and strategy. The Contractor will create and maintain documentation for all related activities, recommendations, and decisions.

The Contractor shall:

- Ensure, through continued development and testing, that products are not only accessible, but are also easy for users to interact with using screen readers and other assistive technology.
- Design and build products that are accessible to the widest range of users and devices; all products and websites must be responsive and compliant with State Accessibility statement (<https://www.nj.gov/nj/accessibility.html>).
- Demonstrate how they will routinely evaluate all resources created and maintained for accessibility.
- Ensure all products are mobile-responsive.
- Ensure that all design/templates for products are viewable on any mobile device or web browser, with an exceptional experience on the leading ones.
- Provide expert guidance to determine which range of browsers and devices to target for testing.

### **3.1.10 OPEN SOURCE/REUSE**

The Contractor is required to deliver any products, technical data, configurations, documentation or other information, including source code, during contract performance. The State shall receive Unlimited Rights in intellectual property first produced and delivered in the performance of this contract. This includes all rights to source code and any and all documentation created in support thereof.

The Contractor shall:

- Approach system design in an “out-of-the-box” manner, using native best practice approaches or preconfigured solutions drawn from the open source community where possible with a focus on minimizing system customization with written code.
- Adopt open-source licenses that enable the State to publish all components, source code, or software artifacts for reuse in an open source manner.
- Separate configuration and sensitive information from source code.
- Manage dependencies on other open source libraries and tools and provide recommendations to State for continued use or updates.
- Maintain a list of products’ open-source libraries and tools published by State that are available for reuse.
- Store source code, technical data, configurations, documentation in the State’s designated source control repository(s).

### **3.1.11 DATA MANAGEMENT AND SECURITY**

The Contractor shall ensure the continual monitoring, compliance, and security for all new and existing products.

The Contractor shall:

- Provide technical documentation support for State security processes.
- Secure products in accordance with applicable system security policies and industry best-practices.
- Provide data, security, and Integration Architecture Diagrams.
- Create and maintain, data taxonomy of products to ensure maximal re-use of data elements, minimal information collection burden on end users, and ease of maintenance for State agencies and departments.

### **3.1.12 TRAINING AND ROLLOUT**

The Contractor shall enable the successful rollout, use and adoption of services.

The Contractor shall:

- Develop training and rollout plans to support rollout of products, features, and functionality.
- Develop training materials and help content to be delivered via various mediums.
- Develop communication materials to enable the successful rollout and adoption of products.
- Conduct regular reviews of training materials and user-facing content to ensure that it is current and reflects the most recent product releases.
- Test training materials and content with users to validate clarity and effectiveness; update content as required based on user feedback.
- Facilitate, support, and/or lead training sessions to support staff in the adoption of products.
- As necessary, develop interim demo videos to share functionality of products with stakeholders.
- As necessary, ensure that training and/or support materials cover relevant information from other/legacy systems (e.g., support the transition from the legacy system to a new system, consider the end-to-end experience when processes involve both new and legacy systems)
- Coordinate with teams across State to ensure alignment of efforts with other teams who are involved in the rollout process.

### **3.1.13 TRANSITION SUPPORT**

At the request of the State, the Contractor shall conduct analysis, create the strategy, and develop the plans and products needed to successfully transition the provision of services. The Contractor

shall develop and implement detailed transition strategies and processes needed to maintain continuity of operations and quality of service during the transition period. The Contractor shall develop and provide a Transition Plan for COR approval covering transition out activities. The Contractor shall then implement the detailed transition strategies and processes needed to enable an efficient transfer of products and services from the incumbent service provider to the new service provider or to State without disruption to ongoing services. During implementation of the Transition Plan, the Contractor shall:

1. Minimize transition impact to the user community.
2. Ensure no breaks in service availability.
3. Maintain existing service quality and performance levels.
4. Ensure a transparent and seamless transition.
5. Maintain support and meet delivery milestones of ongoing projects.
6. Minimize operations and maintenance (O&M) cost overlaps.
7. Ensure that the IT security posture during transition is maintained at current levels without creating gaps and/or vulnerabilities.
8. Ensure no service disruption or degradation during transition.

The Contractor shall ensure a seamless transition during the next successor's phase-in period. For planning purposes, the overall transition period shall not exceed 60 days. Transition of operational capabilities is to be completed within 60 days.

### **3.1.14 HELP DESK SUPPORT (OPTIONAL)**

The technical support roles described in this section are separate from the development activities performed by the sprint team. While preferred, if the Bidder is unable to offer dedicated support specified in this section, they may not be disqualified, but should clarify this in the staffing plan.

Upon execution of this optional task at the request of the State, the Contractor shall provide help desk support for products and services developed under the scope of this contract. This help desk support will enable resolution of technical issues or challenges (e.g., navigation) of the platform. Support should be comprised of technician(s) experienced and knowledgeable about the product and can assist end-users to resolve problems. The technician(s) will be responsible for monitoring channels (e.g., phone, email, chat) and working directly with internal users, partners, and/or the public to diagnose, document and resolve issues.

The Contractor may be responsible for working with:

1. Development team
2. Department of Labor, who will engage Office of Information Technology if necessary
3. State colleagues
4. External partners
5. End-users

The Contractor shall:

1. Resolve issues by working with and being the primary point of contact for the impacted user(s)
2. Develop and use documentation to enable the issue(s) to be recreated for analysis and resolution
3. Partner and work with development team to inform them of issues that require escalation
4. Maintain high levels of customer satisfaction, including ensuring prompt and transparent updates are provided to the user(s)
5. Ensure user(s) are always connected with the appropriate support, even if not under the scope of the technician
6. Categorize and analyze issues encountered to identify overall user issues and trends.



The Contractor shall meet agreed-upon SLAs for issue response time.

**3.1.15 PERFORMANCE METRICS**

The table below defines the Performance Standards and Acceptable Levels of Performance associated with this effort.

<b>Performance Objective</b>	<b>Performance Standard</b>	<b>Acceptable Levels of Performance</b>
A. Technical / Quality of Product or Service	<ol style="list-style-type: none"> <li>1. Shows understanding of requirements</li> <li>2. Efficient and effective in meeting requirements</li> <li>3. Meets technical needs and mission requirements</li> <li>4. Services are accessible, including, but not limited to, meeting Section 508 compliance</li> <li>5. Provides quality services/products</li> <li>6. Maintains an excellent rating on help desk surveys (optional task order)</li> <li>7. Meets agreed-upon operational and/or help desk support SLAs</li> </ol>	Satisfactory or higher
B. Project Milestones and Schedule	<ol style="list-style-type: none"> <li>1. Quick response capability</li> <li>2. Products completed, reviewed, delivered in accordance with the established schedule</li> <li>3. Notifies customer in advance of potential problems</li> </ol>	Satisfactory or higher
C. Cost & Staffing	<ol style="list-style-type: none"> <li>1. Currency of expertise and staffing levels appropriate</li> <li>2. Personnel possess necessary knowledge, skills and abilities to perform tasks</li> </ol>	Satisfactory or higher
D. Management	<ol style="list-style-type: none"> <li>1. Integration and coordination of all activities to execute effort</li> </ol>	Satisfactory or higher

The COR may utilize a Quality Assurance Surveillance Plan (QASP) throughout the life of the Contract to ensure that the Contractor is performing the services required by this SOW at an acceptable level of performance. The State reserves the right to alter or change the QASP at its own discretion. See Attachment B (Section 3.1.17.2) for Technical Performance Standards that augment Performance Objective A above.

A Performance Based Service Assessment may be used by the COR in accordance with the QASP to assess Contractor performance.

### **3.1.16 ADMINISTRATION**

#### **3.1.16.1 PLACE OF PERFORMANCE**

Remote work is expected and may be the primary work location for contractor staff, provided the contractor staff is located in the United States. Contractor staff should be readily available 9a-5p ET. Contractor should also be able to maintain a rotating on-call schedule to respond to critical production issues.

#### **3.1.16.2 COMMENCEMENT OF WORK**

All Key Personnel and initial team members should be available to commence work within 60 days of award or provide a reasonable timeline for the commencement of work subject to approval by the State. The Contractor should specify the plan to start work in the Staffing Plan if unable to meet the 60 day timeframe.

#### **3.1.16.3 EQUIPMENT**

The State will not provide IT or other equipment. The Contractor is responsible for providing all necessary equipment, such as laptops.

#### **3.1.16.4 PROJECT TOOLS AND SERVICES**

The Contractor shall provide additional project tools and services as necessary and as determined in consultation with the Using Agency. Examples include, but are not limited to: content management tools, team collaboration and meeting tools, prototyping tools, user story development tools, and user feedback tools. Any tools and services purchased under this contract shall be considered Other Direct Costs (ODC), will be reimbursed on a Time & Materials basis via Pass-through Price Lines, and must be approved by the COR prior to purchase. No mark-up will be provided.

#### **3.1.16.5 TRAVEL**

Travel requires pre-approval from the Contracting Officer's Representative (COR).

Travel shall be considered Other Direct Costs (ODC) and reimbursed on a Time & Materials basis via Pass-through Price Lines in accordance with the terms of the Contractor's GSA Schedule(s) and requires advanced approval by the Contracting Officer's Representative (COR). Contractor travel within the local commuting area will not be reimbursed. No mark-up will be provided for Travel Expenses and Reimbursements.

#### **3.1.16.6 KEY PERSONNEL**

In the event that any individual designated as Key Personnel or individual filling Key Personnel role becomes unavailable during the course of the contract (inclusive of the base period and option periods), the Contractor agrees to fill the Key Personnel role in a reasonable amount of time (if feasible, without a coverage gap) with an individual who has appropriate experience in consultation with the State.

## **3.1.17 ATTACHMENTS**

### **3.1.17.1 ATTACHMENT A: DIGITAL SERVICE BEST PRACTICES**

#### **Understand what users need**

- Early in the product's development, participate in meetings with current and prospective users of the service
- Use a range of qualitative and quantitative research methods to determine people's goals, needs, and behaviors; be thoughtful about the time spent
- Test prototypes of solutions with real people, in the field if possible
- Document the findings about user goals, needs, behaviors, and preferences
- Share findings with others on the team and stakeholders
- Create a prioritized list of tasks the user is trying to accomplish, also known as "user stories"
- As the product is being built, regularly test it with potential users to ensure it meets people's needs
- Build feedback collection into the product and review feedback regularly

#### **Address the whole user experience from start to finish**

- Understand the different points at which people will interact with the products – both online and in person
- Identify pain points in the current way users perform their tasks, and prioritize these according to user needs
- Design the digital parts of the service so that they are integrated with the offline touch points people use to interact with the service such as letters or other correspondence.
- Develop metrics that will measure how well the service is meeting user needs at each step of the service
- Develop and support the creation of help content embedded within the product

#### **Make it simple and intuitive**

- Use a simple and flexible design style guide for the service. Use the NJ adaptation of the U.S. Web Design Standards as a default
- Use the design style guide consistently for related digital services
- Give users clear information about where they are in each step of the process
- Follow accessibility requirements to ensure all people can use the service
- Provide users with a way to exit and return later to complete the process
- Use language that is familiar to the user and easy to understand
- Use language and design consistently throughout the service, including online and offline touch points such as letters and other correspondence

#### **Build the service using agile and iterative practices**

- Ship functioning "minimum viable products" (MVP) that solves a core user need as soon as possible, no longer than one month from the beginning of an initiative, using a "beta" or "test" period if needed
- Run usability tests monthly, at a minimum, to see how well the service works and identify improvements that should be made
- Ensure the individuals building the service communicate closely using techniques such as launch meetings, war rooms, daily standups, and team chat tools
- Keep delivery teams small and focused
- Release features and improvements multiple times each month, if not a daily
- Use a modern source code version control system
- Give the entire product team access to product's repository
- Create a prioritized list of features and bugs in issue tracker, also known as the "feature backlog" and "bug backlog"

- Use small code reviews to ensure quality. Every line of code submitted to the product's repository shall be reviewed by at least one other qualified person and merged in by a party other than the person who wrote it

#### **Assign one leader and hold that person accountable**

- A product owner shall be identified for each product
- The product owner has the authority to assign tasks and make decisions about features and technical implementation details in consultation with the State
- The product owner shall have a product management background with technical experience to assess alternatives and weigh tradeoffs
- The product owner shall maintain and update the product's work plan
- The product owner shall work closely with key stakeholders

#### **Bring in experienced teams**

- Member(s) of the team shall have experience building popular, high-traffic digital services that support 100,000 users at a minimum
- Member(s) of the team shall have experience designing mobile and web applications such as iOS, Android, HTML5
- Member(s) of the team shall have experience using automated testing frameworks
- Member(s) of the team shall have experience with modern development and operations (DevOps) techniques like continuous integration and continuous deployment

#### **Use a modern technology stack**

- The team shall use software frameworks that are commonly used by private-sector companies creating similar services
- Whenever appropriate, the team shall ensure that software can be deployed on a variety of commodity hardware types
- The team shall ensure that each project has clear, understandable instructions for setting up a local development environment documented in the repository, and that team members can be quickly added or removed from projects
- The team shall consider open source software solutions at every layer of the stack

#### **Deploy in a flexible hosting environment**

- Resources shall be provisioned on demand
- Resources shall scale based on real-time user demand
- Resources shall be provisioned through an API
- Resources shall be available in multiple regions
- The team shall only pay for resources they use
- Static assets shall be served through a content delivery network
- Application shall be hosted on commodity infrastructure

