

REQUEST FOR PROPOSAL
TO PROVIDE
DOCUMENT IMAGE PROCESSING SERVICES TO THE
NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY
(“NJHCFFA”)

INTRODUCTION

The New Jersey Health Care Facilities Financing Authority (the “Authority”) is the primary issuer of municipal bonds for New Jersey’s health care organizations. The Authority has issued more than \$24.5 billion in bonds and notes on behalf of over 180 health care organizations throughout the State since its creation in 1972. The majority of the Authority’s financings have been completed on behalf of acute care hospitals and health systems. However, the Authority, under N.J.S.A. 26:2I-1 *et seq.* (the “Act”), may provide financing for all health care organizations in New Jersey. Under its enabling legislation the Authority's primary purpose is to ensure that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State and to provide assistance in the structuring of the health care system of the State. To accomplish these purposes, the Authority is authorized to issue bonds, notes or other evidence of indebtedness to the investing public and loan the proceeds to not-for-profit and for-profit health care organizations located in the State, as well as, to collect information and data and prepare reports and recommendations to the Department of Health and Department of Human Services. The interest on most Authority bonds is exempt from federal taxation. The interest on all Authority bonds is exempt from New Jersey state income taxes.

As defined in the Act, a health care organization is one which is located in New Jersey which is authorized or permitted by law, whether directly or indirectly through a holding corporation, partnership or other entity, to provide health care-related services, including, but not limited to, hospital, outpatient, public health, continuing care retirement communities, home health care, residential care, assisted living, hospice, health maintenance organization, blood bank, alcohol or drug abuse, halfway house, diagnostic treatment, rehabilitation, extended care, skilled nursing care, nursing care, intermediate care, tuberculosis care, chronic disease care, maternity, mental health, boarding or sheltered care or day care, or services provided by a physician in his office, or any other service offered in connection with health care services or by an entity affiliated with a health care organization or an integrated delivery system. An integrated delivery system means a group of legally affiliated health care organizations.

For further information regarding the Authority, refer to the Authority’s web site www.njhcffa.com.

PURPOSE AND INTENT

The purpose of this Request for Proposal (RFP) is to solicit proposals from vendors qualified to provide document imaging processing services to NJHCFFA in accordance with N.J.A.C. 15:3 Subchapter 4: *Image Processing of Public Records* and N.J.A.C. 15:3 Subchapter 5: *Certification of Image Processing Systems*.

SMALL BUSINESS SET-ASIDE CONTRACT

This RFP and the resulting contract are designated as a Set-Aside Contract for Categories 1, 2 or 3 for Small Businesses. As such, eligibility to bid is limited to bidders that meet statutory and regulatory requirements and have had their eligibility determined by the Division of Revenue & Enterprises Services. The definitions of each Small Business set-aside category can be found at N.J.A.C. 17:13-1.2 or N.J.A.C. 12A:10-1.2 or by accessing the following websites: <http://www.state.nj.us/treasury/revenue/> or <http://www.nj.gov/njbusiness/contracting/sbsa/index.shtml>. To register as a small business, click on the link at the bottom of the website or go to <https://www.njportal.com/DOR/SBERegistry/>

Any additional information concerning registration may be obtained by contacting the Division of Revenue & Enterprise Services, Small Business Registration and MWBE Certification Services Unit at 609-292-2146.

“Small Business” means a business that 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 bidder must be registered as a qualifying small business with the Division of Revenue by the date the contract is awarded. Evidence that the bidder has registered with the Division of Revenue as a small business should be submitted with the bid proposal.

MINIMUM REQUIREMENTS

1. Vendor must be familiar with all aspects of the State of New Jersey, Division of Revenue and Enterprise Services, Records Management Services (DORES) specifications for the imaging and conversion of public records and able to assist NJHCFFA in its Image System evaluation and certification. The vendor will be responsible for remaining in compliance with DORES requirements at all times.
2. If modifications are required by DORES for the certification of NJHCFFA’s electronic files, it will be the Vendor’s responsibility to make those modifications at no additional charge to NJHCFFA.
3. The Imaging system shall not be capable of altering a public record as scanned except for standard computer-enhancement routines used to improve the legibility of scanned

documents. Editing of recorded text or characters by an image processing system used for keeping public records shall not be permitted.

4. Where computer-enhancement is necessary, such computer-enhancement processes and procedures shall be thoroughly documented for proof of authenticity of the records maintained on the imaging system.
5. The vendor's system should conform to a standard architectural framework for open systems standards with customization at Application Program Interface (API) level. (See N.J.A.C. 15:3-4.3(g) & (h)).
6. All documents scanned at 300 dots per inch (dpi) bitonal, which is above the DORES minimum requirement.
7. Scanned images must be converted to TIFF file format with CCITT Group III and/or IV compression, Portable Network Format (PNG) for grayscale or color images and Open Document Architecture/Open Document Interchange Format (ODA/ODIF) for text. (See N.J.A.C. 15:3-4.5(a)).
8. Vendor will perform a visual quality control evaluation for each and every scanned image before permanently storing onto CD.
9. The scanning density for documents shall be selected and validated using tests on samples of the actual documents to be scanned before scanning is begun, and shall be tested periodically thereafter according to procedures established under N.J.A.C. 15:3-4.7(e). Testing and review procedures shall include the comparison of selected recorded images against the original documents after the documents are scanned and recorded, to ensure that records are adequately reproduced and recorded.
10. The image processing system shall include an indexing system and procedures for adequate indexing that permit rapid identification and retrieval for viewing or reproducing of all related records maintained in the system. (See N.J.A.C. 15:3-4.7).
11. Vendor shall create and maintain logs of all system and file access and activities (see N.J.A.C. 15:3-4.8(f)1) and provide a copy to NJHCFFA upon their request.
12. Vendor must be able to turnaround the job within a month's time.
13. Vendor must send itemized invoices.

