



New Jersey Department of Transportation

Contract Agreement for: 2011-13

Spreading Services

Instructions:

Read the entire document and attachments. Complete and sign all required forms. Interested vendors shall enter the hourly rate of pay they are requesting to provide the service for each line bid upon. Submit the entire package by either email or hard copy to:

NJDOTWinterOperations@dot.state.nj.us

or

NJDOT - Operations
Winter Contracts
1035 Parkway Ave
Trenton, NJ 08625

STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION
DIVISION OF OPERATIONS

**SPREADING SERVICES OF ANTI-ICING/DEICING CHEMICALS (FULLY OPERATED)
2 YEAR CONTRACT AGREEMENT (11-12 & 12-13 winter seasons)**

Crew #: _____ # Trucks: _____ Class: _____ Rate: _____
Crew #: _____ # Trucks: _____ Class: _____ Rate: _____
Crew #: _____ # Trucks: _____ Class: _____ Rate: _____

see attached for additional crews

Date: _____

THIS AGREEMENT, made by and between _____ Party of the
PRINT CONTRACTOR NAME

First Part, hereinafter referred to as the **Contractor**, and the State of New Jersey, acting by and through the Commissioner of Transportation, **Party of the Second Part**, hereinafter referred to as the **State**, is for the purpose of effecting employment of the services of the Contractor on State Highways. In consideration of the mutual promise, each to the other made, it is agreed as follows:

1. The Contractor **must** complete **Form 4** the "Anti-Deicing Chemicals and/or Abrasives Spreading Services Equipment Questionnaire, listing in detail all equipment to be utilized under this agreement and completing and attaching where applicable, **Form 5** the "Affidavit for Leasing/Subletting Trucks, Spreading Equipment, Loaders & Graders, attached herein. The trucks to be utilized in this agreement shall be properly registered to the minimum Gross Weight of each Class applied for.
2. To perform the work within the area designated within the time specified.
3. To perform the work in accordance with the specifications attached hereto and made a part hereof, as applied to the equipment and personnel described therein and upon the terms and conditions as more fully set out in this agreement and as defined herein.
4. To not sell, transfer, assign or otherwise dispose of this agreement to any third party.
5. The Contractor **must** fully acknowledge and complete all documents contained in **Attachment A**, the "New Jersey Department of Treasury Disclosure Documents for Waivered Services" packet.

The State agrees to pay the Contractor such sums as may be due for the use and operations of the said equipment in accordance with the terms of this agreement upon presentation of an invoice in the form prescribed for presenting claims against the State of New Jersey.

THIS AGREEMENT shall be binding on the heirs, executors, administrators, successors or assigns, as the case may be of the respective parties hereto.

IN WITNESS WHEREOF the parties hereto have executed this agreement in the manner provided by law, the day and year aforesaid.

CONTRACTOR: _____ DATE: _____

WITNESS: _____

PRESIDENT: _____
SIGNATURE

Name: _____ Title: _____
PRINT NAME

PRINT NAME

Attest/Witnessed/Affix Seal

For the Commissioner
New Jersey Department of Transportation

DATE: _____

Lisa Webber
Manager, Office of Emergency Management

Jacqueline Trausi
Secretary, Department of Transportation

DATE: _____

Richard M. Shaw, Assistant Commissioner, Operations

DATE: _____

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1.0 INFORMATION FOR BIDDERS

1.1 PURPOSE AND INTENT

This Request for Proposal (RFP) is issued by the Department of Transportation (NJDOT), Division of Operations. The purpose of this RFP is to solicit bid proposals for **Spreading Services** of deicing chemicals and abrasives, statewide for a **period of two (2) years**.

The intent of this RFP is to award contracts to those responsible bidders whose bid proposals, conforming to this RFP are most advantageous to the State, price and other factors considered. However, the State reserves the right to separately procure individual requirements that are the subject of the contract during the contract term, when deemed by the Director to be in the State's best interest.

The NJ Standard Terms and Conditions version 07/27/07 will apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in this RFP and should be read in conjunction with them unless the RFP specifically indicates otherwise.

1.2 BACKGROUND

This is in support of the Spreading Services for the NJDOT term contract, presently in place.

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

The NJDOT will accept questions and inquiries from all potential bidders electronically via email. To submit a question, please email NJDOTWinterOperations@dot.state.nj.us

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

1.4 PRICE ALTERATION

Bid prices must be typed or written in ink. Any price change (including "white-outs") must be initialed. Failure to initial price changes shall preclude a contract award from being made to the bidder.

2.0 DEFINITIONS

2.1 GENERAL DEFINITIONS

The following definitions will be part of any contract awarded or order placed as result of this RFP.

Addendum - Written clarification or revision to this RFP issued by the Purchase Bureau.

Amendment - A change in the scope of work to be performed by the contractor after contract award. An amendment is not effective until signed by the Director, Division of Purchase and Property or his/her designee.