#### **Automate testing and deployments**

- Create automated tests that verify all user-facing functionality, including 508-compliance
- Create unit and integration tests to verify modules and components
- Run tests automatically as part of the build process
- Perform deployments automatically with deployment scripts, continuous delivery services, or similar techniques
- Conduct load and performance tests at regular intervals, including before public launch

#### **Manage security and privacy through reusable processes**

- Contact the appropriate privacy or security expert at the State to determine if a privacy or security review should be conducted

- Determine, in consultation with the State, what data is collected and why, how it is used or shared, how it is stored and secured, and how long it is kept
- Determine, in consultation with the State, whether and how users are notified about how personal information is collected and used, including whether a privacy policy is needed and where it should appear, and how users will be notified in the event of a security breach
- Consider whether the user should be able to access, delete, or remove their information from the service
- Use deployment scripts to ensure configuration of production environment remains consistent and controllable

**Use data to drive decisions**

- Monitor system-level resource utilization in real time
- Monitor system performance in real-time (e.g. response time, latency, throughput, and error rates)
- Ensure monitoring can measure median, 95th percentile, and 98th percentile performance
- Create automated alerts based on this monitoring
- Track concurrent users in real-time, and monitor user behaviors in the aggregate to determine how well the service meets user needs
- Publish metrics internally
- Publish metrics externally
- Use an experimentation tool that supports multivariate testing in production

**Default to open**

- Offer users a mechanism to report bugs and issues, and be responsive to these reports
- When appropriate, make data available through bulk downloads and APIs (application programming interfaces)
- Whenever possible, ensure that code from the service is explicitly made available as open source
- Catalog data in the agency’s enterprise data inventory and add any public datasets to the agency’s public data listing
- Ensure that the State maintains the rights to all data developed by third parties in a manner that is releasable and reusable at no cost to the public
- Ensure that the State maintains contractual rights to all custom software developed by third parties in a manner that is publishable and reusable at no cost
- When appropriate, create an API for third parties and internal users to interact with the service directly
- When appropriate, publish source code of projects or components online
- When appropriate, share your development process and progress publicly

**3.1.17.2 ATTACHMENT B: TECHNICAL PERFORMANCE STANDARDS**

The following chart sets forth more detailed performance standards and quality levels the code and documentation provided by the Contractor must meet and the methods the State will use to assess the standard and quality levels of that code and documentation unless otherwise specified by the State.

Deliverable	Performance Standard(s)	Acceptable Quality Level	Method of Assessment

Tested Code	Code delivered under the order must have substantial test code coverage.  Version-controlled repository of code that comprises the product that will remain in the State domain.	Minimum of 90% test coverage of all code. All areas of code are meaningfully tested.	Combination of manual review and automated testing
Properly Styled Code	<a href="#">GSA 18F Front- End Guide</a> or similar best-practice based front-end style guide	0 linting errors and 0 warnings	Combination of manual review and automated testing
Accessible	Web Content Accessibility Guidelines 2.1 AA standards; <a href="#">State Accessibility Statement</a>	0 errors reported using an automated scanner and 0 errors reported in manual testing	Combination of manual review and automated testing; ( <a href="https://github.com/pally/pally">https://github.com/pally/pally</a> )
Deployed	Code must successfully build and deploy into staging environment.	Successful build with a single command	Combination of manual review and automated testing

Documented	All dependencies are listed and the licenses are documented. Major functionality in the software/source code is documented. Individual methods are documented inline in a format that permit the use of tools such as JSDoc. System diagram is provided.	Combination of manual review and automated testing, if available	Manual review
Secure	OWASP Application Security Verification Standard 3.0	Code submitted must be free of medium- and high-level static and dynamic security vulnerabilities	Clean tests from a static testing SaaS (such as Snyk, npm audit, or similar) and from OWASP ZAP, along with documentation explaining any false positives

User research	Usability testing and other user research methods must be conducted at regular intervals throughout the development process (not just at the beginning or end).	Research plans and artifacts from usability testing and/or other research methods with end users are available at the end of every applicable sprint, in accordance with the Contractor's research plan.	State will manually evaluate the artifacts based on a research plan provided by the Contractor at the end of the second sprint and every applicable sprint thereafter.
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**3.2 SECURITY AND PRIVACY**

**3.2.1.1 SECURITY PLAN**

The Vendor {Contractor} shall submit a detailed Security Plan that addresses the Vendor's {Contractor's} approach to meeting each applicable security requirement outlined below, to the State, no later than 30 days after the award of the Blanket P.O. The State approval of the Security Plan shall be set forth in writing. In the event that the State reasonably rejects the Security Plan after providing the Vendor {Contractor} an opportunity to cure, the Director may terminate the Blanket P.O. pursuant to the SSTC.

**3.2.2 INFORMATION SECURITY PROGRAM MANAGEMENT**

The Vendor {Contractor} shall establish and maintain a framework to provide assurance that information security strategies are aligned with and support the State's business objectives, are consistent with applicable laws and regulations through adherence to policies and internal controls, and provide assignment of responsibility, in an effort to manage risk. Information security program management shall include, at a minimum, the following:

- A. Establishment of a management structure with clear reporting paths and explicit responsibility for information security;
- B. Creation, maintenance, and communication of information security policies, standards, procedures, and guidelines to include the control areas listed in sections below;
- C. Development and maintenance of relationships with external organizations to stay abreast of current and emerging security issues and for assistance, when applicable; and
- D. Independent review of the effectiveness of the Vendor's {Contractor's} information security program.

**3.2.3 COMPLIANCE**



The Vendor {Contractor} shall develop and implement processes to ensure its compliance with all statutory, regulatory, contractual, and internal policy obligations applicable to this Blanket P.O. Examples include but are not limited to General Data Protection Regulation (GDPR), Payment Card Industry Data Security Standard (PCI DSS), Health Insurance Portability and Accountability Act of 1996 (HIPAA), IRS-1075. Vendor {Contractor} shall timely update its processes as applicable standards evolve.

- A. Within ten (10) days after award, the Vendor {Contractor} shall provide the State with contact information for the individual or individuals responsible for maintaining a control framework that captures statutory, regulatory, contractual, and policy requirements relevant to the organization's programs of work and information systems;
- B. Throughout the solution development process, Vendor {Contractor} shall implement processes to ensure security assessments of information systems are conducted for all significant development and/or acquisitions, prior to information systems being placed into production; and
- C. The Vendor {Contractor} shall also conduct periodic reviews of its information systems on a defined frequency for compliance with statutory, regulatory, and contractual requirements. The Vendor {Contractor} shall document the results of any such reviews.

### **3.2.4 PERSONNEL SECURITY**

The Vendor {Contractor} shall implement processes to ensure all personnel having access to relevant State information have the appropriate background, skills, and training to perform their job responsibilities in a competent, professional, and secure manner. Workforce security controls shall include, at a minimum:

- A. Position descriptions that include appropriate language regarding each role's security requirements;
- B. To the extent permitted by law, employment screening checks are conducted and successfully passed for all personnel prior to beginning work or being granted access to information assets;
- C. Rules of behavior are established and procedures are implemented to ensure personnel are aware of and understand usage policies applicable to information and information systems;
- D. Access reviews are conducted upon personnel transfers and promotions to ensure access levels are appropriate;
- E. Vendor {Contractor} disables system access for terminated personnel and collects all organization owned assets prior to the individual's departure; and
- F. Procedures are implemented that ensure all personnel are aware of their duty to protect information assets and their responsibility to immediately report any suspected information security incidents.

### **3.2.5 SECURITY AWARENESS AND TRAINING**

The Vendor {Contractor} shall provide periodic and on-going information security awareness and training to ensure personnel are aware of information security risks and threats, understand their responsibilities, and are aware of the statutory, regulatory, contractual, and policy requirements that are intended to protect information systems and State Confidential Information from a loss of confidentiality, integrity, availability and privacy. Security awareness and training shall include, at a minimum:

- A. Personnel are provided with security awareness training upon hire and at least annually, thereafter;
- B. Security awareness training records are maintained as part of the personnel record;

- C. Role-based security training is provided to personnel with respect to their duties or responsibilities (e.g. network and systems administrators require specific security training in accordance with their job functions); and
- D. Individuals are provided with timely information regarding emerging threats, best practices, and new policies, laws, and regulations related to information security.

### **3.2.6 RISK MANAGEMENT**

The Vendor {Contractor} shall establish requirements for the identification, assessment, and treatment of information security risks to operations, information, and/or information systems. Risk management requirements shall include, at a minimum:

- A. An approach that categorizes systems and information based on their criticality and sensitivity;
- B. An approach that ensures risks are identified, documented and assigned to appropriate personnel for assessment and treatment;
- C. Risk assessments shall be conducted throughout the lifecycles of information systems to identify, quantify, and prioritize risks against operational and control objectives and to design, implement, and exercise controls that provide reasonable assurance that security objectives will be met; and
- D. A plan under which risks are mitigated to an acceptable level and remediation actions are prioritized based on risk criteria and timelines for remediation are established. Risk treatment may also include the acceptance or transfer of risk.

### **3.2.7 PRIVACY**

If the State data associated with the Blanket P.O. includes PII, State Confidential Information, this section is applicable.

- A. Data Ownership. The State is the data owner. Vendor {Contractor} shall not obtain any right, title, or interest in any of the data furnished by the State, or information derived from or based on State data.
- B. Data usage, storage, and protection of PII and State Confidential Information, as defined in Section 5.9 are subject to all applicable international, federal and state statutory and regulatory requirements, as amended from time to time, including, without limitation, those for HIPAA, Tax Information Security Guidelines for Federal, State, and Local Agencies (IRS Publication 1075), New Jersey State tax confidentiality statute, the New Jersey Privacy Notice found at NJ.gov, N.J.S.A. § 54:50-8, New Jersey Identity Theft Prevention Act, N.J.S.A. § 56:11-44 *et. seq.*, the federal Drivers' Privacy Protection Act of 1994, Pub.L.103-322, and the confidentiality requirements of N.J.S.A. § 39:2-3.4. Vendor {Contractor} shall also conform to PCI DSS, where applicable.
- C. Security: Vendor {Contractor} agrees to take appropriate administrative, technical and physical safeguards reasonably designed to protect the security, privacy, confidentiality, and integrity of user information. Vendor {Contractor} shall ensure that PII and other State Confidential Information is secured and encrypted during transmission or at rest.
- D. Data Transmission: The Vendor {Contractor} shall only transmit or exchange State of New Jersey data with other parties when expressly requested in writing and permitted by and in accordance with requirements of the Blanket P.O. or the State of New Jersey. The Vendor {Contractor} shall only transmit or exchange data with the State of New Jersey or other parties through secure means supported by current technologies. The Vendor {Contractor} shall encrypt all PII and other State Confidential Information as defined by the State of New

Jersey or applicable law, regulation or standard during any transmission or exchange of that data.

- E. Data Re-Use: All State data shall be used expressly and solely for the purposes enumerated in the Blanket P.O. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of the Vendor {Contractor}. No State data of any kind shall be transmitted, exchanged or otherwise passed to other contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by the State Contract Manager.
- F. Data Breach: In the event of any actual, probable or reasonably suspected breach of security, or any unauthorized access to or acquisition, use, loss, destruction, compromise, alteration or disclosure of any PII (each, a security breach) that may concern any State Confidential Information or PII, Vendor {Contractor} shall: (a) immediately notify the State of such breach, but in no event later than 24 hours after learning of such security breach; (b) designate a single individual employed by Vendor {Contractor} who shall be available to the State 24 hours per day, seven (7) days per week as a contact regarding Vendor's {Contractor's} obligations under Section 3.2 (Incident Response); (c) not provide any other notification or provide any disclosure to the public regarding such security breach without the prior written consent of the State, unless required to provide such notification or to make such disclosure pursuant to any applicable law, regulation, rule, order, court order, judgment, decree, ordinance, mandate or other request or requirement now or hereafter in effect, of any applicable governmental authority or law enforcement agency in any jurisdiction worldwide (in which case Vendor {Contractor} shall consult with the State and reasonably cooperate with the State to prevent any notification or disclosure concerning any PII, security breach, or other State Confidential Information); (d) assist the State in investigating, remedying and taking any other action the State deems necessary regarding any security breach and any dispute, inquiry, or claim that concerns the security breach; (e) follow all instructions provided by the State relating to the State Confidential Information affected or potentially affected by the security breach; (f) take such actions as necessary to prevent future security breaches; and (g) unless prohibited by an applicable statute or court order, notify the State of any third party legal process relating to any security breach including, at a minimum, any legal process initiated by any governmental entity (foreign or domestic).
- G. Minimum Necessary. Vendor {Contractor} shall ensure that PII and other State Confidential Information requested represents the minimum necessary information for the services as described in this Bid Solicitation and, unless otherwise agreed to in writing by the State, that only necessary individuals or entities who are familiar with and bound by the Blanket P.O. will have access to the State Confidential Information in order to perform the work.
- H. End of Contract Data Handling: Upon termination/expiration of this Blanket P.O. the Vendor {Contractor} shall first return all State data to the State in a usable format as defined in the Blanket P.O., or in an open standards machine-readable format if not. The Vendor {Contractor} shall then erase, destroy, and render unreadable all Vendor {Contractor} back up copies of State data according to the standards enumerated in accordance with the State's most recent Media Protection policy, [https://www.nj.gov/it/docs/ps/NJ\\_Statewide\\_Information\\_Security\\_Manual.pdf](https://www.nj.gov/it/docs/ps/NJ_Statewide_Information_Security_Manual.pdf), and certify in writing that these actions have been completed within 30 days after the termination/expiration of the Blanket P.O. or within seven (7) days of the request of an agent of the State whichever should come first.
- I. In the event of loss of any State data or records where such loss is due to the intentional act, omission, or negligence of the Vendor {Contractor} or any of its subcontractors or

agents, the Vendor {Contractor} shall be responsible for recreating such lost data in the manner and on the schedule set by the State Contract Manager. The Vendor {Contractor} shall ensure that all data is backed up and is recoverable by the Vendor {Contractor}. In accordance with prevailing federal or state law or regulations, the Vendor {Contractor} shall report the loss of non-public data.