This list is not intended to be all inclusive. Vendor should familiarize themselves with New Jersey Administrative Code, Title 15. State, Chapter 3: Records Retention, Subchapter 4: Image Processing of Public Records and Subchapter 5: Certification of Image Processing Systems.

PROJECT SPECIFICATIONS

1. Trustee Bank Statements (approximately 35,000 pages)
 - A separate CD for each numbered box
 - A document index for all facilities included on the CD
 - Each facility scanned in separate PDF file by year
 - Files to be named as provided
 - Each CD will have one Adobe Search Index for all files on CD
2. All documents to be scanned at 300 dpi bitonal.
3. Images provided in TIFF, Group III and Group IV compression.
4. Document prep performed by vendor which includes removing staples, paper clips, etc.
5. One complete set of CDs provided to NJHCFFA, which includes a TIFF CD as required by DORES. NJHCFFA has the right to make backup copies as needed.
6. One complete set of CDs stored off site at Vendor's location.
7. Vendor to pick up work files at NJHCFFA's location.
8. Destruction of work files to be handled by Vendor at the direction of NJHCFFA.
9. NJHCFFA shall not be bound to any minimum or maximum.

TERM OF CONTRACT

The contract shall be in force for the period of three (3) years. The Authority, at its sole option, may extend the term of the agreement for up to two (2) additional one-year periods. In the event the agreement is extended, all of the original terms will remain in effect for the extended period. The vendor will have the option of accepting or declining any such extension.

REJECTIONS OF PROPOSALS

Proposals not received by the hour and response date listed below will be considered nonconforming and will be rejected. The Authority also reserves the right to reject any or all proposals received, if deemed to be in the best interest of the Authority.

COST LIABILITY

The Authority assumes no responsibility and no liability for costs incurred by any firms prior to the issuance of an agreement or contract.

ACCEPTANCE OF PROPOSAL CONTENT

The contents of the proposal from the successful bidder will survive and be incorporated into any contract awarded as a result of this RFP superseding any inconsistent terms which might be contained in any form contract which might be utilized.

ORAL INTERVIEWS

Firms that submit a proposal in response to the RFP may be required to participate in an oral interview. This will provide an opportunity for the firm to clarify or elaborate on their proposal. Original submissions cannot be supplemented, changed or corrected in any way. No comments regarding other bidders or proposals are permitted, and bidders may not attend interviews of their competitors. The Authority's Evaluation Committee will schedule the time and location of these interviews.

REVISIONS TO THE REQUEST FOR PROPOSAL

In the event it becomes necessary for the Authority to revise any part of the RFP, revisions will be posted on the Authority's website at www.njhcffa.com. Also, if revisions are found to be necessary after conducting the oral presentations, such revisions will be provided on the Authority's website. It is your responsibility to check the Authority's website for any updates.

SUBMISSION OF PROPOSALS

Responses to the questions should be succinct and discussion should be limited to the question asked. Failure to respond to all requested information may result in disqualification.

Responses must be delivered by email only. Responses should be submitted in Adobe (PDF) format and sent to the Authority (ckline@njhcffa.com and apatel@njhcffa.com).

Proposals must be received by the Authority no later than 2:00pm EDT, on August 7, 2020 as described below. Proposals may not be delivered by mail or by fax. Proposals received after the time and date will be rejected and will not be considered.

No proposal shall be withdrawn for a period of sixty (60) days subsequent to the opening of proposals without the consent of the Authority.

CONTRACTOR RESPONSIBILITIES

The selected firm will be required to assume complete responsibility for all work as required by the RFP. The Authority will consider the selected firm to be the sole point of contact with regard to contractual matters.

ASSIGNMENT

The selected firm is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement or its rights, title or interest therein or its power to execute such agreement to any other person, company or corporation without the express written consent of the Authority.

INDEMNITY

The Contractor will indemnify the Authority and the State of New Jersey and the Members, officers and employees of the Authority and State against any claim for performance of its services contemplated by this RFP. Further, under no circumstances will the Authority provide indemnification and any proposal which states indemnification by the Authority as a term will not be considered.

SUBCONTRACTING/OUTSOURCING

Subcontracting or outsourcing of any of the proposed services is strictly forbidden. The bidder must make an affirmative statement that no subcontracting or outsourcing of work will occur and the bidder has all the necessary equipment and personnel to complete the work proposed.

PRICE CHANGES

All prices shall be firm and not subject to increase during the three (3) year term of the contract and the two (2) additional one-year periods should the contract extension be granted.

PUBLIC RECORD

All material submitted in response to this RFP will become a matter of public record and will not be returned. Respondents are responsible for all costs incurred in the preparation of a proposal and will not be reimbursed for said costs by the Authority.

TERMINATION OF CONTRACT

The Authority reserves the right to terminate, without reason, any contract entered into as a result of this RFP, providing written notice has been given to the firm at least thirty (30) days prior to such proposed termination date.

INFORMATION TO BE CONTAINED IN PROPOSAL

1. Name, address, telephone number, email, and fax number of your firm and the primary contact.
2. A brief description of your firm and how long it has been in business.
3. Indicate whether your firm is principally located in New Jersey.