Bidder – A vendor submitting a bid proposal in response to this RFP.

Contract - This RFP, any addendum to this RFP, the bidder's bid proposal submitted in response to this RFP and the Division's Notice of Acceptance.

Contractor - The contractor is the bidder awarded a contract.

Director - Director, Division of Purchase and Property, Department of the Treasury. By statutory authority, the Director is the chief contracting officer for the State of New Jersey.

Joint Venture – A business undertaking by two or more entities to share risk and responsibility for a specific project.

May - Denotes that which is permissible, but not mandatory.

Request for Proposal (RFP) - This document, which establishes the bidding and contract requirements and solicits bid proposals to meet the purchase needs of [the] Using Agency[ies], as identified herein.

Shall or Must - Denotes that which is a mandatory requirement.

Should - Denotes that which is recommended, but not mandatory.

State - State of New Jersey

2.2 CONTRACT SPECIFIC DEFINITIONS

Operating Time - Operating time is the period elapsing between the time the contractor receives instructions issued from the NJDOT Regional Emergency Operations Center or designated representative to commence spreading operations from the contractor assembly location until placed on deployed time or dismissed.

Premium Time – time worked on a Saturday, Sunday and any observed Holidays as defined in Section 3.23 of the RFP.

Deployed Time – Deployed time is the period elapsing between the time when the contractor receives instructions issued from the NJDOT Regional Emergency Operations Center or a designated representative to deploy to the designated assembly location and when instructed to begin the spreading operation or to be officially dismissed.

Time Reporting - All time reported shall be in military time (24 hour clock).

3.0 COMMODITY DESCRIPTION/SCOPE OF WORK

The work to be performed under this RFP consists of calibrated spreading application of anti/deicing chemicals and/or abrasives at application rates determined by the NJDOT and based on FHWA guidelines for solid chemical application rates in pounds per lane mile, on State highways by the contractor's equipment, when and where directed by the NJDOT Regional Maintenance Engineer or his designated representative for a **term period of two (2) years**. Included under this contract is the furnishing of the agreed number of spreader truck(s), each equipped with an approved contractor-owned calibrated automatic ground speed control spreader(s), spill plates on tailgates, driver/operator, fuel, oil, repairs, insurance, and all else necessary therefore and incidental thereto. **(Upon an award, a spreading services guide will be provided to each vendor to be distributed to each driver).**

It must be fully understood that whenever the contractor receives a call-out to provide spreader truck(s), the spreader truck(s) will be required to **report within ninety (90) minutes** and be on continuous duty until dismissed by the NJDOT Regional Maintenance Engineer or his designated representative. The contractor must be able to **provide sufficient relief drivers/operators** to insure that all spreader truck(s) called-out will be operational throughout the entire event.

It is the responsibility of the contractor to make sure that individuals driving a contractor's truck are not violating the "Driving While Fatigued" statute.

The NJDOT will furnish at the designated locations, the anti/deicing chemicals and/or abrasives for spreading by the contractor's trucks.

*****Assessments***** may be imposed for:

- Not having spill plates.
- Not having any or the proper safety lights.
- Not reporting to a call-out with the requested number of trucks.

The assessments are described in the related sections, **3.1 Spreader Truck Requirements, 3.3 Safety Lights & Conspicuity Markings and 3.19 Call-Out.**

3.1 SPREADER TRUCK REQUIREMENTS

The spreader trucks shall be a minimum gross vehicle weight (G.V.W.) and have a payload as designated below. G.V.W. is the total weight of the vehicle on its tires as a "class code", as it rests or rolls on the road, including chassis, cab, body, equipment, spreader, oil, water, fuel, the driver and the maximum material payload of anti/deicing chemicals and/or abrasives at approximately 80-120 lbs per cubic foot.

Class Q = 6 – 8 CU YD Spreader

Truck minimum spreader capacity = 13,000lbs maximum capacity = 17,000lbs

Class R = 10 – 12+ CU YD Spreader

Truck minimum spreader capacity = 21,000lbs no maximum

A copy of the current vehicle registration shall be submitted for each vehicle identified in the bidder's proposal. The vehicle must be registered for the appropriate weight.

The bidder must complete Form 4, "Anti-Icing/Deicing Chemicals and/or Abrasives Spreading Services Questionnaire", attached to this RFP.

For any lease/sublet equipment, the bidder shall also complete Form 5, "Affidavit for Leasing/Subletting Spreading Equipment," attached to this RFP.

All integral components equipment shall be installed on the trucks before November 1, and remain installed in an operational status until April 30 for each yearly snow season.

Spreader trucks committed under this contract are strictly prohibited from being used to provide snow plowing services.

Spill plates must be mounted on the tailgate if a tailgate spreader is being used.

Responding to a call-out without the spill plates will not be accepted and the following assessments may be imposed.