### **3.2.8 ASSET MANAGEMENT**

The Vendor {Contractor} shall implement administrative, technical, and physical controls necessary to safeguard information technology assets from threats to their confidentiality, integrity, or availability, whether internal or external, deliberate or accidental. Asset management controls shall include at a minimum:

- A. Information technology asset identification and inventory;
- B. Assigning custodianship of assets; and
- C. Restricting the use of non-authorized devices.

### **3.2.9 SECURITY CATEGORIZATION**

The Vendor {Contractor} shall implement processes that classify information and categorize information systems throughout their lifecycles according to their sensitivity and criticality, along with the risks and impact in the event that there is a loss of confidentiality, integrity, availability, or breach of privacy. Information classification and system categorization includes labeling and handling requirements. Security categorization controls shall include the following, at a minimum:

- A. Implementing a data protection policy;
- B. Classifying data and information systems in accordance with their sensitivity and criticality;
- C. Masking sensitive data that is displayed or printed; and
- D. Implementing handling and labeling procedures.

### **3.2.10 MEDIA PROTECTION**

The Vendor {Contractor} shall establish controls to ensure data and information, in all forms and mediums, are protected throughout their lifecycles based on their sensitivity, value, and criticality, and the impact that a loss of confidentiality, integrity, availability, and privacy would have on the Vendor {Contractor}, business partners, or individuals. Media protections shall include, at a minimum:

- A. Media storage/access/transportation;
- B. Maintenance of sensitive data inventories;
- C. Application of cryptographic protections;
- D. Restricting the use of portable storage devices;
- E. Establishing records retention requirements in accordance with business objectives and statutory and regulatory obligations; and
- F. Media disposal/sanitization.

### **3.2.11 CRYPTOGRAPHIC PROTECTIONS**

The Vendor {Contractor} shall employ cryptographic safeguards to protect sensitive information in transmission, in use, and at rest, from a loss of confidentiality, unauthorized access, or disclosure. Cryptographic protections shall include at a minimum:

- A. Using industry standard encryption algorithms;
- B. Establishing requirements for encryption of data in transit;
- C. Establishing requirements for encryption of data at rest; and

- D. Implementing cryptographic key management processes and controls.

### **3.2.12 ACCESS MANAGEMENT**

The Vendor {Contractor} shall establish security requirements and ensure appropriate mechanisms are provided for the control, administration, and tracking of access to, and the use of, the Vendor's {Contractor's} information systems that contain or could be used to access State data. Access management plan shall include the following features:

- A. Ensure the principle of least privilege is applied for specific duties and information systems (including specific functions, ports, protocols, and services), so processes operate at privilege levels no higher than necessary to accomplish required organizational missions and/or functions;
- B. Implement account management processes for registration, updates, changes and de-provisioning of system access;
- C. Apply the principles of least privilege when provisioning access to organizational assets;
- D. Provision access according to an individual's role and business requirements for such access;
- E. Implement the concept of segregation of duties by disseminating tasks and associated privileges for specific sensitive duties among multiple people;
- F. Conduct periodic reviews of access authorizations and controls.

### **3.2.13 IDENTITY AND AUTHENTICATION**

The Vendor {Contractor} shall establish procedures and implement identification, authorization, and authentication controls to ensure only authorized individuals, systems, and processes can access the State's information and Vendor's {Contractor's} information and information systems. Identity and authentication provides a level of assurance that individuals who log into a system are who they say they are. Identity and authentication controls shall include, at a minimum:

- A. Establishing and managing unique identifiers (e.g. User-IDs) and secure authenticators (e.g. passwords, biometrics, personal identification numbers, etc.) to support nonrepudiation of activities by users or processes; and
- B. Implementing multi-factor authentication (MFA) requirements for access to sensitive and critical systems, and for remote access to the Vendor's {Contractor's} systems.

### **3.2.14 REMOTE ACCESS**

The Vendor {Contractor} shall strictly control remote access to the Vendor's {Contractor's} internal networks, systems, applications, and services. Appropriate authorizations and technical security controls shall be implemented prior to remote access being established. Remote access controls shall include at a minimum:

- A. Establishing centralized management of the Vendor's {Contractor's} remote access infrastructure;
- B. Implementing technical security controls (e.g. encryption, multi-factor authentication, IP whitelisting, geo-fencing); and
- C. Training users in regard to information security risks and best practices related remote access use.

### **3.2.15 SECURITY ENGINEERING AND ARCHITECTURE**

The Vendor {Contractor} shall employ security engineering and architecture principles for all information technology assets, and such principles shall incorporate industry recognized leading

security practices and sufficiently address applicable statutory and regulatory obligations. Applying security engineering and architecture principles shall include:

- A. Implementing configuration standards that are consistent with industry-accepted system hardening standards and address known security vulnerabilities for all system components;
- B. Establishing a defense in-depth security posture that includes layered technical, administrative, and physical controls;
- C. Incorporating security requirements into the systems throughout their life cycles;
- D. Delineating physical and logical security boundaries;
- E. Tailoring security controls to meet organizational and operational needs;
- F. Performing threat modeling to identify use cases, threat agents, attack vectors, and attack patterns as well as compensating controls and design patterns needed to mitigate risk;
- G. Implementing controls and procedures to ensure critical systems fail-secure and fail-safe in known states; and
- H. Ensuring information system clock synchronization.

### **3.2.16 CONFIGURATION MANAGEMENT**

The Vendor {Contractor} shall ensure that baseline configuration settings are established and maintained in order to protect the confidentiality, integrity, and availability of all information technology assets. Secure configuration management shall include, at a minimum:

- A. Hardening systems through baseline configurations; and
- B. Configuring systems in accordance with the principle of least privilege to ensure processes operate at privilege levels no higher than necessary to accomplish required functions.

### **3.2.17 ENDPOINT SECURITY**

The Vendor {Contractor} shall ensure that endpoint devices are properly configured, and measures are implemented to protect information and information systems from a loss of confidentiality, integrity, and availability. Endpoint security shall include, at a minimum:

- A. Maintaining an accurate and updated inventory of endpoint devices;
- B. Applying security categorizations and implementing appropriate and effective safeguards on endpoints;
- C. Maintaining currency with operating system and software updates and patches;
- D. Establishing physical and logical access controls;
- E. Applying data protection measures (e.g. cryptographic protections);
- F. Implementing anti-malware software, host-based firewalls, and port and device controls;
- G. Implementing host intrusion detection and prevention systems (HIDS/HIPS) where applicable;
- H. Restricting access and/or use of ports and I/O devices; and
- I. Ensuring audit logging is implemented and logs are reviewed on a continuous basis.

### **3.2.18 ICS/SCADA/OT SECURITY**

The Vendor {Contractor} shall implement controls and processes to ensure risks, including risks to human safety, are accounted for and managed in the use of Industrial Control Systems (ICS), Supervisory Control and Data Acquisition (SCADA) systems and Operational Technologies (OT). ICS/SCADA/OT Security requires the application of all of the enumerated control areas in this Bid Solicitation, including, at a minimum:

- A. Conducting risk assessments prior to implementation and throughout the lifecycles of ICS/SCADA/OT assets;
- B. Developing policies and standards specific to ICS/SCADA/OT assets;

- C. Ensuring the secure configuration of ICS/SCADA/OT assets;
- D. Segmenting ICS/SCADA/OT networks from the rest of the Vendor's {Contractor's} networks;
- E. Ensuring least privilege and strong authentication controls are implemented
- F. Implementing redundant designs or failover capabilities to prevent business disruption or physical damage; and
- G. Conducting regular maintenance on ICS/SCADA/OT systems.

### **3.2.19 INTERNET OF THINGS SECURITY**

The Vendor {Contractor} shall implement controls and processes to ensure risks are accounted for and managed in the use of Internet of Things (IoT) devices including, but not limited to, physical devices, vehicles, appliances and other items embedded with electronics, software, sensors, actuators, and network connectivity which enables these devices to connect and exchange data. IoT. IoT security shall include, at a minimum, the following:

- A. Developing policies and standards specific to IoT assets;
- B. Ensuring the secure configuration of IoT assets;
- C. Conducting risk assessments prior to implementation and throughout the lifecycles of IoT assets;
- D. Segmenting IoT networks from the rest of the Vendor's {Contractor's} networks; and
- E. Ensuring least privilege and strong authentication controls are implemented.

### **3.2.20 MOBILE DEVICE SECURITY**

The Vendor {Contractor} shall establish administrative, technical, and physical security controls required to effectively manage the risks introduced by mobile devices used for organizational business purposes. Mobile device security shall include, at a minimum, the following:

- A. Establishing requirements for authorization to use mobile devices for organizational business purposes;
- B. Establishing Bring Your Own Device (BYOD) processes and restrictions;
- C. Establishing physical and logical access controls;
- D. Implementing network access restrictions for mobile devices;
- E. Implementing mobile device management solutions to provide centralized management of mobile devices and to ensure technical security controls (e.g. encryption, authentication, remote-wipe, etc.) are implemented and updated as necessary;
- F. Establishing approved application stores from which applications can be acquired;
- G. Establishing lists approved applications that can be used; and
- H. Training of mobile device users regarding security and safety.

### **3.2.21 NETWORK SECURITY**

The Vendor {Contractor} shall implement defense-in-depth and least privilege strategies for securing the information technology networks that it operates. To ensure information technology resources are available to authorized network clients and protected from unauthorized access, the Vendor {Contractor} shall:

- A. Include protection mechanisms for network communications and infrastructure (e.g. layered defenses, denial of service protection, encryption for data in transit, etc.);
- B. Include protection mechanisms for network boundaries (e.g. limit network access points, implement firewalls, use Internet proxies, restrict split tunneling, etc.);
- C. Control the flow of information (e.g. deny traffic by default/allow by exception, implement Access Control Lists, etc.); and

- D. Control access to the Vendor's {Contractor's} information systems (e.g. network segmentation, network intrusion detection and prevention systems, wireless restrictions, etc.).

### **3.2.22 CLOUD SECURITY**

The Vendor {Contractor} shall establish security requirements that govern the use of private, public, and hybrid cloud environments to ensure risks associated with a potential loss of confidentiality, integrity, availability, and privacy are managed. This shall ensure, at a minimum, the following:

- A. Security is accounted for in the acquisition and development of cloud services;
- B. The design, configuration, and implementation of cloud-based applications, infrastructure and system-system interfaces are conducted in accordance with mutually agreed-upon service, security, and capacity-level expectations;
- C. Security roles and responsibilities for the Vendor {Contractor} and the cloud provider are delineated and documented; and
- D. Controls necessary to protect sensitive data in public cloud environments are implemented.

### **3.2.23 CHANGE MANAGEMENT**

The Vendor {Contractor} shall establish controls required to ensure change is managed effectively. Changes are appropriately tested, validated, and documented before implementing any change on a production network. Change management provides the Vendor {Contractor} with the ability to handle changes in a controlled, predictable, and repeatable manner, and to identify, assess, and minimize the risks to operations and security. Change management controls shall include, at a minimum, the following:

- A. Notifying all stakeholder of changes;
- B. Conducting a security impact analysis and testing for changes prior to rollout; and
- C. Verifying security functionality after the changes have been made.

### **3.2.24 MAINTENANCE**

The Vendor {Contractor} shall implement processes and controls to ensure that information assets are properly maintained, thereby minimizing the risks from emerging information security threats and/or the potential loss of confidentiality, integrity, or availability due to system failures. Maintenance security shall include, at a minimum, the following:

- A. Conducting scheduled and timely maintenance;
- B. Ensuring individuals conducting maintenance operations are qualified and trustworthy; and
- C. Vetting, escorting and monitoring third-parties conducting maintenance operations on information technology assets.

### **3.2.25 THREAT MANAGEMENT**

The Vendor {Contractor} shall establish effective communication protocols and processes to collect and disseminate actionable threat intelligence, thereby providing component units and individuals with the information necessary to effectively manage risk associated with new and emerging threats to the organization's information technology assets and operations. Threat management includes, at a minimum:

- A. Developing, implementing, and governing processes and documentation to facilitate the implementation of a threat awareness policy, as well as associated standards, controls and procedures.



- B. Subscribing to and receiving relevant threat intelligence information from the US CERT, the organization's vendors, and other sources as appropriate.