4. Whether the firm is woman owned or minority owned.
5. Whether the firm is familiar with New Jersey State laws regarding the imaging of public records and the associated standards and certification process promulgated and coordinated by New Jersey Division of Revenue and Enterprise Services – Records Management Services.
6. Whether the firm provides document image processing services to other State Departments, Agencies, Authorities or Municipal/Local Agencies? If so, what type of work is performed?
7. Whether the firm has assisted any other State Department, Agency, Authority or municipality in the certification of a Public Records Image Processing System. If so, what type of assistance did the firm provide?
8. Whether the firm meets the basic system requirements as outlined in N.J.A.C 15.3-4 et seq.
9. Proposed fee schedule (Schedule “A”) by project description (i.e. trustee statements, etc.) as outlined in the Project Specifications on Page 4.
10. Provide a description and sample of your firms approach to laying out each of the projects outlined above.
11. Identify any existing or potential conflicts of interest, as well as your representation of parties or other relationships that might be considered a conflict of interest, that may affect or involve this assignment, the Authority or the State of New Jersey. Any such disclosure shall be supplemented as necessary on an ongoing basis.
12. Provide a description of any ongoing investigations, or litigation matters involving your firm, its directors, officers and principals and any individuals employed by the firm.
13. Provide at least three references from firms you are currently working with, preferably New Jersey state entities.

COMPLIANCE FORMS REQUIRED TO BE SUBMITTED WITH PROPOSAL

1. Ownership Disclosure Form. Pursuant to N.J.S.A. 52:25-24.2, in the event the Bidder is a corporation, partnership or sole proprietorship, the Bidder must complete and sign an Ownership Disclosure Form, which can be found on the Division of Purchase and Property’s website at <https://www.state.nj.us/treasury/purchase/forms.shtml>. A current completed Ownership Disclosure Form must be received prior to or accompany the

submitted proposal. A Bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a contract to said Bidder. If the Proposer is a limited partnership, each Ownership Disclosure Form must be signed by a general partner.

2. 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 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 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's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive. The required Disclosure of Investment Activities in Iran form (Full Version PDF) can also be found on the State's Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.shtml>.

COMPLIANCE FORMS THAT SHOULD BE SUBMITTED WITH PROPOSAL

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

Any Bidder, inclusive of any named subbidders, who does not have a valid business registration at the time of the proposal submission opening or whose BRC was revoked prior to the submission of the proposal should proceed immediately to register its business or seek re-instatement of a revoked BRC. Bidders are cautioned that it may require a significant amount of time to secure the re-instatement 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 subbidders 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 Authority as a responsive and responsible bidder, inclusive of any named subbidders, but that was not business registered at the time of submission of its proposal must be so registered and in possession of a valid BRC by a deadline to be specified in writing by the Authority. A Bidder who fails to comply with this requirement by the deadline specified by the Authority will be deemed ineligible for contract award. Under any circumstance, the Authority 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 subbidders 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.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L. 2001, c.134 (N.J.S.A. 52:32-44 et al.) or subsection e. or f. of section 92 of P.L. 1977, c. 110 (N.J.S.A. 5:12-92), or that provides false information of business registration under the requirements of either those sections, shall be liable for a penalty of \$25 for each day off violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency or under a casino service industry enterprise contract.

2. Source Disclosure Form. Pursuant to N.J.S.A. 52:34-13.2, prior to an award of any contract primarily for the performance of services, the Bidder is required to submit a completed Source Disclosure Form. The required Source Disclosure Form (Full Version PDF) can be found on the State's Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.shtml>.
3. Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form. The Authority shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, 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.

Prior to award of the contract to the any Bidder, the Business Entity proposed as the intended Bidder 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 of Purchase and Property's website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf> shall be provided to the intended Contactor for completion and submission to the Authority. The intended Bidder shall submit to the Authority, in care of the Division Procurement the Certification and Disclosure(s) within five (5) business days of the Authority's request. Failure to submit the required forms will preclude award of a contract under this RFP. Further, the Bidder 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.

METHODOLGY TO BE USED IN ANALYZING BID PROPOSALS

A bidder will be qualified if it meets all of the requirements of this Request for Proposal. Once qualified, the lowest bid will be determined by the total cost figure arrived at on Schedule "B" (Sample Billing).

QUESTIONS

All questions regarding this proposal should be directed to Cindy Kline, Office Manager/Assistant to the Executive Director, at 609-789-5622 or by e-mail to ckline@njhcffa.com and Alpa Patel, Controller, at 609-789-5626 or by email to apatel@njhcffa.com. All inquiries must be received in writing via email by 3:00pm (EDT) on July 22, 2020.

All questions and answers will be posted on the Authority's website at www.njhcffa.com. It is your responsibility to check the Authority's website for any updates.

RESERVED RIGHTS

NJHCFFA reserves the right to modify this RFP by notification to all recipients of the changes. NJHCFFA also reserves the right to waive any irregularities or informalities in the proposals submitted or in the submission process.

NJHCFFA reserves the right to reject any and all proposals.