*****ASSESSMENT*** – (per truck)**

1st occurrence - \$25 per hour deduction

2nd occurrence - \$50 per hour deduction

3rd occurrence – TRUCK WILL NOT BE PERMITTED TO OPERATE

THE NJDOT WILL NOT ACCEPT SUBSTITUTIONS OF DIFFERENT TRUCK SIZES AS SPECIFIED IN THIS BID PROPOSAL.

3.2 SPREADER REQUIREMENTS

The spreaders may be an integral type design (tailgate or mid-body type) or component type ("V" box slide in body type), but all types must perform in accordance with the following RFP specifications.

The spreaders must be a constant density type design (closed loop), which will automatically vary the amount of material delivered relative to the road speed of the vehicle in order to dispense a constant preset density of anti/deicing chemicals and/or abrasives per lane mile.

The spreading system is to be capable of spreading anti/deicing chemicals and/or abrasives, which may include a liquid calcium chloride additive, at varying application rate at truck speeds ranging between 0 to 30 mph. The quantity of material delivered from the spreader shall vary relative to changes of the vehicle's speed to ensure material is dispensed at a constant rate (lbs. per lane mile).

The maximum material delivery shall be 1,350 lbs. per mile at 30 mph. When the vehicle is stopped, the discharge conveyance system must stop, regardless of the discharge rate setting. A "blast" function shall be available in the spreading control system, which allows a driver/operator to apply the maximum amount of material for a short period of time, regardless of the vehicle speed.

Power for the spreader may be from the truck's primary hydraulic system or by a separate auxiliary power supply.

A protective device (safety guard) is to be placed around the spinner assembly to minimize the possibility of injury, while the spinner is in operation. The spinner disc is to remain horizontal to the road surface at all times. A minimum clearance of eight (8) inches is required between any spreader appendage and the pavement, whenever the truck body is raised.

The spreader, when operating at maximum capacity, shall be capable of having an overall spread width of 40 feet. The spreader's spinner assembly shall have an adjustment device to

permit material to drop onto the spinner which will allow the material to be spread evenly in the following spread patterns: To the left of the truck, behind the truck, to the right of the truck, behind the truck and right or left, and all three area's (lanes)

Spill plates must be mounted on the tailgate if a tailgate spreader is being used.

Responding to a call-out without the spill plates will not be accepted and the truck may not be utilized and/or an assessment may be imposed.

3.2.1 CALIBRATION OF EQUIPMENT

Contractors must provide a letter to the NJDOT certifying that they have calibrated the spreading equipment on their trucks prior to the start of the snow season. The DOT will direct the contractor to apply the material at the application rates determined for each weather event based on the FHWA guidelines for solid chemical applications. Rates will be at pounds per lane mile.

3.3 SAFETY LIGHTS & CONSPICUITY MARKING REQUIREMENT

All trucks providing spreading services shall be equipped with amber safety lights and shall be of the strobe, LED, or rotating type. The truck shall be equipped with the amber safety lights mounted to be visible from 360 degrees or a minimum of two safety lights mounted on the back of the truck and one in the front. The safety lights are required in addition to the vehicle's normal hazard lights. Also reflective conspicuity markings shall be placed on the rear and sides of the vehicle in conformance with motor vehicle guidelines. Trucks without safety lights may be subject to the following assessments.

*****ASSESSMENT*** – (per truck)**

1st occurrence - \$25 per hour deduction

2nd occurrence - \$50 per hour deduction

3rd occurrence – TRUCK WILL NOT BE PERMITTED TO OPERATE

NOTE: All lights and mounting dimensions for all lights are to conform to all New Jersey and Federal Motor Vehicle Regulations and Safety Standards.

3.4 COMMUNICATION

In order to permit contact with the NJDOT representative at all times, all spreader trucks must be equipped with a functional cellular telephone. The cellular telephone number must be provided to the NJDOT representative when notified to report for a spreading assignment.

An operational condition for this award is the mandatory use of a hand-held radio during operational and billable service hours. Each contractor truck driver will be assigned a hand-held radio for both communication purposes and vehicle tracking capability. The radio shall remain on and audible at all times and remain in the vehicle during the plowing operation until dismissed by the NJDOT. The contractor will be provided instruction for use of the radio.

Any failure to maintain radio operability during operational hours (billable hours) will be deemed a breach in contract. This breach in contract will result in those service hours whereby the radio is not in use, being deducted from your invoice.

3.5 DRIVERS/OPERATORS

The contractor is responsible for providing sufficient drivers/operators to work within the rules, regulations and requirements of the Commercial Driver License (CDL). Sufficient drivers/operators must be available to operate the vehicles 24 hours per day, 7 days per week if needed. The contractor must provide personnel who are able to speak and understand

instructions given in English. Rotation of crews will be at the discretion of the contractor to provide continuous operation, which will insure the safety of all drivers/operators and of the motoring public.