### **3.2.26 VULNERABILITY AND PATCH MANAGEMENT**

The Vendor {Contractor} shall implement proactive vulnerability identification, remediation, and patch management practices to minimize the risk of a loss of confidentiality, integrity, and availability of information system, networks, components, and applications. Vulnerability and patch management practices shall include, at a minimum, the following:

- A. Prioritizing vulnerability scanning and remediation activities based on the criticality and security categorization of systems and information, and the risks associated with a loss of confidentiality, integrity, availability, and/or privacy;
- B. Maintaining software and operating systems at the latest vendor-supported patch levels;
- C. Conducting penetration testing and red team exercises; and
- D. Employing qualified third-parties to periodically conduct Independent vulnerability scanning, penetration testing, and red-team exercises.

### **3.2.27 CONTINUOUS MONITORING**

The Vendor {Contractor} shall implement continuous monitoring practices to establish and maintain situational awareness regarding potential threats to the confidentiality, integrity, availability, privacy and safety of information and information systems through timely collection and review of security-related event logs. Continuous monitoring practices shall include, at a minimum, the following:

- A. Centralizing the collection and monitoring of event logs;
- B. Ensuring the content of audit records includes all relevant security event information;
- C. Protecting of audit records from tampering; and
- D. Detecting, investigating, and responding to incidents discovered through monitoring.

### **3.2.28 SYSTEM DEVELOPMENT AND ACQUISITION**

The Vendor {Contractor} shall establish security requirements necessary to ensure that systems and application software programs developed by the Vendor {Contractor} or third-parties (e.g. vendors, contractors, etc.) perform as intended to maintain information confidentiality, integrity, and availability, and the privacy and safety of individuals. System development and acquisition security practices shall include, at a minimum, the following:

- A. Secure coding;
- B. Separation of development, testing, and operational environments;
- C. Information input restrictions;
- D. Input data validation;
- E. Error handling;
- F. Security testing throughout development;
- G. Restrictions for access to program source code; and
- H. Security training of software developers and system implementers.

### **3.2.29 PROJECT AND RESOURCE MANAGEMENT**

The Vendor {Contractor} shall ensure that controls necessary to appropriately manage risks are accounted for and implemented throughout the System Development Life Cycle (SDLC). Project and resource management security practices shall include, at a minimum:

- A. Defining and implementing security requirements;

- B. Allocating resources required to protect systems and information; and
- C. Ensuring security requirements are accounted for throughout the SDLC.

### **3.2.30 CAPACITY AND PERFORMANCE MANAGEMENT**

The Vendor {Contractor} shall implement processes and controls necessary to protect against avoidable impacts to operations by proactively managing the capacity and performance of its critical technologies and supporting infrastructure. Capacity and performance management practices shall include, at a minimum, the following:

- A. Ensuring the availability, quality, and adequate capacity of compute, storage, memory and network resources are planned, prepared, and measured to deliver the required system performance and future capacity requirements; and
- B. Implementing resource priority controls to prevent or limit Denial of Service (DoS) effectiveness.

### **3.2.31 THIRD PARTY MANAGEMENT**

The Vendor {Contractor} shall implement processes and controls to ensure that risks associated with third-parties (e.g. vendors, contractors, business partners, etc.) providing information technology equipment, software, and/or services are minimized or avoided. Third party management processes and controls shall include, at a minimum:

- A. Tailored acquisition strategies, contracting tools, and procurement methods for the purchase of systems, system components, or system service from suppliers;
- B. Due diligence security reviews of suppliers and third parties with access to the Vendor's {Contractor's} systems and sensitive information;
- C. Third party interconnection security; and
- D. Independent testing and security assessments of supplier technologies and supplier organizations.

### **3.2.32 PHYSICAL AND ENVIRONMENTAL SECURITY**

The Vendor {Contractor} shall establish physical and environmental protection procedures that limit access to systems, equipment, and the respective operating environments, to only authorized individuals. The Vendor {Contractor} ensures appropriate environmental controls in facilities containing information systems and assets, to ensure sufficient environmental conditions exist to avoid preventable hardware failures and service interruptions. Physical and environmental controls shall include, at a minimum, the following:

- A. Physical access controls (e.g. locks, security gates and guards, etc.);
- B. Visitor controls;
- C. Security monitoring and auditing of physical access;
- D. Emergency shutoff;
- E. Emergency power;
- F. Emergency lighting;
- G. Fire protection;
- H. Temperature and humidity controls;
- I. Water damage protection; and
- J. Delivery and removal of information assets controls.

### **3.2.33 CONTINGENCY PLANNING**

The Vendor {Contractor} shall develop, implement, test, and maintain a contingency plan to ensure continuity of operations for all information systems that deliver or support essential or critical business functions on behalf of the Vendor {Contractor}. The plan shall address the following:

- A. Backup and recovery strategies;
- B. Continuity of operations;
- C. Disaster recovery; and
- D. Crisis management.

### **3.2.34 INCIDENT RESPONSE**

The Vendor {Contractor} shall maintain an information security incident response capability that includes adequate preparation, detection, analysis, containment, recovery, and reporting activities. Information security incident response activities shall include, at a minimum, the following:

- A. Information security incident reporting awareness;
- B. Incident response planning and handling;
- C. Establishment of an incident response team;
- D. Cybersecurity insurance;
- E. Contracts with external incident response services specialists; and
- F. Contacts with law enforcement cybersecurity units.

## **4.0 QUOTE PREPARATION AND SUBMISSION – REQUIREMENTS OF THE BIDDER**

Failure to submit information as indicated below may result in your Quote being deemed non-responsive.

### **4.1 GENERAL**

A Bidder may submit additional terms as part of its Quote and Quotes including Bidder proposed terms and conditions may be accepted, but Bidder proposed terms or conditions that conflict with those contained in the RFQ as defined in Section 2.0, or that diminish the State's rights under any Contract resulting from the RFQ, may render a Quote non-responsive. It is incumbent upon the Bidder to identify and remove its conflicting proposed terms and conditions prior to Quote submission.

After award of the Contract, if a conflict arises between a Bidder's additional terms included in the Quote and a term or condition of the RFQ, the term or condition of the RFQ will prevail.

**The forms discussed herein and required for submission of a Quote in response to this RFQ are available on the [Division's website](#) unless noted otherwise.**

#### **4.1.1 FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED**

Bidders are under a continuing obligation to report updates to the information contained in its required forms.

##### **4.1.1.1 OFFER AND ACCEPTANCE PAGE**

The Bidder shall complete and submit the Offer and Acceptance Page accompanying this RFQ prior to the initiation of negotiation. The Bidder should submit the Offer and Acceptance Page with the Quote.

If the Offer and Acceptance Page is not submitted with the Quote or is incomplete, the Using Agency will require the Bidder to submit the Offer and Acceptance Page. If the Bidder fails to comply with the requirement within seven (7) business days of the demand, the Using Agency may deem the Quote non-responsive.

The Offer and Acceptance Page must be signed by an authorized representative of the Bidder. If the Bidder is a limited partnership, the Offer and Acceptance Page must be signed by a general partner.

##### **4.1.1.1.1 MACBRIDE PRINCIPLES CERTIFICATION**

The Bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it is in compliance 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 its compliance with those principles. See Section 2.5 of the SSTC and N.J.S.A. 52:34-12.2 for additional information about the MacBride principles.

By signing the RFQ Offer and Acceptance Page, the Bidder is automatically certifying that either:

- A. The Bidder has no operations in Northern Ireland; or
- B. The Bidder has business operations in Northern Ireland and is committed to compliance with the MacBride principles.

A Bidder electing not to certify to the MacBride Principles must nonetheless sign the RFQ Offer and Acceptance Page AND must include, as part of its Quote, a statement indicating its refusal to comply with the provisions of this Act.

#### 4.1.1.1.2 **NON-COLLUSION**

By submitting a Quote and signing the RFQ Offer and Acceptance Page, the Bidder certifies as follows:

- A. The price(s) and amount of its Quote have been arrived at independently and without consultation, communication or agreement with any other Contractor / Bidder or any other party;
- B. Neither the price(s) nor the amount of its Quote, and neither the approximate price(s) nor approximate amount of this Quote, have been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before the Quote submission;
- C. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Contract, or to submit a Quote higher than this Quote, or to submit any intentionally high or noncompetitive Quote or other form of complementary Quote;
- D. The Quote of the firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Quote; and
- E. The Bidder, its affiliates, subsidiaries, officers, directors, and employees are not, to the Bidder's knowledge, currently under investigation by any governmental agency for alleged conspiracy or collusion with respect to bidding on any public Contract and have not in the last five (5) years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public Contract.

#### 4.1.1.1.3 **NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION**

The Treasurer has established a business ethics guide to be followed by Bidders / Contractors in its dealings with the State. The guide provides further information about compliance with Section 2.7 of the SSTC. The guide can be found at: <https://www.state.nj.us/treasury/purchase/ethics.shtml>

By signing the RFQ Offer and Acceptance Page, the Bidder is automatically certifying that it has complied with all applicable laws and regulations governing the provision of State goods and services, including the Conflicts of Interest Law, N.J.S.A. 52:13D-12 to 28.

#### **4.1.1.2 STANDARD FORMS REQUIRED WITH THE QUOTE**

Bidder's failure to complete, sign and submit the forms in Section 4.1.1.2 shall be cause to reject its Quote as non-responsive.

##### 4.1.1.2.1 **OWNERSHIP DISCLOSURE FORM**

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

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Bidder's failure to submit the completed and signed form with its Quote will

result in the rejection of the Quote as non-responsive and preclude the award of a Contract to said Bidder 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 Quote submission deadline for this procurement. 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 Quote.

In the alternative, to comply with this section, a Bidder 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.

The Ownership Disclosure Form located on the [Division's website](#).

#### **4.1.1.3 SUBCONTRACTOR UTILIZATION PLAN**

Bidders intending to use a Subcontractor shall submit a Subcontractor Utilization Plan form and should indicate whether any proposed Subcontractor is a Small Business.

As defined at N.J.A.C. 17:13-1.2, "Small Business" means a business that is incorporated or registered in and has its principal place of business in the State of New Jersey, is independently owned and operated, and has no more than 100 full-time employees. The program places small business into the following categories:

For goods and services - (i) those with gross revenues not exceeding \$500,000; (ii) those with gross revenues not exceeding \$5,000,000; and (iii) those with gross revenues that do not exceed \$12,000,000 or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher. While companies registered as having revenues below \$500,000 can bid on any Contract, those earning more than the \$500,000 and \$5,000,000 amounts will not be permitted to bid on Contracts designated for revenue classifications below its respective levels.

For construction services: (iv) those with gross revenues not exceeding \$3,000,000; (v) those with gross revenues that do not exceed 50 percent of the applicable annual revenue standards established at 13 CFR 121.201; and (vi) those with gross revenues that do not exceed the applicable annual revenue standards established at CFR 121.201. While companies registered as having revenues below \$3,000,000 can bid on any Contract, those earning more than the revenue standards established at CFR 121.201 will not be permitted to bid on Contracts designated for revenue classifications below their respective levels.

The Subcontractor Utilization Plan form is located on the [Division's website](#).

For a Quote that does NOT include the use of any Subcontractors, by signing the RFQ Offer and Acceptance Page, the Bidder is *automatically* certifying that in the event the award is granted to the Bidder, and the Bidder later determines at any time during the term of the Contract to engage Subcontractors to provide certain goods and/or services, pursuant to Section 5.8 of the SSTC, the Bidder shall submit a Subcontractor Utilization Plan form for approval to the Division in advance of any such engagement of Subcontractors.

#### **4.1.2 FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED BEFORE CONTRACT AWARD AND THAT SHOULD BE SUBMITTED WITH THE QUOTE**

Unless otherwise specified, forms must contain an original, physical signature, or an electronic signature.

#### **4.1.2.1 BUSINESS REGISTRATION**

In accordance with N.J.S.A. 52:32-44(b), a Bidder and its named Subcontractors must have a valid Business Registration Certificate ("BRC") issued by the Department of the Treasury, Division of Revenue and Enterprise Services prior to the award of a Contract. To facilitate the Quote evaluation and Contract award process, the Bidder should submit a copy of its valid BRC and those of any named Subcontractors with its Quote. See Section 2.1 of the SSTC.

Any Bidder, inclusive of any named Subcontractors, not having a valid business registration at the time of the Quote opening, or whose BRC was revoked prior to the submission of the Quote, should proceed immediately to register its business or seek reinstatement of a revoked BRC.

The Bidder is cautioned that it may require a significant amount of time to secure the reinstatement of a revoked BRC. The process can require actions by both the Division of Revenue and Enterprise Services and the Division of Taxation. For this reason, a Bidder's early attention to this requirement is highly recommended. The Bidder and its named Subcontractors may register with the Division of Revenue and Enterprise Services, obtain a copy of an existing BRC or obtain information necessary to seek re-instatement of a revoked BRC online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

A Bidder otherwise identified by the Division as a responsive and responsible Bidder, inclusive of any named Subcontractors, but that was not business registered at the time of submission of its Quote must be so registered and in possession of a valid BRC by a deadline to be specified in writing by the Division. A Bidder failing to comply with this requirement by the deadline specified by the Division will be deemed ineligible for Contract award. Under any circumstance, the Division will rely upon information available from computerized systems maintained by the State as a basis to verify independently compliance with the requirement for business registration.