SCHEDULE A

New Jersey Health Care Facilities Financing Authority

PRICING PROPOSAL

<u>DESCRIPTION</u>	<u>PER PAGE/ UNIT COST</u>
 TRUSTEE STATEMENTS	
Convert 8.5 x 11 B&W Simplex Images to PDF Format	_____
 OTHER CHARGES	
Charge per TIFF CD provided to NJHCFFA - as required by DORES	_____
Charge per Non-TIFF CD provided to NJHCFFA	_____
Charge per TIFF/Non-TIFF CD stored off site at vendor location	_____
Charge per pick up at NJHCFFA offices (approximately 4 pick ups)	_____
Charge per lb. for shredding documents (approximately 900 lbs.)	_____

SCHEDULE B

New Jersey Health Care Facilities Financing Authority

SAMPLE BILLING

Bidders are required to complete this Sample Billing using the information provided in Schedule

A. The quantities provided are based on approximate totals from previous years:

<u>DESCRIPTION</u>	<u>PER PAGE/ QUANTITY</u>	<u>UNIT COST</u>	<u>PRICE</u>
TRUSTEE STATEMENTS			
Convert 8.5 x 11 B&W Simplex Images to PDF Format	35,000 pages	_____	_____
OTHER CHARGES			
Charge per TIFF CD provided to NJHCFFA - as required by DORES	8 CDs	_____	_____
Charge per Non-TIFF CD provided to NJHCFFA	8 CDs	_____	_____
Charge per TIFF/Non-TIFF CD stored off site at vendor location	16 CDs	_____	_____
Charge per pick up at NJHCFFA offices	4 pickups	_____	_____
Charge per lb. for shredding documents	900 lbs.	_____	_____
Total Cost			_____

STANDARD TERMS AND CONDITIONS

By submitting a proposal in response to the Request for Proposal (“RFP”) for services, the bidder certifies that it understands and agrees that all of the following terms, conditions and definitions (collectively, “Standard Terms and Conditions”) are part of any contract(s) awarded as a result of the RFP unless specifically and expressly modified by reference in the RFP or in a writing executed by an Authorized Officer of the Authority.

- I. **Definitions:** As used in these Standard Terms and Conditions, the following terms shall have the definitions set forth in this paragraph. These definitions shall also apply to the entire contract unless otherwise defined therein.

“Authority” means the New Jersey Health Care Facilities Financing Authority. The Authority is the intended beneficiary of the Contract.

“Authorized Officer” means (i) with respect to the Authority, the Chairman, Vice Chairman, Secretary, Treasurer, Assistant Treasurer, Executive Director or Deputy Executive Director of the Authority or such other Person who is authorized by the by-laws or any resolution of the Authority to act in such capacity.

“Bidder” means any person or entity submitting a proposal in response to the RFP to provide the Authority services specified in the RFP.

“Contract” means a mutually binding legal relationship obligating the Bidder to furnish services and the Authority to pay for them. The Contract consists of these Standard Terms and Conditions, the RFP, the proposal submitted by the Bidder, the subsequent written document memorializing the agreement (if any), any amendments or modifications and any attachments, addenda or other supporting documents of the foregoing.

The Contract and/or its terms cannot be modified or amended by conduct or by course of dealings. Thus, the “contract” does not include the aforementioned actions and such actions, or reliance thereon, afford no rights whatsoever to any party to the Contract. The Contract can only be modified or amended by a writing signed by an authorized officer of the Authority and of the Bidder.

“Bidder” means the person or entity which submits a proposal in response to the RFP and to whom (or which) the Contract is awarded.

“Request for Proposals” means a request for offers or proposals to provide the sought after services as specified herein.

“Shall” denotes a mandatory condition.

“State” means the State of New Jersey.

II. Applicability and incorporation of standard terms and conditions: These Standard Terms and Conditions are automatically incorporated into the Contract unless the Bidder is specifically instructed otherwise in the RFP or in any other amendment thereto. These Standard Terms and Conditions are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with the same unless the RFP specifically indicates otherwise.

III. Bidder’s Status and Responsibilities:

A. Bidder’s Status: The Bidder’s status shall be that of an independent bidder and not that of an employee of the State or the Authority. The Bidder shall not be an employee of an acute care hospital in New Jersey.

B. Bidder’s Certification as to its Representatives: The Bidder certifies that all representations made by it in its proposal or other related and/or supporting materials are true, subject to penalty of law. Further, the Bidder agrees that the violation of any statute or regulation related to public contracts and/or its misrepresentation or concealment of any material fact in the proposal, award or performance of the Contract may be cause for termination of the contract award. In addition, the Bidder’s violation of any statute or regulation relating to public contracts and/or its misrepresentation or concealment of any material fact in the proposal, award or performance of the Contract shall serve as a legal bar to the Bidder’s enforcement of its rights under the Contract including any and all claims at law or equity.

C. Bidder’s Performance: The Bidder agrees to perform in a good, skillful and timely manner all services set forth in the Contract. The Bidder has an affirmative obligation to promptly notify, in writing, the Authority of any changes in circumstances which might affect the Bidder’s ability to be awarded or to perform its obligations under the Contract.