IT IS THE **RESPONSIBILITY OF THE CONTRACTOR AND THEIR EMPLOYEES TO ENSURE THAT NO CONTRACTOR EMPLOYEE OR PERSON PROVIDING DRIVING SERVICES TO THE CONTRACTOR VIOLATES THE “DRIVING WHILE FATIGUED” STATUTE OR ANY OTHER CDL REGULATION OR REQUIREMENT.**

3.6 CREW LOCATION JURISDICTION/SECTION

A crew location jurisdiction/section is a state highway, highways, or portions thereof, or any other identified area which is under the direct jurisdiction of a Crew Supervisor designated by the NJDOT Regional Maintenance Engineer.

3.7 CONTRACTOR ASSEMBLY LOCATION

A contractor assembly location will be designated by the NJDOT Regional Maintenance Engineer within the contracted crew location.

All operating and stand-by time will begin at the crew assembly location upon the arrival of the contractor's equipment in a ready to work capacity, as determined by the NJDOT Crew Supervisor on site.

3.8 OPERATING TIME

The operating time is the period elapsing between the time the contractor is instructed by the NJDOT Regional Emergency Operations Center or designated representative to begin spreading operations from the contractor assembly location until placed on stand-by or dismissed.

3.9 DEPLOYED TIME

Deployed time is any time not considered operating time while the contractor spreader truck is retained by the NJDOT.

3.10 TIME REPORTING

All time reported shall be in military time (24 hour clock).

3.11 SNOW SEASON

The official snow season composes of the period starting November 1 of the contract year to April 30 of the following year. The period from April 30 to October 31, for each year of the contract period is for administrative purposes, and is not considered part of the snow season.

3.12 LEASING/SUBLETTING

The bidder may lease/sublet equipment and/or personnel from a third party; however, the responsibility for this contract rests with the contractor. Should the contractor lease/sublet, a signed and notarized "affidavit for leasing/subletting spreading equipment" (Form 5) attached to this RFP, shall be completed in its entirety and should be submitted with its bid proposal. Further, all stipulations described under the state's "standard terms and conditions" must be met.

3.13 READINESS

Upon receiving a call-out from the NJDOT Regional Maintenance Engineer or his/her designee, the contractor must report to the designated contractor assembly location prepared for spreading **within ninety (90) minutes** with all requested trucks, necessary operating personnel and equipment. Upon arrival at the assembly location, the contractor must notify the Regional Emergency Operations Center or designated person in charge (as designated by the Regional Maintenance Engineer). The contractor will not receive any compensation during periods which either the truck or spreader fails to operate due to a mechanical failure or the absence of a driver/operator. The contractor shall be responsible for fuel, tire chains, safety lights, spill plates, repairs, insurance, and all other items necessary for operation of a spreader truck.

3.14 REFUELING

All equipment must be refueled with a minimum loss of operating time.

3.15 MEALS

Time for meals when taken by contractor's personnel, will be deducted from the total hours worked.

3.16 ACCIDENT REPORTING

Any accident shall be reported immediately by telephone to the appropriate NJDOT Regional Emergency Operations Center listed below.

Region North Emergency Operations Center-	973-770-5001
Region Central Emergency Operations Center-	732-625-4322
Region South Emergency Operations Center-	856-486-6641

The contractor must promptly report, in writing, within 48 hours to the NJDOT Regional Maintenance Engineer, all accidents whatsoever arising out of or in connection with the performance of the work, whether on or adjacent to the site, which cause death, personal injury, or property damage giving full details and statements of witnesses.

3.17 INSURANCE

The following section supplements Section 2.3 of the States Standard Terms and Conditions within 30 days of the award, the contractor shall furnish certificates of insurance, together with declaration pages in a form satisfactory to the purchase bureau showing compliance with this subsection. Failure to do so may result in cancellation of the contract.

The following Section Supplements 2.3 of the States Standard Terms and Conditions. Certificates shall be mailed to the addresses given below to the NJDOT:

**SPREADING CONTRACT MANAGER,
DIVISION OF OPERATIONS
NEW JERSEY DEPARTMENT OF TRANSPORTATION
1035 PARKWAY AVENUE
TRENTON, NEW JERSEY 08625**

The contractor shall secure and maintain in force for the term of the contract liability insurance as provided herein. The contractor shall provide the NJDOT with current certificates of insurance for all coverages and renewals thereof which must contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after providing thirty (30) days written notice to the individuals at the addresses given above.

Upon request, the contractor shall furnish the NJDOT with a certified copy of each policy itself, including the provisions establishing premiums.

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

A. GENERAL LIABILITY POLICY as broad as the standard coverage forms currently in use in the State of New Jersey which shall not be circumscribed by any endorsements limiting the breadth of coverage. The policy shall be endorsed to include:

1. Broad form of comprehensive general liability.
2. Products/Completed Operations.
3. Premises/Operations.

The limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.