A Bidder receiving a Contract award as a result of this procurement and any Subcontractors named by that Bidder will be required to maintain a valid business registration with the Division of Revenue and Enterprise Services for the duration of the executed Contract, inclusive of any Contract extensions.

#### **4.1.2.2 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS INVOLVING BIDDER FORM**

The Bidder should submit the Disclosure of Investigations and Other Actions Involving Bidder Form, with its Quote, to provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years, including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. If a Bidder does not submit the form with the Quote, the Bidder must comply within seven (7) business days of the State's request or the State may deem the Quote non-responsive.

The Disclosure of Investigations and Other Actions Involving Bidder Form located on the [Division's website](#).

#### **4.1.2.3 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM**

Pursuant to N.J.S.A. 52:32-58, the Bidder must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Bidder, 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 Bidder, 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 Bidder is unable to so certify, the Bidder shall provide a detailed and precise description of such activities as directed on the form. A Bidder must complete and submit the form prior to award.

The Disclosure of Investment Activities in Iran form located on the Division's website.

#### **4.1.2.4 SOURCE DISCLOSURE**

Pursuant to N.J.S.A. 52:34-13.2, prior to an award of Contract, the Bidder is required to submit a completed Source Disclosure Form. The Bidder's inclusion of the completed Source Disclosure Form with the Quote is requested and advised. See RFQ Section [7.1.2](#) for additional information concerning this requirement.

The Source Disclosure Form is located on the Division's website.

#### **4.1.3 FINANCIAL CAPABILITY OF THE BIDDER**

The Bidder should provide sufficient financial information to enable the State to assess the financial strength and creditworthiness of the Bidder and its ability to undertake and successfully complete the Contract. In order to provide the State with the ability to evaluate the Bidder's financial capacity and capability to undertake and successfully complete the Contract, the Bidder should submit the following:

- (i) For publically traded companies the Bidder should provide copies or the electronic location of the annual reports filed for the two most recent years; or
- (ii) For privately held companies the Bidder should provide the certified financial statement (audited or reviewed) in accordance with applicable standards by an independent Certified Public Accountant which include a balance sheet, income statement, and statement of cash flow, and all applicable notes for the most recent calendar year or the Bidder's most recent fiscal year.

If the information is not supplied with the Quote, the State may still require the Bidder to submit it. If the Bidder fails to comply with the request within seven (7) business days, the State may deem the Quote non-responsive.

A Bidder may designate specific financial information as not subject to disclosure when the Bidder has a good faith legal/factual basis for such assertion. A Bidder may submit specific financial documents in a separate, sealed package clearly marked "Confidential-Financial Information" along with the Quote.

The State reserves the right to make the determination to accept the assertion and shall so advise the Bidder.

#### **4.1.4 STATE-SUPPLIED PRICE SHEET**

The Bidder must submit its pricing using the State-Supplied Price Sheet accompanying this RFQ.



#### **4.1.4.1 STATE-SUPPLIED PRICE SHEET INSTRUCTIONS**

Where the State-Supplied Price Sheet includes an estimate quantity column, Bidders are advised that estimated quantities may vary throughout the Contract term resulting from this RFQ. There is no guaranteed minimum or maximum volume for these price lines.

Please see section 4.2.2.5 (Price Submission) for State-Supplied Price Sheet Instructions.

#### **4.1.4.2 DELIVERY TIME AND COSTS**

Unless otherwise noted elsewhere in the RFQ, all delivery times are 30 calendar days after receipt of order (ARO) and prices for items in Quotes shall be submitted Freight On Board (F.O.B.) Destination (30 calendar days ARO/F.O.B.). Quotes submitted other than 30 calendar days ARO/F.O.B. may be deemed non-responsive. 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. 30 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.

#### **4.1.4.3 COLLECT ON DELIVERY (C.O.D.) TERMS**

C.O.D. terms are not acceptable as part of a Quote and shall be deemed non-responsive.

#### **4.1.4.4 CASH DISCOUNTS**

The Bidder is encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts, but discounts will not be considered in determining the price rankings of Quotes.

Should the Bidder 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.

### **4.2 REQUIRED COMPONENTS OF THE QUOTE**

#### **4.2.1 OVERVIEW OF SECURITY PLAN AND STANDARDS**

The Bidder shall complete and submit the State of New Jersey Security Due Diligence Third-Party Information Security Questionnaire (Questionnaire) with its Quote as per Section 4.2. This Questionnaire is designed to provide the State with an overview of the Bidder's security and privacy controls to meet the State of New Jersey's objectives as outlined and documented in the Statewide

Information Security Manual and compliance with the State's security requirements as outlined in Section 3.

The State has executed a Confidentiality/Non-Disclosure Agreement which is attached to the Questionnaire. The Bidder must countersign the Confidentiality/Non-Disclosure Agreement and include it with its submitted Questionnaire. No amendments to Confidentiality/Non-Disclosure Agreement are permitted.

To the extent permissible under the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1.1, the New Jersey common law right to know, and any other lawful document request or subpoena, the completed Questionnaire and supplemental documentation provided by the Bidder will be kept confidential and not shared with the public or other Bidders. Please see RFQ Section 5.8.

#### **4.2.2 TECHNICAL SUBMISSION**

Technical submissions should consist of the following:

- the Programs (i.e., UI Program and/or WE Program) the Bidder seeks to be considered for and, if applicable, the Bidder's ranked preference of the Programs
- a technical proposal of no more than ~~four (4)~~ five (5) pages in PDF Format
- a staffing plan of no more than three (3) pages in PDF Format, and
  - Resumes for each Key Personnel
  - Signed letters of intent to participate (if applicable)
- a similar experience overview of no more than three (3) pages, and
  - Up to ten (10) pages of supporting artifacts from these prior experience(s) such as user research plans, design artifacts, and post-mortem reports
  - Two (2) source code repositories

Written materials should be submitted using 11-point type.

Failure to provide all requested information may impact the score of the proposal. Failure to submit any required materials may make the submission non-responsive.

##### **4.2.2.1 PROGRAM PREFERENCE**

The Bidder must indicate the Program(s) (i.e., UI Program and/or WE Program) that it chooses to be considered for award. The Bidder may select one Program or both Programs and should specify the ordered preference.

The Bidder may use the provided UI + WE Program Preference worksheet to indicate which Program(s) the Bidder chooses to be considered for award and the Bidder's ordered preference. This additional worksheet is not included in the page limitations.

##### **4.2.2.2 TECHNICAL PROPOSAL**

The Written Technical Proposal should be limited to ~~4~~ five (5) pages, excluding the cover page and table of contents, in PDF Format.

Within the Written Technical Proposal, the Bidder should provide a recommended approach that it would intend to follow to build the solution(s) described in Section 1. The approach should provide, at minimum, details regarding the following:

1. Product Management and Development methodology, including partnering with business stakeholders.
2. Software engineering approach.
- 2-3. DevOps and system operations.
- 3-4. Design, inclusive of user research, content, visual design, and feedback.
- 4-5. Software testing, security, and accessibility.
- 5-6. Partnering with State team members including Program and technical staff to enable them to deliver effectively and to ensure the long-term success of the Program.
- 6-7. If applicable, any differences that the Bidder anticipates between the two Programs.

#### **4.2.2.3 STAFFING PLAN**

The Staffing Plan should be limited to 3 pages, excluding resumes and signed letters of intent to participate. The Staffing Plan should set forth the Bidder's proposed approach to staffing the requirements of this project, and should cover the following:

1. Identify the proposed full-time Product Management, Technical, and Design Leads by name as Key Personnel.
  - a. The State anticipates that Bidders will submit the same Key Personnel for either Program. However, in the event the Bidder decides to specify different Key Personnel for the different Programs, it must indicate in the Staffing Plan, including the names and resumes of the individuals assigned to each Program.
2. Set forth the extent to which the proposed team for this project was involved in the development of the case studies and other work referenced in the proposal.
3. Include one-page resumes for all Key Personnel (excluded from page limit), which include a brief description of the experience and capability for each individual.
4. For each Program (i.e., UI Program and/or WE Program) the Bidder is competing, provide a recommended base team staffing plan for the team beyond the Key Personnel up to the budget described in Section 1.1.1. This recommendation should include, at minimum, additional roles, labor categories, and estimated hours (e.g., full-time) that would enable this program to be successful and supported. The staffing plan may include and describe the experience of additional individuals who are expected to support this Contract. The price submission estimates full-time at 1,880 hours/year (3,760 hours during the 2-year base period). Any deviations expected should be noted.
5. Explain the Bidder's ability to meet the needs of the Contract beyond the specified budget, if necessary, including expanded product talent and technical support expertise.
6. Specify plans to fully commence work within 60 days of award. If unable to commence work within 60 days of award, specify the proposed timeline for commencing work as soon as possible thereafter.
7. Bidders proposing Key Personnel who are not currently employed by the Bidder or a teaming partner should include a signed letter of intent from the individual(s) proposed as Key Personnel stating that the individual(s) intends to participate in this project for at least one (1) year.
8. The staffing plan should also include a description of the Bidder's plans, if any, to provide services through a Joint Venture, teaming partner, or subcontractors.
  - a. If the Bidder plans to provide services with subcontractor(s), the Bidder should also complete the Subcontractor Utilization Plan Form.
  - b. If a Joint Venture is submitting a Quote, the agreement between the parties relating to such Joint Venture should be submitted with the Joint Venture's Quote. Authorized signatories from each party comprising the Joint Venture must sign the Offer and Acceptance Page. Each party to the Joint Venture must individually comply with all the forms and certification requirements of this RFQ. In the case of a Joint Venture, all parties of the Joint Venture must have an active GSA contract under the

designated SIN (see section 1.1). In the case of a Joint Venture, the Bidder should also specify how the Joint Venture parties will ensure efficient coordination.

The Bidder may also attach a copy of its GSA Schedule 70 Contract document containing details regarding its GSA labor categories (e.g., the rates, descriptions, title, functional responsibility, experience level). This attachment does not count against the page limit.

#### **4.2.2.4 SIMILAR EXPERIENCE OVERVIEW AND WORK SAMPLES**

Bidders should provide a listing of no more than 5 projects that have been recently completed or are currently being completed by the Contractor (and/or proposed subcontractors who will be responsible for at least 30% of its proposed price) and displays expertise and experience in similar scenarios (e.g., similar technology stack, similar methodology, similar to ~5-20 person delivery team responsible for public-facing, mission-critical service in use by hundreds of thousands or millions of diverse users) as detailed by this RFQ. Work performed by any proposed subcontractors should be clearly labeled.

Projects may include work completed for government and/or commercial clients. Bidders are strongly encouraged to submit projects that demonstrate the capability to perform multiple tasks from the SOW and to share at least one project serving a government client. While not required, and secondary to the factors above, Bidders are also encouraged to submit projects that display expertise in the domain (e.g., unemployment insurance modernization, streamlining access to benefits), if available.

For each project, the Bidder should include the following information:

1. Client organization name
2. Client industry or level of government
3. Brief description of project including problem statement and solution
4. Budget (including total contract value and amount allocated to Bidder)
5. Period of performance
6. Bidder's role, including number of individuals and roles staffed on project
7. If applicable, Key Personnel from this project that would be assigned to this Contract
8. Key goals and outcomes
9. Technology stack
10. Summary of delivery methodology

The total listing should not exceed three (3) pages.

In addition to the above, the Bidder should provide up to ten (10) pages total (across all projects) of supporting artifacts (e.g., user research plans, product materials, design artifacts, post-mortem reports) from these prior experience(s) to demonstrate their capacity to perform the requirements in this RFQ and approaches described in the Written Technical Approach. Included in this page limit, Bidders may submit a post-mortem report created for this RFQ up to two (2) pages in length that is related to these prior experience(s). The post-mortem report should outline the issues resolved, how the issue(s) were found, the root cause analysis conducted, and how the issue(s) were addressed. Except for this post-mortem report, artifacts should not be created for this RFQ.

In addition to the above, the Bidder should provide two (2) source code repositories. Repositories should include revision history and relevant documentation. It is recommended that the Bidder use the git bundle command to pack each code repository into a single file that is provided with the submission. Email messages (including attachments) exceeding 25MB may not be received. Bidders may send multiple emails, if necessary. It is recommended that attached file(s) be sent as zipped attachment(s) due to file attachment limitations of the email system. Any information needed to access and review the file(s)/data should be provided with the submission.

If the Bidder prefers, the source code samples may be provided via a public facing repository - the link to which must be provided in the submission documents. Any additional information, like a password or username, necessary to gain access to the repository, must also be provided with the link. In the event the source code is hosted in a private GitHub repository, the Bidder must provide access to the following username: NewJerseyBot. As a reminder, even if the Bidder provides access to one or more private repositories, the link(s) to these repositories should still be provided in the written materials submitted to the State. The third-party repository site must enable the State to download and save the materials. The State encourages Bidders to submit a copy of repository(s) via email as a backup to any links provided in the event the State is unable to access the link(s).

The Bidder should also include all repository links in the cover page of the proposal.

Artifacts may be anonymized as needed to protect PII, PHI, or other proprietary data, but should still demonstrate the vendor's expertise as it relates to the RFQ. As a reminder, all submitted information, including private repositories, is subject to the terms in section 1.4.3.

#### **4.2.2.5 PRICE SUBMISSION**

The Bidder must submit hourly rates and the Bidder's estimate of the total cost to the State for the services required for the base year-period of work on this project inclusive of all roles deemed necessary to complete the scope of work as described in this RFQ.