D. Responsibilities of Bidder:

1. The Bidder is responsible for the quality, technical accuracy and timely completion and delivery of all services to be furnished by the Bidder under the Contract.
 2. The Bidder shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its services furnished under the Contract. The acceptance or payment for any of the services rendered under the Contract shall not be construed as a waiver by the Authority of any rights under the Contract or of any cause of action arising out of the Bidder's performance of the Contract.
 3. The acceptance of, approval of or payment for any of the services performed by the Bidder under the Contract shall not constitute a release or waiver of any claim the Authority has or may have for latent defects or errors or other breaches or warranty or negligence.
 4. The Bidder's obligations under this clause are in addition to the Bidder's other expressed or implied assurances under the Contract or law and in no way diminish any other rights that the Authority may have against the Bidder.
- E. **Investigation:** By submitting a proposal in response to the RFP, the bidder certifies and warrants that it has satisfied itself, from its own investigation, of the conditions to be met and that it fully understands its obligations and if awarded the Contract agrees that it will not make any claim for, or have right to, cancellation or relief from the Contract without penalty because of its misunderstanding or lack of information.
- F. **Cost Liability:** The Authority assumes no responsibility and no liability for costs incurred by the bidder prior to the award of the Contract and thereafter only as specifically provided in the Contract.
- G. **Insurance** - The Bidder 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. The Bidder shall provide the Authority with current certificates of insurance for all coverages and renewals thereof. If the Bidder receives a notice of cancellation, the Bidder will promptly replace such coverage so that no lapse in insurance occurs. Certificates of renewals shall be provided within five (5) business days of the replacement or renewal of the insurance. The Bidder shall not begin to provide services or goods to the Authority 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 New Jersey Health Care Facilities Financing Authority, P.O. Box 366, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancellation shall be emailed to the Authority at: INFO@njhcffa.com The insurance to be provided by the Bidder shall be as follows:

1. Occurrence Form Comprehensive 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 Comprehensive General Liability Insurance policy or its equivalent shall name the Authority, 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, unamended, and unendorsed Comprehensive 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.
2. 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 Authority 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 Authority’s behalf.
3. Worker’s Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 - a. \$1,000,000 BODILY INJURY, EACH OCCURRENCE
 - b. \$1,000,000 DISEASE EACH EMPLOYEE
 - c. \$1,000,000 DISEASE AGGREGATE LIMIT

H. Professional Liability Insurance: The Bidder shall carry Errors and Omissions, Professional Liability Insurance, and/or Professional Liability Malpractice Insurance sufficient to protect the Bidder from any liability arising out the professional obligations performed pursuant to the requirements of this RFP. The insurance shall be in the amount of not less than \$1,000,000. If the Bidder 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.

I. Indemnity/Liability to Third Parties: The Bidder's liability to the Authority, its employees and agents in third party suits shall be as follows:

1. The Bidder shall assume all risk of and responsibility for, and agrees to indemnify, defend and save harmless the Authority, its employees and attorneys from and against any and all claims, demands, suits, actions, recoveries, judgments, liabilities and costs and expenses 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.
2. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in the Contract.
3. In the event of a patent and copyright claim or suit, the bidder, at its option, may: (1) procure for the Authority the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

The Bidder further agrees that:

1. any approval by the Authority of the work performed by the Bidder shall not operate to limit the obligations of the Bidder assumed in the Contract;
2. the Authority assumes no obligation to indemnify or save harmless the Bidder, its agents, servants or employees for any claim which may arise out of its performance of the Contract; and
3. the provisions of this indemnification shall in no way limit the Bidder's obligations assumed in the Contract, nor shall they be construed to relieve the Bidder from any liability, nor preclude the Authority from taking any other

actions available to it under any other provisions of the Contract or otherwise at law or equity.

J. Availability of Records: The Authority has the right to request, and the Bidder agrees to furnish free of charge, all information and copies of all records and documents which the Authority requests. The Bidder shall allow the Authority to visit the office(s) of the Bidder periodically, upon reasonable notice, in order to review any document related to the Contract or to otherwise monitor work being performed by the Bidder pursuant to the Contract. The Bidder shall maintain records for products and/or services delivered against the Contract for a period of five (5) years from the date of final payment unless otherwise specified in the RFP. Such records shall be made available to the Authority and the State, including the Comptroller, for audit and review. Any failure by the Bidder to maintain or produce such records or to otherwise cooperate with the Authority may be, at the Authority's discretion, cause for termination of the contract award and/or suspension or debarment of the Bidder from the Authority.

K. Data Confidentiality:

1. The Authority's obligation to maintain the confidentiality of the Bidder's confidential information provided to the Authority under the Contract is conditioned upon and subject to the State's obligations under the New Jersey Public Records Act, N.J.S.A. 47:1A-1 et seq., ("OPRA"), the New Jersey common law right to know, and any other lawful document request or subpoena.
2. By virtue of this Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose only information that is required for the performance of their obligations under this Contract. The Bidder'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 ("Bidder Confidential Information"). Notwithstanding the previous sentence, the Bidder acknowledges the terms and pricing of the Contract are subject to disclosure under OPRA, the New Jersey common law right to know, and any other lawful document request or subpoena.
3. The Authority's Confidential Information shall consist of all information or data contained in documents supplied by the Authority or the State, any information or

data gathered by the Bidder's in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not).

4. 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.
5. The parties agree to hold each other's Confidential Information in confidence, using at least the same degree of care used to protect their own confidential information.
6. In the event that the Authority receives a request for the Bidder's Confidential Information related to the Contract pursuant to a court order, subpoena, lawful document request or other operation of law, the Authority agrees, if permitted by law, to provide the Bidder with as much notice, in writing, as is reasonably practicable and the Authority's intended response to such request. The Bidder shall take any action it deems appropriate to protect its documents and/or information.
7. In addition, in the event that the Bidder receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, the Bidder shall, if permitted by law, provide the Authority with as much notice, in writing, as is reasonably practicable and the Bidder's intended response to such request. The Authority shall take any action it deems appropriate to protect its documents and/or information. Notice to the Authority shall not relieve the Bidder of its obligation to take action to protect such information if the Bidder is aware of a legal reason to do so.
8. Notwithstanding the requirements of nondisclosure described in this Section I, either party may release the other party's Confidential Information (i) if directed to do so by a court or arbitrator of competent jurisdiction, (ii) pursuant to a

lawfully issued subpoena or other lawful document request, (iii) in the case of the Authority, if the Authority determines the documents or information are subject to disclosure and Bidder does not exercise its rights as described in subsection I(6), or if Bidder is unsuccessful in defending its rights as described in subsection I(6), or (iv) in the case if the Bidder determines the documents or information are subject to disclosure and the Authority does not exercise its rights as described in subsection I(7), or if the Authority is unsuccessful in defending its rights as described in subsection I(7).