The general liability insurance shall name the state, its officers and employees, as named insured.

B. AUTOMOBILE LIABILITY INSURANCE which shall be written to cover any automobile used by the insured. Limit of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.

C. WORKER'S COMPENSATION INSURANCE applicable to the laws of the State of New Jersey and employee's liability insurance with limits of not less than:

\$1,000,000 *Bodily Injury, Each Occurrence*
\$1,000,000 *Disease Each, Employee*
\$1,000,000 *Disease Aggregate Limit*

3.17.1 CERTIFICATES OF INSURANCE

Certificates of Insurance must include the following provisions:

1. *Thirty (30) day's written notice of cancellation.*
2. *General liability limits as described above.*
3. *The State, its officers and employees as named insured.*
4. *Automobile liability limits as described above.*
5. *Workers compensation limits as described above.*
6. *The name of the contractor as it appears in this contract.*

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the contractor for liability in excess of such coverage, nor shall it preclude the NJDOT from taking such other actions as are available to it under any other provisions of this contract or as otherwise within the law.

3.17.2 CONTRACTOR'S INDEMNIFICATION OBLIGATION

The following section supplements Section 2.2 of the State's Standard Terms and Conditions.

The contractor agrees to indemnify, defend, and save harmless the State, its officers and employees against any and all claims and suits including cost of every name and description and all damages to which the State, its officers and employees may be put by reason of injury or damage or a claim of injury or damage to the person or property of others resulting from the carelessness or negligence of the contractor arising from the performance or furtherance of the work described in this contract or any other related activity which the contractor performs for the NJDOT during the term of this contract.

3.17.3 CONTRACTOR DAMAGE CLAIMS

The contractor shall not make any claim against the State, its officers or employees for any damages of any description or costs incurred by the contractor by reason of damage to the contractor's property or property used by the contractor.

3.18 RESPONSIBILITY FOR WORK

The contractor shall not subcontract, sell, transfer, assign or otherwise dispose of the performance of the work under this contract to any third party.

The contractor assumes full responsibility for all equipment owned, loaned or leased/sublet and employed in the prosecution of the contract hereunder and agrees to make no claims against the State or the NJDOT for damages to such equipment from any cause whatsoever.

During the period the contractor has custody of materials owned by the NJDOT; the contractor shall be responsible for any negligent loss or misuse of such materials. The contractor will also be held responsible for any negligent damage to State equipment and/or facilities including guide-rails, bridge railings, signs, delineators and all other appurtenances, caused while performing spreading operations.

The State reserves the right to deduct the cost of any such loss or damage from monies/payments due to the contractor. At the conclusion of the storm operations when the services of the contractor are no longer required, the contractor must discharge the material remaining in the truck's body or the spreader's hopper back into the stockpile at the NJDOT site where the material was drawn.

3.19 CALL-OUT

All call-outs will be issued from the NJDOT Regional Emergency Operations Center or a designated representative by telephone. No payment shall be made without an official NJDOT Regional call-out. Upon receipt of a call-out the contractor will assemble the requested equipment at the contractor assembly location prepared for spreading operations. The NJDOT reserves the right to call, as its need dictates, one or more spreader trucks in accordance with the terms of this contract. A contractor responding to a call-out shall meet the **ninety (90) minute response time**. Not reporting with the requested number of trucks will subject the contractor to the following assessments.

*****ASSESSMENT*** (per truck)**

- Lump Sum assessment of \$200.00 for failure to report to a call-out with the requested number of trucks may be assessed to the Vendor for each truck, each occurrence.

At the direction of the assigned NJDOT representative at the crew location, spreader trucks will spread in accordance with the standards established for spreading patterns, speeds, and identified priority locations.

Should the need arise, the NJDOT Regional Maintenance Engineer, or his/her designee, reserves the right to temporarily assign equipment to another roadway or designated location. Payment for temporary reassignment shall be governed by the same rate of pay and guaranteed minimums that the contractor would have received had the equipment been working on the section originally assigned. The contractor's spreader truck's driver/operator shall be subordinate to and accept direction and supervision from the NJDOT supervisor on site.

Each of the contractor's spreader trucks may be required to work either singly, in combination with a NJDOT truck(s) and/or in combination with another contractor's truck(s).

Failure to respond to a call-out or comply with the contract requirements shall result in departmental action as noted in Section 5.7 "Remedies For Non-Performance".

3.20 MATERIALS

The NJDOT will furnish all materials to be spread by the contractors' spreader trucks. These materials may consist of anti/deicing materials such as sodium chloride, calcium chloride, salt brine, potassium acetate, magnesium chloride, or abrasives or combinations thereof.