To set forth the price submission, the Bidder must complete the provided Price Submission Spreadsheet. Please note there are multiple tabs in this spreadsheet.

The first tab ("Base Year-Period Proposed Team") consists of the forecasted amounts for the proposed team in the base year-period of the contract. This should include the full-time Key Personnel designated by the Bidder in this proposal. Additionally, for each Program that the Bidder is competing for, the Bidder should include additional team member(s), estimated hours/year, and rates for how to staff the team in the base year-period in accordance with the team-sizebudget specified in section 1.1.1. The Bidder may note in the staffing plan any additional information or assumptions. Key Personnel roles should be expected to support the project full-time using 1,880 hours/year (3,760 hours during the 2-year base period) in the price submission for each of these 3 roles. Expected deviations should be noted in the staffing plan. 1,880 hours/year (3,760 hours during the 2-year base period) should be used for each FTE.

The second tab ("Rate Sheet") consists of a pricing template to be completed by the Bidder that contains the hourly rate for each labor category that could be required under this contract to complete activities described in the Scope of Work (e.g., engineering, design, DevOps, product management, project management, technical support technician, QA testing).

IMPORTANT: The Bidder should ensure that all possible roles and experience levels are reflected in the price submission, including for the optional activities if applicable. Different rates should be provided for different levels of expertise. The State encourages Bidders to include all relevant roles from their GSA Schedule Contract and their offered rates so that the roles may be available in the event required for this work.

The Bidder should provide hourly rates for the base period and each of the option periods. The labor categories-rates should be consistent with or lower than those listed in the Bidder's GSA Schedule. It is expected that the Bidder and State will work together in the event the size of the team should be modified. It is strongly recommended that the Bidder include all potential labor categories that could be leveraged for this Contract on the "Rate Sheet" tab even if not certain they will be needed to ensure they are accessible through this contract. Furthermore, the Labor

Categories included on the “Base Year-Period Proposed Team” tab should also be included on the “Rate Sheet” tab.

The Contractor will be compensated at loaded hourly rates. All proposed labor rates must be consistent with or lower than the Bidder’s current GSA Schedule rates, and must be fully burdened (inclusive of profit, fringe benefits, salary, indirect rates, and the GSA Contract Access Fee (CAF)). The State seeks further price reductions and Most Favored Customer (MFC) pricing for all labor categories. Bidders should provide their best discounted rates in their submissions. The State intends to evaluate proposals without discussions with Bidders, and therefore the Bidder’s initial proposal should contain the Bidder’s best terms. The State reserves the right to conduct discussions if the Contracting Officer determines them to be necessary.

The State makes no guarantee of volume of work effort. The Pass-Through Price Lines shall be used to reimburse for Travel and Other Direct Costs in accordance with the terms of the Contractor’s GSA Schedule(s) subject to COR approval. No mark-up will be provided for "Other Direct Costs" or "Travel Expenses and Reimbursements." See section 3.1.16.5 for travel reimbursement guidelines.

Additional rows may be added to the provided Price Submission Spreadsheet, as necessary. The Contractor should submit the Price Submission Spreadsheet as a separate file with the submission.

### **4.3 INTERVIEWS**

The Bidders with the most highly rated written submissions will each be invited to participate in an interview as part of the evaluation process. Each interview will be conducted remotely via video connection and/or teleconference. The State will communicate with certain Bidders to schedule the dates and times of interviews. There may be a limited time window when these interviews may be offered.

Each interview will include a question and answer session, during which Bidders will be asked questions about the technical aspects of their proposal and their approach to software development. The State expects these interviews will assist the State to assess the technical abilities of the proposed development team and to better understand the proposed technical approach described in the Bidder’s written submission. All of the Bidder’s proposed Key Personnel should participate in the interview.

The Introductions phase of each interview will last approximately 5 minutes, during which the Bidder and State interview team members will introduce themselves.

The Open Technical Session of each interview will last approximately 45 minutes, during which the Bidder interview team will respond to the State’s questions related to the technical aspects of the Bidder’s proposal. Bidders will NOT be able to use or present any slides, graphs, charts, or other written presentation materials, including handouts. There will be no follow-up session for further questions after this part of the interview.

The Closing Remarks phase of each interview will last approximately 5 minutes, during which the Bidder may make a short presentation summarizing the Bidder’s responses to the State’s questions.

Interviews will not constitute discussions. Statements made during an interview will not become part of the agreement.

## **5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS APPLICABLE TO THE Contract**

### **5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS**

This Contract awarded, and the entire agreement between the parties, as a result of this RFQ shall consist of this RFQ, SSTC, Bid Amendment to this RFQ, the Contractor's Quote, any Best and Final Offer, and the Using Agency's Notice of Award.

In the event of a conflict in the terms and conditions among the documents comprising this Contract, the order of precedence, for purposes of interpretation thereof, listed from highest ranking to lowest ranking, shall be:

- A. Executed Offer and Acceptance Page;
- B. RFQ Section 5, as may be amended by Bid Amendment;
- C. The State of NJ Standard Terms and Conditions (SSTC) included in this RFQ;
- D. All remaining sections of the RFQ, as may be amended by Bid Amendment; and
- E. The Contractor's Quote as accepted by the State.

### **5.2 CONTRACT TERM AND EXTENSION OPTION**

The base term of this Contract shall be for a period of two years. If delays in the procurement process result in a change to the anticipated Contract Effective Date, the Contractor agrees to accept a Contract for the full term of this Contract.

This Contract may be extended up to three (3) years with no single extension exceeding one (1) year, by the mutual written consent of the Contractor and the Director at the same terms, conditions, and pricing at the rates in effect in the last year of this Contract or rates more favorable to the State, unless otherwise specified via the price submission in Bidder's proposal.

In the event of a termination or expiration of the underlying Federal Supply Schedule, the independent State contract based thereon survives for its own established term.

### **5.3 CONTRACT TRANSITION**

In the event that a new Contract has not been awarded prior to this Contract expiration date, including any extensions exercised, and the State exercises this Contract transition, the Contractor shall continue this Contract under the same terms, conditions, and pricing until a new Contract can be completely operational. At no time shall this transition period extend more than 180 days beyond the expiration date of this Contract, including any extensions exercised.

### **5.4 CHANGE ORDER**

Any changes or modifications to the terms of this Contract shall be valid only when they have been reduced to writing and signed by the Contractor and the Director.

### **5.5 CONTRACTOR RESPONSIBILITIES**

The Contractor shall have sole responsibility for the complete effort specified in this Contract. Payment will be made only to the Contractor. The Contractor shall have sole responsibility for all payments due any Subcontractor.

The Contractor is responsible for the professional quality, technical accuracy and timely completion and submission of all deliverables, services or commodities required to be provided under this Contract. The Contractor shall, without additional compensation, 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 Contractor of responsibility for the technical adequacy of its work. The review, approval, acceptance or payment for any of the services shall not be construed as a waiver of any rights that the State may have arising out of the Contractor's performance of this Contract.

## **5.6 SUBSTITUTION OR ADDITION OF SUBCONTRACTOR(S)**

This Subsection serves to supplement but not to supersede Sections 5.8 and 5.9 of the SSTC accompanying this RFQ.

The Contractor shall forward a written request to substitute or add a Subcontractor or to substitute its own staff for a Subcontractor to the State Contract Manager for consideration. If the State Contract Manager approves the request, the State Contract Manager will forward the request to the Director for final approval. No substituted or additional Subcontractors are authorized to begin work until the Contractor has received written approval from the Director.

If it becomes necessary for the Contractor to substitute a Subcontractor, add a Subcontractor, or substitute its own staff for a Subcontractor, the Contractor will identify the proposed new Subcontractor or staff member(s) and the work to be performed. The Contractor must provide detailed justification documenting the necessity for the substitution or addition.

The Contractor must provide detailed resumes of its proposed replacement staff or of the proposed Subcontractor's management, supervisory, and other key personnel that demonstrate knowledge, ability and experience relevant to that part of the work which the Subcontractor is to undertake.

The qualifications and experience of the replacement(s) must equal or exceed those of similar personnel proposed by the Contractor in its Quote.

## **5.7 OWNERSHIP OF MATERIAL**

All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of this Contract, including, but not limited to, all reports, surveys, 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, regardless of the state of completion, which are prepared for or are a result of the services required under this Contract shall be and remain the property of the State of New Jersey and shall be delivered to the State of New Jersey upon 30 days' notice by the State. With respect to software computer programs and/or source codes developed for the State, except those modifications or adaptations made to Bidder's/Contractor's Background IP as defined below, the work shall be considered "work for hire", i.e., the State, not the Contractor or Subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed. To the extent that any of such materials may not, by operation of the law, be a work made for hire in accordance with the terms of this Contract, Contractor or Subcontractor hereby assigns to the State all right, title and interest in and to any such material, and the State shall have the right to obtain and hold in its own name and copyrights, registrations and any other proprietary rights that may be available.

Should the Bidder anticipate bringing pre-existing intellectual property into the project, the intellectual property must be identified in the Quote. Otherwise, the language in the first paragraph of this section prevails. If the Bidder identifies such intellectual property ("Background IP") in its Quote, then the Background IP owned by the Bidder on the date of this Contract, as well as any modifications or adaptations thereto, remain the property of the Bidder. Upon Contract award, the Bidder/Contractor shall grant the State a nonexclusive, perpetual royalty free license to use any of



the Bidder's/Contractor's Background IP delivered to the State for the purposes contemplated by this Contract.

## **5.8 CONFIDENTIALITY**

- A. The obligations of the State under this provision are subject to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., the New Jersey common law right to know, and any other lawful document request or subpoena;
- B. By virtue of this Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose to each other only information that is required for the performance of their obligations under this Contract. 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 and anything identified in Contractor's Quote as Background IP ("Contractor Confidential Information"). Notwithstanding the previous sentence, the terms and pricing of this Contract are subject to disclosure under OPRA, the 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 contained in documents 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; (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 State agrees to hold Contractor's Confidential Information in confidence, using at least the same degree of care used to protect its own Confidential Information;
- F. In the event that the State receives a request for Contractor Confidential Information related to this Contract pursuant to a court order, subpoena, or other operation of law, the State agrees, if permitted by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such order of law. Contractor shall take any action it deems appropriate to protect its documents and/or information;
- G. In addition, in the event Contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, Contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such order of law. The State shall take any action it deems appropriate to protect its documents and/or information; and
- H. Notwithstanding the requirements of nondisclosure described in this Section, either party may release the other party's Confidential Information:
  - A. if directed to do so by a court or arbitrator of competent jurisdiction; or
  - B. pursuant to a lawfully issued subpoena or other lawful document request:
    - (a) in the case of the State, if the State determines the documents or information are subject to disclosure and Contractor does not exercise its rights as

- described in Section 5.8(F), or if Contractor is unsuccessful in defending its rights as described in Section 5.8(F); or
- (b) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the State does not exercise its rights described in Section 5.8(G), or if the State is unsuccessful in defending its rights as described in Section 5.8(G).

## **5.9 NEWS RELEASES**

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.

## **5.10 ADVERTISING**

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.

## **5.11 LICENSES AND PERMITS**

The Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this Contract. The Contractor shall comply with all New Jersey Department of Labor requirements. Notwithstanding the requirements of the RFQ, the Contractor shall supply the State Contract Manager with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to this Contract award. All costs associated with any such licenses, permits, and authorizations must be considered by the Bidder in its Quote.

## **5.12 CLAIMS AND REMEDIES**

### **5.12.1 CLAIMS**

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.

### **5.12.2 REMEDIES**

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.

### **5.12.3 REMEDIES FOR FAILURE TO COMPLY WITH MATERIAL CONTRACT REQUIREMENTS**

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 SSTC, 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.

## **5.13 MODIFICATIONS AND CHANGES TO THE STATE OF NJ STANDARD TERMS AND CONDITIONS (SSTC)**

### **5.13.1 INDEMNIFICATION**

Section 4.1 of the SSTC is supplemented with the following:

#### **4.1.1 LIMITATION OF LIABILITY**

The Contractor's liability to the State for actual, direct damages resulting from the Contractor's performance or non-performance, or in any manner related to this Contract, for any and all claims, shall be limited in the aggregate to 200 % of the total value of this Contract, except that such limitation of liability shall not apply to the following:

- a. The Contractor's obligation to indemnify the State of New Jersey and its employees from and against any claim, demand, loss, damage, or expense relating to bodily injury or the death of any person or damage to real property or tangible personal property, incurred from the work or materials supplied by the Contractor under this Contract caused by negligence or willful misconduct of the Contractor;
- b. The Contractor's breach of its obligations of confidentiality; and
- c. The Contractor's liability with respect to copyright indemnification.

The Contractor's indemnification obligation is not limited by but is in addition to the insurance obligations contained in Section 4.2 of the SSTC.

The Contractor shall not be liable for special, consequential, or incidental damages.

#### **5.13.2 INSURANCE - PROFESSIONAL LIABILITY INSURANCE**

Section 4.2 of the SSTC regarding insurance is modified with the addition of the following section regarding Professional Liability Insurance.