Any use, sale or offering of this data in any form by the Bidder, his employees, agents, servants or assignees will be considered in violation of the Contract and will cause the information to be reported to the State Attorney General for possible prosecution. Penalties for violations of this provision include, but are not limited to, termination of the contract award and/or legal action without the Authority or the State being liable for damages, costs and/or attorney fees. The Bidder shall be liable for any and all damages arising from its breach of this confidentiality provision.

- L. No Waiver of Warranties or Remedies at Law or Equity:** Nothing in the Contract shall be construed to be a waiver by the Authority or any warranty, expressed or implied, except as specifically and expressly stated in a writing executed by an Authorized Officer of the Authority. Further, nothing in the Contract shall be construed to be a waiver by the Authority of any remedy available to the Authority under the Contract, at law or equity except as specifically and expressly stated in a writing executed by an Authorized Officer of the Authority.
- M. Ownership of Documents:** All documents and records, regardless of form, prepared by the Bidder in fulfillment of the Contract shall be transmitted to the Authority and shall become the property of the Authority.
- N. Publicity:** Publicity and/or public announcements pertaining to the services being furnished pursuant to the Contract shall be approved by an Authorized Officer of the Authority.
- O. Services to be Performed in United States:** Pursuant to P.L. 2005, c. 92, (codified at N.J.S.A. 52:34-13.2) services under the Contract, including any subcontracted services, will be performed in the United States. If, during the term of the contract, the bidder or subbidder has declared that services will be performed in the United

States and proceeds to shift services outside of the United States, the bidder shall be deemed in breach of contract, unless the Authority's contracting officer certifies in writing a finding that the services required by the Authority cannot be provided within the United States and the certification is approved by the Authority's Executive Director..

IV. **Contractual Relationship:**

A. **Assignment:** The Bidder shall not assign or transfer its obligations or rights, under the Contract without the prior written consent of an Authorized Officer of the Authority. Any assignment or transfer of the Bidder's rights under the Contract without the prior written consent of an Authorized Officer of the Authority shall not relieve the Bidder of any duty, obligation or liability assumed by it under the Contract and shall be cause for termination of the contract award.

B. **Mergers, Acquisitions and Dissolution:**

1. **Merger or Acquisition:** If, subsequent to the award of any contract resulting from the RFP, the Bidder shall merge with or be acquired by another firm, an Authorized Officer of the Authority may terminate the contract award upon ten (10) days' notice to the Bidder. In such case, the provisions of VI. C. and D. shall apply. The Bidder shall provide such documents as may be requested by the Authority, which may include but need not be limited to the following: corporate resolutions prepared by the awarded Bidder and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number.
2. **Dissolution:** If, during the term of the Contract, the Bidder's partnership, joint venture or corporation shall dissolve, the Authority must be so notified. Upon receipt of such notice, an Authorized Officer of the Authority may terminate the Contract, in which case the provisions of VI. C. and D. shall apply. If the Bidder is (1) a corporation, it must provide a copy of the corporate resolution to dissolve; (2) a partnership, the written statement of the partnership, general partner, receiver or custodian thereof that the partnership has dissolved; and (3) a joint venture, the written agreement of the principal parties thereto to dissolve the joint venture.

3. **Notice:** The Bidder shall promptly provide notice to the Authority of all information related to its merger, acquisition and/or dissolution and in no event longer than thirty (30) days after any merger, acquisition and/or dissolution.

V. **Mandatory Compliance with Law:** The Bidder's compliance with the legal requirements set forth in this paragraph as well as any other applicable laws, regulations or codes is mandatory and cannot be waived by the Authority. The lists of laws, regulations and/or codes cited herein is not intended to be an exhaustive list and are available for review at the State Library, 155 West State Street, Trenton, New Jersey 08625. https://www.njstatelib.org/research_library/legal_resources/

A. **Corporate Authority:**

1. All New Jersey corporations must obtain a Certificate of Incorporation from the Office of the New Jersey Secretary of State prior to conducting business in the State of New Jersey.
2. If a bidder is a corporation incorporated in a state other than New Jersey, the Bidder must obtain a Certificate of Authority to do business from the Office of the Secretary of State of New Jersey prior to receipt of the final contract award. Within seven (7) days of its receipt of a notice of intent to award, the successful bidder shall provide either a certification or notification of filing with the Secretary of State. Further, in accordance with Public Law 2001, c. 134, which requires all bidders and subbidders provide proof of their registration with the Department of the Treasury, Division of Revenue, the Bidder must submit a copy of their "Business Registration Certificate" to this Authority within 30 days of enactment of this Agreement. Failure to comply may result in the Authority withdrawing the notice of intent to award.
3. If the bidder awarded the Contract is an individual, partnership or joint venture not residing in this State or a partnership organized under the laws of another state, then the bidder shall execute a power of attorney designating the Secretary of State as his true and lawful attorney for the sole purpose of receiving process in any civil action which may arise out of the performance of the Contract. The appointment of the Secretary of State shall be irrevocable and binding upon the

bidder, his heirs, executors, administrators, successors and assigns. Within ten (10) days of receipt of this service, the Secretary of State shall forward same to the bidder at the address designated in the bidder's proposal.