3.21 UNAUTHORIZED USE OF NJDOT MATERIALS

The contractor will not use NJDOT materials for any purpose other than the spreading of state roadways or as directed by a NJDOT representative. Any violation of this requirement will result in the contractor not being paid for the "Seasonal Minimum Compensation Amount", as described under [Section 3.24](#) of this RFP. It will further result in minimum penalty of \$5,000.00 (five thousand dollars) per offense to be deducted from the contractor's accrued account, if available, or to be paid by the contractor. The State may also terminate the contract for violation of this requirement.

3.22 UNIT HOURLY RATE PER VEHICLE STRAIGHT OPERATING HOUR

The unit hourly rate at a particular crew location to be paid for each spreader truck shall be payment in full for the work performed, on any calendar day excluding Saturdays, Sundays, and observed holidays. The hourly rate includes labor, drivers/operators, equipment, transportation, fuel, oil, repairs, parts, maintenance, insurance and all else necessary therefore and incidental thereto. It should be noted that the NJ Prevailing Wage Act & Regulations do not apply to this service contract per N.J.S.A. 34:11-56.26(5).

3.23 UNIT HOURLY RATE PER VEHICLE PREMIUM OPERATING HOUR

This will be a flat hourly rate of thirteen (\$13) dollars per hour, for each spreader truck, added to the bidder's hourly bid price for straight time per spreader truck, for each section bid. This payment will be the total amount paid in full for the work performed on Saturdays, Sundays, and observed holidays. The hourly rate includes labor, drivers and/or operators, equipment, transportation, fuel, oil, repairs, tire chains, safety lights, maintenance, insurance, and all else necessary therefore and incidental thereto.

Example of hourly payment for straight time and premium time per spreader truck (these are not actual numbers)

Hourly Rate Bid Per Operating

Hour Straight Time @ \$50.00/hour per truck

State Established Premium Time

(Flat Rate) @ \$13.00/hour per truck

Total *\$63.00/hour per truck*

Under this example, the contractor would be paid sixty-three (\$63) dollars per operating hour premium time per spreader truck, for each hour worked as premium time. The hourly operating

rate for premium time shall be payment in full for work performed on Saturdays, Sundays, and selected holidays. (see Section 3.29)

No straight or premium time will be paid for the period where the spreader trucks are disabled and are unable to continue spreading during an event.

3.24 DEPLOYED TIME PAYMENTS

Deployed time is defined as the number of hours the contractor is not on operating time.

Example: *If a contractor is sent out from the yard to an area within his assigned section, but is not spreading, that is considered deployed time.*

Payment for deployed time hours will be made for the actual number of hours the contractor is placed on deployed status as determined above at the following rates:

Unit price for deployed straight time per hour = \$70.00
Unit price for deployed premium time per hour = \$83.00

The above rates shall include the cost of furnishing the specified equipment, drivers and/or operators, other labor, fuel, oil, repair, maintenance, transportation and all costs and expenses necessary therefore and incidental thereto.

3.25 SEASONAL MINIMUM COMPENSATION AMOUNT

The contractor is guaranteed to receive a specified seasonal minimum compensation amount providing the contractor performs in accordance with all the provisions of this RFP throughout the entire snow season. The minimum compensation amount established will be computed by multiplying the total number of spreader trucks the contractor provides by a flat fee of \$1500 per truck.

Examples:

A. Contractor provides four (4) spreader trucks:

4 Trucks X \$1500. = \$6,000 Seasonal Minimum Compensation Amount

B. Contractor provides six (6) spreader trucks:

6 Trucks X \$1500. = \$9,000 Seasonal Minimum Compensation Amount

At the end of the snow season, the sum of all monies paid to the contractor for operating and standby hours for each of the spreader trucks under contract will be computed. The total monies paid for each spreader truck will then be deducted from the specified seasonal minimum compensation amount and any balance due will be paid accordingly. If the total money paid to the contractor exceeds the specified seasonal minimum compensation amount, no additional monies will be paid.

Any contractor who is issued a call-out and does not respond in accordance with procedures described herein will not be eligible for the seasonal minimum compensation amount. Eligible seasonal minimum compensation amounts due or portions thereof, shall be determined at the end of the snow season and the amount submitted to the NJDOT after April 30 but before June 1, for payment.

Contractors who enter into an agreement with the NJDOT after December 31st, shall be guaranteed a specified seasonal minimum as follows:

PRIOR TO DECEMBER 31	\$1500
JANUARY 1 – 31	\$1250
FEBRUARY 1 – 28	\$1000
MARCH 1 – 31	\$ 750
APRIL 1 – 30	\$ 0

3.26 SCOPE OF PAYMENT

The contractor hereby agrees to accept the payment as full payment for all work performed hereunder, for furnishing all labor, drivers/operators, equipment, transportation, fuel, cellular phones, oil, parts, repairs, maintenance, and all else necessary therefore, and for all incidental expenses in connection therewith.

3.27 SEPARATE STATE PAYMENT VOUCHERS

Contractors operating from two or more crew locations will render a separate State Payment Voucher for each crew location on each call-out.