- D. Professional Liability Insurance: 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 this 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 this Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance, and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

#### **5.14 CONTRACT ACTIVITY REPORT**

The Contractor must provide, on a bi-annual basis, a record of all purchases made under this Contract resulting from this RFQ. This reporting requirement includes sales to State Using Agencies, political sub-divisions thereof and, if permitted under the terms of this Contract, sales to counties, municipalities, school districts, volunteer fire departments, first aid squads and rescue squads, independent institutions of higher education, state and county colleges and quasi-State agencies. Quasi-State agencies include any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

This information must be provided in Microsoft Excel such that an analysis can be made to determine the following:

- A. Contractor's total sales volume, with line item detail, to each purchaser under this Contract;
- B. Subtotals by product, including, if applicable, catalog number and description, price list with appropriate page reference, and/or Contract discount applied; and
- C. Total dollars paid to Subcontractors, include a separate breakdown for dollars paid to New Jersey Small Business as defined in N.J.A.C. 17:13-1.2.

Submission of purchase orders, confirmations, and/or invoices do not fulfill this Contract requirement for information. Failure to report this mandated information may be a factor in future award decisions.

The Contractor must submit the required information in Microsoft Excel format to [NJSupplierReports@treas.nj.gov](mailto:NJSupplierReports@treas.nj.gov).

Reports are due:

January 1<sup>st</sup> through June 30<sup>th</sup> – due by July 30<sup>th</sup>; and  
July 1<sup>st</sup> through December 31<sup>st</sup> – due by January 30<sup>th</sup>.

#### **5.15 ELECTRONIC PAYMENTS**

With the award of this contract, the successful Contractor(s) will be required to receive its payment(s) electronically. In order to receive your payments via automatic deposit from the State of New Jersey, you must complete the EFT information within your NJSTART Vendor Profile. Please refer to Section 5.2 of the QRG entitled "Vendor Profile Management – Company Information and User Access" for instructions. QRGs are located on the [NJSTART Vendor Support Page](#).

#### **5.16 PROGRAM EFFICIENCY ASSESSMENT FOR STATE USING AGENCIES**

The Program Efficiency Assessment shall not be charged against the winning Contractor and therefore is not to be included in the Bidder's pricing. The State Using Agencies shall be charged an assessment equal to one-quarter of one (1) percent (0.25%) of the value of all transactions under this Contract. This assessment is authorized by N.J.S.A. 52:27B-56 and N.J.A.C. 17:12-1.5, to maintain the State's procurement system at a level to meet industry standards of efficiency.

For purposes of this section, "transaction" is defined as the payment or remuneration to the Contractor for services rendered or products provided to the State pursuant to the terms of this Contract, including but not limited to the following: purchase orders, invoices, hourly rates, firm fixed price, commission payments, progress payments and contingency payments.

## **6.0 QUOTE EVALUATION**

### **6.1 DIRECTOR'S RIGHT OF FINAL QUOTE ACCEPTANCE**

The Director reserves the right to reject any or all Quotes, or to award in whole or in part if deemed to be in the best interest of the State to do so. The Director shall have authority to award orders or Contracts in accordance with N.J.S.A. 52:34-12.

### **6.2 STATE'S RIGHT TO INSPECT BIDDER FACILITIES**

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

The State may also consult with clients of the Bidder during the evaluation of Quotes. Such consultation is intended to assist the State in making a Contract award that is most advantageous to the State.

### **6.3 STATE'S RIGHT TO REQUEST FURTHER INFORMATION**

After the submission of Quotes, unless requested by the State as noted below, Bidder contact with the State is not permitted.

After the Quotes are reviewed, one (1), some or all of the Bidders may be asked to clarify certain aspects of its Quote. A request for clarification may be made in order to resolve minor ambiguities, irregularities, informalities or clerical errors. Clarifications cannot correct any deficiencies or material omissions, or revise or modify a Quote.

### **6.4 EVALUATION**

Quotes will be scored based upon the Bidder's demonstration in the Quote that the Bidder understands the requirements of the Scope of Work and presents an approach that would permit successful performance of the requirements of the Contract.

#### **6.4.1 BIDDER'S PRICE SCHEDULE**

To ensure comparability, price proposals will be ranked from least to greatest total full-time equivalent cost of the three (3) State-specified Key Personnel roles (i.e., Product Management, Technical, and Design Leads) in the base period. If the number of hours for the Key Personnel deviates from 1,880 billable hours per person per year (3,760 hours in the 2 year base period), the State will adjust the number of hours to 1,880 per person per year (3,760 hours in the 2 year base period) for the purpose of enabling a comparative price comparison across Bidders.

Additional pricing information will be considered as described in Section 6.4.4 (Technical and Price Evaluation).

#### **6.4.2 QUOTE DISCREPANCIES**

In evaluating Quotes, discrepancies between words and figures will be resolved in favor of words. Discrepancies between unit prices and totals of unit prices will be resolved in favor of unit prices. Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated total of multiplied unit prices and units of work and the actual total will be resolved in favor of the actual total. Discrepancies between the

indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum of the column of figures.

#### **6.4.3 TIE-BREAKING CRITERIA**

Tie Quotes will be awarded by the Director in accordance with N.J.A.C. 17:12-2.10.

#### **6.4.4 TECHNICAL AND PRICE EVALUATION**

Each submission received by the State will be evaluated for technical acceptability. Submissions that are determined to not be technically acceptable will not be evaluated further subject to the terms of this RFQ.

Quotes should be realistic with respect to technical approach, staffing approach, and price. Quotes that indicate a lack of understanding of the project requirements may not be considered for award. Quotes may indicate a lack of understanding of the project requirements if the staffing plan does not offer a realistic set of labor categories and hours, or if any proposed hourly labor rates are unrealistically high or low.

The State will evaluate quotes that are technically acceptable on a competitive best value basis using a trade-off between technical and price factors. Technically acceptable submissions will be evaluated based on four (4) evaluation factors. These factors are (1) technical approach, (2) staffing approach, (3) similar experience, and (4) price. The three (3) technical, non-price evaluation factors, when combined, are significantly more important than price. The State may make an award to a Bidder that demonstrates an advantage with respect to technical, non-price factors, even if such an award would result in a higher total price to the State. The importance of price in the evaluation will increase with the degree of equality between Bidders with respect to the non-price factors, or when the Bidder's price is so significantly high as to diminish the value to the State of the Bidder's advantage in the non-price factors.

##### **6.4.4.1 TECHNICAL APPROACH**

In evaluating a Bidder's technical approach, the State will consider, among other things, (a) the quality of the Bidder's approach to provide the open source, agile development services required, including product management, engineering, user research and design and other factors described in this requisition and (b) the extent of the Bidder's understanding of the details of the project requirements, including technical information and partnering with the State to enable long-term success.

##### **6.4.4.2 STAFFING APPROACH**

In evaluating a Bidder's staffing approach, the State will consider, among other things, (a) the skills and experience of the Key Personnel and other individuals that the Bidder plans to use to provide the required services, (b) the Bidder's proposed plan for staffing the Program(s) for which they are being considered according to the RFQ specifications including the set of labor categories and capabilities that will comprise the Bidder's team, (c) the Bidder's ability to provide high quality support that is flexible according to the State's needs as described in this requisition including the set of labor categories that the Bidder makes available to enable team expansion, and (d), if applicable, any limitations on promptly commencing work.

##### **6.4.4.3 SIMILAR EXPERIENCE**

In evaluating a Bidder's similar experience, the State will consider the extent to which the Bidder has recently provided software development services for projects that are similar in size, scope, and complexity to the project(s) described in this RFQ, and the quality of those services. In

evaluating the quality of those services, the State will consider, among other things, the similar experience listing and source code repositories provided including documentation, incorporated tests, revision history, and additional information that informs the quality of discussion and decision making. The State will also consider the provided supporting artifacts such as user research plans, product materials, design artifacts, and post-mortem reports. The State may consider the Bidder's similar experiences' relevance to the domain and/or subject matter area of the proposed scope of work. In considering a Bidder's similar experience, the State may also consider information from any other source, including Bidder's prior customers and public websites.

#### **6.4.4.4 PRICE**

The State will consider the total normalized full-time equivalent cost of the State-specified Key Personnel roles in the base period using the methodology detailed in Section 6.4.1.

In evaluating a Bidder's price, the State will consider the total of the Bidder's estimated costs for the development services for the base period. The State will also consider the hourly rates for talent in the base period and option periods.

#### **6.5 NEGOTIATION**

In accordance with N.J.S.A. 52:34-12(f) and N.J.A.C. 17:12-2-7, after evaluating Quotes, the Bureau may establish a competitive range and enter into negotiations with one (1) Bidder or multiple Bidders within this competitive range. The primary purpose of negotiations is to maximize the State's ability to obtain the best value based on the mandatory requirements, evaluation criteria, and cost. Multiple rounds of negotiations may be conducted with one (1) Bidder or multiple Bidders. Negotiations will be structured by the Bureau to safeguard information and ensure that all Bidders are treated fairly.

After evaluation of Quotes and as applicable, negotiation(s), the Bureau will recommend, to the Director, the responsible Bidder(s) whose Quote(s), conforming to the RFQ, is/are most advantageous to the State, price, and other factors considered. The Director may accept, reject or modify the recommendation of the Using Agency. The Director may initiate additional negotiation procedures with the selected Bidder(s).

**Negotiations will be conducted only in those circumstances where it is deemed to be in the State's best interests and to maximize the State's ability to get the best value. Therefore, the Bidder is advised to submit its best technical and price Quote in response to this RFQ since the State may, after evaluation, make a Contract award based on the content of the initial submission, without further negotiation with any Bidder.**

All contacts, records of initial evaluations, any correspondence with a Bidder related to any request for clarification, negotiation, any revised technical and/or price Quotes, and related documents will remain confidential until a Notice of Intent to Award a Contract is issued.

If the Bureau contemplates negotiation, Quote prices will not be publicly read at the Quote opening. Only the name and address of each Bidder will be publicly announced at the Quote opening.

#### **6.6 POOR PERFORMANCE**

A Bidder with a history of performance problems may be bypassed for consideration of an award issued as a result of this RFQ. The following materials may be reviewed to determine Bidder performance: Contract cancellations for cause pursuant to Section 5.7(b) of the SSTC; information contained in Vendor performance records; information obtained from audits or investigations

conducted by a local, state or federal agency of the Bidder's work experience; current licensure, registration, and/or certification status and relevant history thereof; or its status or rating with established business/financial reporting services, as applicable. Bidders should note that this list is not exhaustive.



## **7.0 CONTRACT AWARD**

### **7.1 DOCUMENTS REQUIRED BEFORE CONTRACT AWARD**

#### **7.1.1 REQUIREMENTS OF PUBLIC LAW 2005, CHAPTER 51, N.J.S.A. 19:44A-20.13 - N.J.S.A. 19:44A-20.25 (FORMERLY EXECUTIVE ORDER NO. 134), EXECUTIVE ORDER NO. 117 (2008) AND N.J.A.C. 17:12-5 ET SEQ.**

- A. The State shall not enter into a Contract to procure services or any material, supplies or equipment, or to acquire, sell, or lease any land or building from any Business Entity, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, to any State, county, municipal political party committee, or to any legislative leadership committee during certain specified time periods;
- B. Prior to awarding any Contract or agreement to any Business Entity, the Business Entity proposed as the intended Contractor of the Contract shall submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form, certifying that no contributions prohibited by either Chapter 51 or Executive Order No. 117 have been made by the Business Entity and reporting all qualifying contributions made by the Business Entity or any person or entity whose contributions are attributable to the Business Entity. The required form and instructions, available for review on the Division's website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>, shall be provided to the intended Contractor for completion and submission to the Division with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended Contractor shall submit to the Division, the Certification and Disclosure(s) within five (5) business days of the State's request. The Certification and Disclosure(s) may be executed electronically by typing the name of the authorized signatory in the "Signature" block as an alternative to downloading, physically signing the form, scanning the form, and uploading the form. Failure to submit the required forms will preclude award of a Contract under this RFQ, as well as future Contract opportunities; and
- C. Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the Contract, and any extension(s) thereof, at the time any such contribution is made. The required form and instructions, available for review on the Division's website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>, shall be provided to the intended Contractor with the Notice of Intent to Award.

The Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form is located on the [Division's website](#).

#### **7.1.2 SOURCE DISCLOSURE REQUIREMENTS**

Pursuant to 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. Also refer to Section 3.6 Service Performance within U.S. of the SSTC.

Pursuant to the statutory requirements, the intended Contractor of a Contract primarily for services with the State of New Jersey must disclose the location by country where services under the Contract, including subcontracted services, will be performed. The Source Disclosure Form accompanies the subject RFQ. FAILURE TO SUBMIT SOURCING INFORMATION WHEN

REQUESTED BY THE STATE SHALL PRECLUDE AWARD OF A CONTRACT TO THE INTENDED BIDDER.

If any of the services cannot be performed within the United States, the Bidder shall state with specificity the reasons why the services cannot be so performed. The Director shall determine whether sufficient justification has been provided by the Bidder to form the basis of his or her certification that the services cannot be performed in the United States and whether to seek the approval of the Treasurer.

The Source Disclosure Form is located on the [Division's website](#).

#### **7.1.2.1 BREACH OF CONTRACT**

A SHIFT TO PROVISION 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, or any extension thereof, the Contractor or Subcontractor, who had upon Contract award declared that services would be performed in the United States, 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. Such Contract shall be subject to termination for cause pursuant to Section 5.7b.1 of the SSTC, unless such shift in performance was previously approved by the Director and the Treasurer.