B. Affirmative Action: During the performance of the Contract, the Bidder agrees to comply with the requirements of P.L. 1975, c.127 (N.J.A.C. 17:27), as follows:

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

The Bidder or Subbidder 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 Bidder's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Bidder agrees to comply with the 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 Bidder or Subbidder 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 Bidder or Subbidder 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 Bidder or Subbidder 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 Bidder 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 bidder or subbidder 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 Bidder 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:

1. Letter of Federal Affirmative Action Plan Approval;
2. Certificate of Employee Information Report; or
3. Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The Bidder and its Subbidders 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.

- C. **Additional Affirmative Action Requirements:** N.J.S.A. 10:2-1 requires that during the performance of this contract, the bidder must agree as follows:

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 bidder, nor any person acting on behalf of such Bidder or Subbidder, 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;

No Bidder, Subbidder, 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;

There may be deducted from the amount payable to the bidder 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

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 bidder from the contracting public agency of any prior violation of this section of the contract.

- D. **Americans with Disabilities Act:** The Bidder shall abide by the provisions of the Americans with Disabilities Act, 42 U.S.C., Sec. 12101, et seq.
- E. **New Jersey's Diane B. Allen Equal Pay Act:** Pursuant to N.J.S.A. 34:11-56.14, a Bidder 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>.

F. **Bidders Warranty:** By submitting a proposal in response to the RFP, the bidder warrants and represents 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 Bidder for the purpose of securing business. The penalty for breach or violation of this provision may result in termination of the contract award without the Authority being liable for damages, costs and/or attorney fees or, in the Authority's discretion, a deduction from the Contract price or consideration the full amount or such commission, percentage, brokerage or contingent fee.

G. **Standards Prohibiting Conflicts of Interest:** The following prohibitions shall apply to all contracts made with the Authority.

1. No Bidder 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 officer or employee of the State or the Authority, or special State officer or employee as defined in N.J.S.A. 52:13D-13b and e, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13f 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.
2. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by an officer or employee of the Authority from any State Bidder or Bidder shall be reported in writing forthwith by the vendor to the Attorney General.
3. No Bidder 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 Bidder to any officer or employee of the Authority or special State officer or employee, or having any duties or responsibilities in connection with the purchase,

acquisition or sale of any property or services by or to the Authority or with any person, firm or entity with which he is employed or associated or in which he 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.

4. No Bidder shall influence, or attempt to influence or cause to be influenced any officer or employee of the Authority in his official capacity in any manner which might tend to impair the objectivity or independence or judgment of said officer or employee.
5. No Bidder shall cause or influence, or attempt to cause or influence, any officer or employee of the Authority to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the Bidder or any other person.
6. It is agreed and understood that the Authority reserves the right to determine whether a conflict of interest or the appearance of a conflict of interest exists which would under State law adversely affect or would be contrary to the best interest of the Authority.

H. Public Law 2005, Chapter 51 / Executive Order 117 (2008): On September 22, 2004, then-Governor James E. McGreevey issued Executive Order 134, the purpose of which was to insulate the negotiation and award of State contracts from political contributions that posed a risk of improper influence, purchase of access or the appearance thereof. To this end, Executive Order 134 prohibited State departments, agencies and authorities from entering into contracts exceeding \$17,500 with individuals or entities that made certain political contributions. Executive Order 134 was superseded by Public Law 2005, c. 51, signed into law on March 22, 2005 (“Chapter 51”). On September 24, 2008, then-Governor Jon S. Corzine issued Executive Order No. 117 (“E.O. 117”), which is designed to enhance New Jersey’s efforts to protect the integrity of procurement decisions and to increase the public’s

confidence in government. The Executive Order builds upon the provisions of Chapter 51.

I. Requirements of Public Law 2005, Chapter 51, as amended by Executive Order 117:

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Public Law 2005, Chapter 51 (N.J.S.A. 19:44A-20.13 to 20.25, superseding Executive Order 134 (2004)) (“P.L.2005, c. 51”) was approved on March 22, 2005. Pursuant to the requirements of P.L.2005, c. 51, the terms and conditions set forth in this section shall be a material term and condition of, and shall be binding upon all parties to, this bid application and any contract(s) resulting there from:

1. Breach of Terms of Public Law 2005, Chapter 51 Deemed Breach of Contract

It shall be a breach of the terms of any contract entered into as the result of this bid application for a business entity to (i) make or solicit a contribution in violation of P.L.2005, c. 51; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of Governor, or to any State or county party committee; (v) 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 P.L.2005, c. 51; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange or contributions to circumvent the intent of P.L.2005, c. 51; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of P.L.2005, c. 51.

2. Certification and Disclosure Requirements

Pursuant to the requirements of P.L.2005, c. 51, the Agency shall not enter into an agreement or otherwise contract to procure from any business entity services or any material, supplies or equipment, or to acquire, sell, or lease any land or building, 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 or holder of the public office of Governor, or to any State or county political party committee during certain specified time periods.