3.28 PAYMENT PROCEDURE

Payment for spreading services will be based on the proper completion and verification of a state payment voucher provided by the NJDOT after each call-out event.

STATE PAYMENT VOUCHERS/INVOICES ARE TO BE MAILED BY THE CONTRACTOR TO:

**ACCOUNTS PAYABLE SECTION
BUREAU OF ACCOUNTING
NEW JERSEY DEPARTMENT OF TRANSPORTATION
1035 PARKWAY AVE
TRENTON, NEW JERSEY 08625**

3.29 HOLIDAYS

Authorized State holidays to be observed in this contract are as follows:

THANKSGIVING DAY	(4TH THURSDAY IN NOVEMBER)
CHRISTMAS DAY	(DECEMBER 25)
NEW YEAR'S DAY	(JANUARY 1)

Note: In the event any of the above holidays fall on a Sunday, it will be celebrated on the following Monday, and if the holiday falls on a Saturday, it will be celebrated on the preceding Friday.

3.30 CANCELLATION

The contractor may request cancellation of the contract by submitting thirty (30) days advance written notice with detailed justification for cancellation to:

***Spreading Contract Manager
NJDOT- Operations
1035 Parkway Ave
TRENTON, NJ 08625***

The State may cancel the contract based upon the contractor's failure to provide a valid insurance certificate; cancellation of insurance; failure to renew insurance; failure to report ready to the contractor assembly location fully operational to commence spreading, within the ninety (90) minute period after receiving a call-out; unsafe spreading practices; improper spreading practices; failure to follow the instructions of the NJDOT Regional Maintenance Engineer or his representative; failure to report with a full complement of trucks; or actions constituting a danger to the public, private property, public employees, or public property.

The NJDOT Regional Maintenance Engineer or his representative may suspend the operations of a contractor for any of the reasons given for cancellation above until such time as the contractor has satisfied the NJDOT Regional Maintenance Engineer that he has fully corrected the deficiencies leading to the suspension. Due to the immediate nature of snow removal and spreading operations, and the serious public safety issues involved, the NJDOT Regional Maintenance Engineer may obtain spreading services from any available source and the contractor will be responsible for any additional costs incurred by the State.

If this clause is exercised, the seasonal minimum compensation amount as specified may not be paid and will not be considered applicable to this contract.

3.31 CAUSES FOR TERMINATION

The satisfactory performance mandated for this contract is directly related to the safety of all roadway users. Should the contractor's performance during the contract period(s) be deemed unsatisfactory by the NJDOT Regional Maintenance Engineer for reasons which may include late response for call-outs, unavailability of a full complement of truck(s) and driver(s), poor spreading practices, and failure to respond to directions applicable to the spreading operation by the designated NJDOT Regional Representative, the contract may be terminated by the Director.

4.0 BID PROPOSAL PREPARATION AND SUBMISSION

4.1 GENERAL

The bidder is advised to thoroughly read and follow all instructions contained in this RFP, including the instructions on the RFP's signatory page, in preparing and submitting its bid proposal.

Note: Bid proposals shall not contain URLs (Uniform Resource Locators, i.e., the global address of documents and other resources on the world wide web) or web addresses. Inasmuch as the web contains dynamically changing content, inclusion of a URL or web address in a bid response is indicative of potentially changing information. Inclusion of a URL or web address in a bid response implies that the bid's content changes as the referenced web pages change.

4.2 BID PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a bid proposal must arrive at the NJDOT in accordance with the instructions on the RFP cover page. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of bid proposals.

4.3 NUMBER OF BID PROPOSAL COPIES

The bidder must submit **one (1) complete bid proposal**. The bidder should submit **one (1) full, complete and exact copies** of the original. It is suggested that the bidder make and retain a copy of its bid proposal.

4.4 BID PROPOSAL CONTENT

4.4.1 FORMS THAT MUST BE SUBMITTED WITH BID PROPOSAL

4.4.1.1 SIGNATORY PAGE

The bidder shall complete and submit the Signatory page provided. The Signatory page shall be signed by an authorized representative of the bidder. If the bidder is a limited partnership, the Signatory page must be signed by a general partner. If the bidder is a joint venture, the Signatory page must be signed by a principal of each party to the joint venture.

4.4.1.2 OWNERSHIP DISCLOSURE FORM

In the event the bidder is a corporation, partnership or sole proprietorship, the bidder must complete the attached Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the bid proposal. Failure to do so will preclude the award of a contract.

4.4.1.3 DISCLOSURE OF INVESTIGATIONS/ACTIONS INVOLVING BIDDER

The bidder shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five 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.