#### **7.1.3 AFFIRMATIVE ACTION**

The intended Contractor must submit a copy of a New Jersey Certificate of Employee Information Report, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Intended Contractors not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at [https://www.state.nj.us/treasury/contract\\_compliance/](https://www.state.nj.us/treasury/contract_compliance/).

#### **7.1.4 BUSINESS REGISTRATION**

In accordance with N.J.S.A. 52:32-44(b), a Bidder and its named Subcontractors must have a valid Business Registration Certificate ("BRC") issued by the Department of the Treasury, Division of Revenue and Enterprise Services prior to the award of a Contract. See Section 4.1.2.1 of this RFQ for further information.

#### **7.2 FINAL CONTRACT AWARD**

Contract award[s] will be made with reasonable promptness by written notice to that responsible Bidder(s), whose Quote(s) is(are) most advantageous to the State, price, and other factors considered. Any or all Quotes may be rejected when the State Treasurer or the Director determines that it is in the public interest to do so.

To award this Contract, the State will perform the evaluation of all Quotes collectively according to the evaluation criteria specified in this solicitation. The Bidder which submits the Quote determined to be most advantageous to the State will be awarded one of the Programs that the Bidder is competing for. The State will primarily consider the Bidder's ranked preference, if specified, in making the Program determination. The remaining Program will be awarded to the Bidder which submits the Quote deemed next most advantageous to the State that is eligible for the remaining Program (i.e., the Bidder has indicated that it is competing for this remaining Program).

The State reserves the right to award fewer than two (2) awards in the event that the Quote(s) are

not advantageous to the State, including if Technical Proposal(s) are not deemed satisfactory to effectively complete the Scope of Work.

The State reserves the right to prioritize one of the Programs in the event that only one (1) award is made. The State intends to award each Program to different Bidders, but reserves the right (without obligation) to award both Programs to the same Bidder in the event that the State has not received sufficient Quote(s) advantageous to the State. The State reserves the right to consider elements of Quote(s) that are unique to each Program when determining which Quote(s) are most advantageous to the State and deciding Program assignment.

### **7.3 INSURANCE CERTIFICATES**

The Contractor shall provide the State with current certificates of insurance for all coverages required by the terms of this Contract. See Section 4.2 of the SSTC accompanying this RFQ.

## **8.0 CONTRACT ADMINISTRATION**

### **8.1 STATE CONTRACT MANAGER**

The State Contract Manager (SCM) is the State employee responsible for the overall management and administration of the Contract.

The SCM for this project will be identified at the time of execution of Contract. At that time, the Contractor will be provided with the State Contract Manager's name, department, division, agency, address, telephone number, fax phone number, and e-mail address.

#### **8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES**

For an agency Contract where only one (1) State office uses the Contract, the SCM will be responsible for engaging the Contractor, assuring that Purchase Orders are issued to the Contractor, directing the Contractor to perform the work of the Contract, approving the deliverables and approving payment vouchers. The SCM is the person who the Contractor will contact **after the Contract is executed** for answers to any questions and concerns about any aspect of the Contract. The SCM is responsible for coordinating the use of the Contract and resolving minor disputes between the Contractor and any component part of the SCM's Department. The SCM is also responsible for notifying OIT and other appropriate parties of security and privacy violations or incidents. The SCM cannot modify the Contract, direct or approve a Change Order.

If the Contract has multiple users, the SCM shall be the central coordinator of the use of the Contract for all Using Agencies, while other State employees engage and pay the Contractor. All persons and agencies using the Contract must notify and coordinate the use of the Contract with the SCM.

#### **8.1.2 COORDINATION WITH THE STATE CONTRACT MANAGER**

Any Contract user that is unable to resolve disputes with a Contractor shall refer those disputes to the SCM for resolution. Any questions related to performance of the work of the Contract by Contract users shall be directed to the SCM. The Contractor may contact the SCM if the Contractor cannot resolve a dispute with Contract users.

## **9.0 STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS**

(Rev: 12/13/2021)

### **1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT**

The following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. The State's terms and conditions shall prevail over any conflicts set forth in a Contractor's Quote or Proposal.

#### **1.1 CONTRACT TERMS CROSSWALK**

<b>NJSTART Term</b>	<b>Equivalent Statutory, Regulatory and/or Legacy Term</b>
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 Contractor 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 Contractor 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 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 Quote. A Contractor's failure to submit the completed and signed form prior to or with its Quote will result in the Contractor being ineligible for a Contract award, 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 Quote submission deadline for this procurement. 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 Quote.

In the alternative, 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.

### **2.3 DISCLOSURE OF INVESTMENT ACTIVITIES 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. A Contractor's failure to submit the completed and signed form will preclude the award of a Contract to said Contractor.

### **2.4 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 Constructions

Contracts (Exhibit B and Exhibit C - Executive Order 151 Requirements) 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.

### **2.5 AFFIRMATIVE ACTION**

In accordance with N.J.A.C. 17:27-1.1, prior to award, the Contractor and subcontractor must submit a copy of a New Jersey Certificate of Employee Information Report, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Contractors or subcontractors not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at [https://www.state.nj.us/treasury/contract\\_compliance/](https://www.state.nj.us/treasury/contract_compliance/).

### **2.6 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.

### **2.7 MACBRIDE PRINCIPLES**

The Contractor 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.

### **2.8 PAY TO PLAY PROHIBITIONS**

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), The State shall not enter into a Contract to procure services or any material, supplies or equipment, or to acquire, sell, or lease any land or building from any Business Entity, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, to any State, county, municipal political party committee, or to any legislative leadership committee during certain specified time periods. 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.

Prior to awarding any Contract or agreement to any Business Entity, the Business Entity proposed as the intended Contractor of the Contract shall submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form, certifying that no contributions prohibited by either Chapter 51 or Executive Order No. 117 have been made by the Business Entity and reporting all qualifying contributions made by the Business Entity or any person or entity whose contributions are attributable to the Business Entity. The required form and instructions, available for review on the Division's website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>, shall be provided to the intended Contractor for completion and submission to the Division with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended Contractor shall submit to the Division, in care of the Division Procurement Specialist, the Certification and Disclosure(s) within five (5) business days of the State's request. The Certification and Disclosure(s) may be executed electronically by typing the name of the authorized signatory in the "Signature" block as an alternative to downloading, physically signing the form, scanning the form, and uploading the form. Failure to submit the required forms will preclude award of a Contract under this Bid Solicitation, as well as future Contract opportunities; and Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the Contract, and any extension(s) thereof, at the time any such contribution is made. The required form and instructions, available for review on the Division's website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>, shall be provided to the intended Contractor with the Notice of Intent to Award.

## **2.9 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/>.

## **2.10 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).

- A. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any 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;
- B. 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;
- C. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any 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;

- D. 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;
- E. 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
- F. 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.

### **2.11 NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION**

The Treasurer has established a business ethics guide to be followed by a Contractor in dealings with the State. The guide can be found at: <https://www.nj.gov/treasury/purchase/pdf/BusinessEthicsGuide.pdf>.

### **2.12 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.

### **2.13 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.

### **2.14 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.

### **2.15 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.

### **2.16 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS**



The Contractor should submit the Disclosure of Investigations and Other Actions Form which provides a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years, including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. If a Contractor does not submit the form with the Quote, the Contractor must comply within seven (7) business days of the State's request or the State may deem the Quote non-responsive.

### **3.0 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 New Jersey Uniform Construction Code and the latest National Electrical Code 70®, B.O.C.A. Basic Building code, Occupational Safety and Health Administration and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.

#### **3.2 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 Contractor 's signature on [the proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [the 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 Contractor'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 [the proposal] shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

#### **3.3 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.

#### **3.4 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,
- B. 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.

### **3.5 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.

### **3.6 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.

### **3.7 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.

### **3.8 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, whenever available, and the contractor shall be required to so certify.

### **3.9 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.

### **3.10 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>.

### **3.11 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.

### **3.12 EXECUTIVE ORDER NO. 271 (MURPHY)**

Pursuant to [Governor Murphy’s Executive Order No. 271](#) (EO 271) which was signed and went into effect on October 20, 2021, a covered contractor, must certify that it has a policy in place:

- 1) that requires all covered workers to provide adequate proof, in accordance with EO 271, to the covered contractor that the covered worker has been fully vaccinated; or
- 2) that requires that unvaccinated covered workers submit to COVID-19 screening testing at minimum one to two times weekly until such time as the covered worker is fully vaccinated; and
- 3) that the covered contractor has a policy for tracking COVID-19 screening test results as required by EO 271 and must report the results to local public health departments.

The requirements of EO 271 apply to all covered contractors and subcontractors, at any tier, providing services, construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, or a leasehold interest in real property through which covered workers have access to State property.

These requirements shall automatically expire when EO 271 is rescinded.

## **4.0 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 uncopied 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 cancelation shall be emailed to the State at: [ccau.certificate@treas.nj.gov](mailto: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.

This \$1,000,000 amount may be raised when deemed necessary by the Director;

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 B. above may be amended for certain commodities when deemed in the best interests of the State by the Director.

**5.0 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 RESERVED**

### **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.

Any changes or modifications to the terms of this Contract shall be valid only when they have been reduced to writing and signed by the Contractor and the Director.

### **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 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:
- B. 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;
- C. 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.

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

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. Nothing contained in any of the contract documents, shall be construed as creating any contractual relationship between any subcontractor and the State.

### **5.9 RESERVED**

### **5.10 MERGERS, ACQUISITIONS AND ASSIGNMENTS**

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.

The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of 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**

Pursuant to N.J.A.C. 17:44-2.2, the contractor shall maintain all documentation related to products, transactions or services under this contract for a period of five (5) years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

#### **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.

#### **5.17 NEWS RELEASES**

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.

#### **5.18 ADVERTISING**

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.

#### **5.19 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.

#### **5.20 LICENSES AND PERMITS**

The Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this Contract. Notwithstanding the requirements of the Bid Solicitation, the Contractor shall supply the State Contract Manager with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to this Contract award. All costs associated with any such licenses, permits, and authorizations must be considered by the Contractor in its Quote.

#### **5.21 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.
- 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 SSTC, 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.

#### **5.22 ACCESSIBILITY COMPLIANCE**

The Contractor acknowledges that the State may be required to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. The Contractor agrees that any information that it provides to the State in the form of a Voluntary Product Accessibility Template (VPAT) about the accessibility of the Software is accurate to a commercially reasonable standard and the Contractor agrees to provide the State with technical information available to support such VPAT documentation in the event that the State relied on any of Contractor's VPAT information to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. In addition, Contractor shall defend any claims against the State that the Software does not meet the accessibility standards set forth in the VPAT provided by Provider in order to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794 and will indemnify the State with regard to any claim made against the State with regard to any judgment or settlement resulting from those claims to the extent the Provider's Software provided under this Contract was not accessible in the same manner as or to the degree set forth in the Contractor's statements or information about accessibility as set forth in the then-current version of an applicable VPAT.

#### **5.23 CONFIDENTIALITY**

- A. The obligations of the State under this provision are subject to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., the New Jersey common law right to know, and any other lawful document request or subpoena;
- B. By virtue of this Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose to each other only information that is required for the performance of their obligations under this Contract. 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 Vendor Intellectual Property ("Contractor Confidential Information"). Notwithstanding the previous sentence, the terms and pricing of this Contract are subject to disclosure under OPRA, the 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 contained in documents 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 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 State agrees to hold Contractor's Confidential Information in confidence, using at least the same degree of care used to protect its own Confidential Information;
- F. In the event that the State receives a request for Contractor Confidential Information related to this Contract pursuant to a court order, subpoena, or other operation of law, the State agrees, if permitted by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such order of law. Contractor shall take any action it deems appropriate to protect its documents and/or information;
- G. In addition, in the event Contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, Contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such order of law. The State shall take any action it deems appropriate to protect its documents and/or information; and
- H. Notwithstanding the requirements of nondisclosure described in this Section, either party may release the other party's Confidential Information:
  - (i) if directed to do so by a court or arbitrator of competent jurisdiction; or
  - (ii) pursuant to a lawfully issued subpoena or other lawful document request:
    - a) in the case of the State, if the State determines the documents or information are subject to disclosure and Contractor does not exercise its rights as described in Section 5.23(F), or if Contractor is unsuccessful in defending its rights as described in Section 5.23(F); or
    - b) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the State does not exercise its rights described in Section 5.23(G), or if the State is unsuccessful in defending its rights as described in Section 5.23(G).

## **6.0 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 and must be in strict accordance with the firm, fixed prices submitted for each task or subtask. When applicable, invoices should reference the appropriate task or subtask or price line number from the contractor's 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](http://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 Office of Diversity and Inclusion.
- E. The Contractor shall have sole responsibility for all payments due any Subcontractor

#### **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.

#### **7.0 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

7.9.1.1 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.

7.9.1.2 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.

7.9.1.3 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 - GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

### 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.

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](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 - CONSTRUCTION CONTRACTS

### 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.

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:
- (5) 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;
  - (6) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
  - (7) 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;
  - (8) 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;
  - (9) 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;
  - (10) 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.

## EXHIBIT C - 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:

4. 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/>;
5. 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;
6. 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
7. 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.
8. 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.