Prior to the award of any contract or agreement to any business entity, the business entity proposed to be the intended awardee of the contract or agreement shall submit the Certification and Disclosure form, certifying that no prohibited contributions have been made by the business entity and reporting all contributions the business entity made during the preceding four years to any political organization organized under section 527 of the Internal Revenue Code, 26 U.S.C. § 527, that also meets the definition of a “continuing political committee” within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The intended awardee shall submit the required disclosure(s) to the Agency within five (5) business days of the intended awardee’s receipt of a Notice of Intent to Award a Contract. Failure to submit the required forms will preclude award of a contract under this RFP. The Statement of Bidder/Vendor Ownership Disclosure (full version) and The Two-Year Vendor Certification and Disclosure of Political Contributions forms along with instructions can be found on the State’s Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/execorder134.shtml> under “Disclosure Forms and Instructions”.

Any business entity that is the awardee of a contract or agreement shall, on a continuing basis, report any contributions it makes during the term of the contract or agreement, and any extensions thereof, at the time any such contribution is made on the Continuing Disclosure of Political Contributions form. A separate Continuing Disclosure is required for each person or organization that constitutes a business entity as defined above.

3. **State Treasurer Review**

All Certifications, disclosures and reports required by this section, and any other pertinent information concerning contributions, shall be subject to review by the Office of State Treasurer prior to and/or during the term of any contract or agreement awarded pursuant to this bid application. If the State Treasurer determines that any contribution or action by the business entity constitutes a breach of contract that poses a conflict of interest in the awarding of a contract or agreement under this solicitation, the State Treasurer shall disqualify such business entity from award of such contract or agreement.

- J. **Requirements of Public Law 2012 Chapter 25:** Pursuant to N.J.S.A. 52:32-58 (L. 2012, c.25, Section 4), the bidder shall file a certification with the Authority that neither the bidder, nor any of its parents, subsidiaries, and/or affiliates (as defined in

N.J.S.A. 52:32-56(e)(3)), is listed on the New Jersey Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither 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. The required Disclosure of Investment Activities in Iran form (Full Version) can be found on the State's Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.shtml>.

K. New Jersey Business Registration: Pursuant to N.J.S.A. 352:32-44, entities providing goods or services to the Authority must be registered with the New Jersey Department of the Treasury, Division of Revenue. Effective September 1, 2004, pursuant to an amendment to N.J.S.A. 52:32-44, State and local entities (including the Authority) are prohibited from entering into a contract with an entity unless the firm has provided a copy of its business registration certification (or interim registration) as part of its response. If the firm is not already registered with the New Jersey Division of Revenue, the form should be completed, online, at the Division of Revenue website: www.state.nj.us/treasury/revenue/.

VI. Termination of the Contract Award: An Authorized Officer of the Authority reserves the right, in their sole discretion to terminate the contract award during the duration of the Contract, without penalty, included but not limited to the following provisions:

A. Change of Circumstances: Where circumstances change and/or the needs of the Authority change, or the Contract is otherwise deemed by the Authority to no longer be in the public interest, the Authority may terminate the contract award upon no less than thirty (30) days' notice to the Bidder. In the event of such a termination of the contract award, the Bidder shall furnish to the Authority, free of charge, such close-out reports as may reasonably be required.

B. For Cause:

1. Where a Bidder fails to perform or comply with the Contract, the Authority may terminate the contract award upon ten (10) days' notice to the Bidder.
2. The Authority's right to terminate the contract award for cause includes violation of state and federal law (as demonstrated by the Bidder's admissions of same or a

final decision of an appropriate decision-making body), or any reason related to the ability of the Bidder to fulfill its contractual obligations. The Authority may also terminate any contract with a federally debarred bidder or a bidder which is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

C. Upon a termination of the contract award under this or any other paragraph herein, the Bidder shall be entitled to receive as full compensation for services rendered in the date of termination that portion of the fee which the services actually and satisfactorily performed by it, as determined by an Authorized Officer of the Authority, shall bear to the total services contemplated under the Contract, less payments previously made.

D. Upon termination of the contract award, the Authority may acquire the services which are the subject of the Contract from another source and may charge the Bidder whose contract award has been terminated the difference in price, and the said Bidder shall be liable for same.

VII. **Bidder Compensation:** The Bidder shall submit an invoice on a monthly basis. Payment will not be made until an Authorized Officer of the Authority has approved payment.

VIII. **Contractual Notice of State Vendor Set-Off For State Tax (P.L. 1995, c. 159):** Please be advised that, pursuant to L. 1995, c. 159, 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 the 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 of 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 N.J.S.A 59:49-18. No requests for conference, protestor subsequent appeal to the Tax Court from any protest under this section shall

stay the collection of indebtedness. Interest that may be payable by the State to the taxpayer, pursuant to L. 1987, c. 184 (c. 52:32-35.), shall be stayed.

- IX. **Notices:** All notices required under the Contract shall be in writing and shall be validly and sufficiently served by the Authority upon the Bidder, and vice versa, if addressed and mailed by certified mail to the addressee set forth in the Contract. Notice to the Authority shall be mailed to the following address:

Overnight Delivery Address:

Station Plaza, Building #4, Floor #4
22 South Clinton Avenue
Trenton, NJ 08609-1212

Mailing Address:

P.O. Box 366
Trenton, NJ 08625-0366

- X. **Claims:** All claims against the Authority by the Bidder concerning interpretation of the Contract, Bidder performance and /or termination of the contract award shall be subject to the New Jersey Tort Claims Act N.J.S.A. 59:1-1, et seq. and the New Jersey Contractual Liability Act , N.J.S.A. 59:13-1, et seq.

- XI. **Anti Trust Claims:** The Bidder 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 bidder, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the Authority 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 Authority. In connection with this assignment, the following are the express obligations of the Bidder: 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 bidder 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 bidder, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the Authority hereunder.

- XII. **Applicable Law:** This agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable law, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles.