4.4.2 PROOFS OF REGISTRATION THAT MUST BE SUBMITTED WITH THE BID PROPOSAL

4.4.2.1 BUSINESS REGISTRATION CERTIFICATE FROM THE DIVISION OF REVENUE

FAILURE TO SUBMIT A COPY OF THE BIDDER'S BUSINESS REGISTRATION CERTIFICATE (OR INTERIM REGISTRATION) FROM THE DIVISION OF REVENUE WITH THE BID PROPOSAL MAY BE CAUSE FOR REJECTION OF THE BID PROPOSAL.

The bidder may go to www.nj.gov/njbgs to register with the New Jersey Division of Revenue or to obtain a copy of an existing Business Registration Certificate.

Refer to Section 1.1. of the NJ Standard Terms and Conditions version 07/27/07 located on the Advertised Solicitation, Current Bid Opportunities webpage
<http://www.state.nj.us/treasury/purchase/bid/summary/08x39692.shtml>.

[IF THE PROCUREMENT IS A SET-ASIDE, INCLUDE THE FOLLOWING SET-ASIDE SECTION]

4.4.2.2 SMALL BUSINESS SET-ASIDE CONTRACTS

This is a Set-Aside Contract for **[indicate category: Category I, II, or III]** for Small Businesses. The bidder must be registered as a qualifying small business with the New Jersey Commerce, Economic Growth and Tourism Commission (Commerce) by the date the bid is received and opened. Evidence that the bidder has registered with Commerce as a small business should be submitted with the bid proposal.

*****IMPORTANT NOTE: EVEN IF THE BIDDER IS AN INCUMBENT CONTRACTOR AND/OR HAS BEEN PREVIOUSLY REGISTERED OR CERTIFIED UNDER THE FORMER SBE/MBE/WBE PROGRAM, THE BIDDER WILL NEED TO BE SURE THAT IT IS REGISTERED ON THE DAY OF BID RECEIPT AND OPENING WITH THE COMMERCE COMMISSION UNDER THE NEW, SMALL BUSINESS PROGRAM TO BE ELIGIBLE FOR AWARD. THE TELEPHONE NUMBER TO CALL COMMERCE TO CHECK REGISTRATION STATUS IS 609 292-2146.*****

4.4.3 FORMS THAT MUST BE SUBMITTED BEFORE CONTRACT AWARD AND SHOULD BE SUBMITTED WITH THE BID PROPOSAL.

4.4.3.1 MACBRIDE PRINCIPLES CERTIFICATION

The bidder is required to complete the attached MacBride Principles Certification evidencing compliance with the MacBride Principles. The requirement is a precondition to entering into a State contract. The MacBride Principles Certification Form is located on the Advertised Solicitation, Current Bid Opportunities webpage:

<http://www.state.nj.us/treasury/purchase/bid/summary/08x39692.shtml>.

4.4.3.2 AFFIRMATIVE ACTION

The bidder is required to submit a copy of Certificate of Employee Information or a copy of Federal Letter of Approval verifying that the bidder is operating under a federally approved or sanctioned Affirmative Action program. If the bidder has neither document of Affirmative Action evidence, then the bidder must complete the attached Affirmative Action Employee Information Report (AA-302). This requirement is a precondition to entering into a State contract. The Affirmative Action Employee Information Report (AA-302) is located on the Advertised Solicitation, Current Bid Opportunities webpage:

<http://www.state.nj.us/treasury/purchase/bid/summary/08x39692.shtml>.

4.4.4 SUBMITTALS

In addition to the above requirements, the bidder is encouraged to submit its price list(s) in the form of a CD in PDF or text format. However, the preprinted hard copy paper price list must be included with the bid proposal.

4.4.4.1 BIDDER EXPERIENCE - DATA SHEETS

The bidder must provide all of the information requested in the Bidder's Data Packet located on the Advertised Solicitation, Current Bid Opportunities webpage:

<http://www.state.nj.us/treasury/purchase/bid/summary/08x39692.shtml>.

4.4.5 FINANCIAL CAPABILITY OF THE BIDDER

Upon request, In order to provide the State with the ability to judge the bidder's financial capacity and capabilities to undertake and successfully complete the contract, the bidder should submit two years of certified financial statements that 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 certified financial statements are not available, the bidder should provide either a reviewed or compiled statement from an independent accountant setting forth the same information required for the certified financial statements, together with a certification from the Chief Executive Officer and the Chief Financial Officer, that the financial statements and other information included in the statements fairly present in all material respects

the financial condition, results of operations and cash flows of the bidder as of, and for, the periods presented in the statements. In addition, the bidder should submit a bank reference.

If the information is not supplied with the bid proposal, 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 proposal non-responsive.

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

The State reserves the right to make the determination whether to accept the bidder's assertion of confidentiality and will advise the bidder accordingly.

4.4.6 PRICING

The bidder must submit its pricing using the format set forth in the State supplied price sheet(s) attached to this RFP. Failure to submit all information required will result in the bid being considered non-responsive. Each bidder is required to hold its prices firm through issuance of contract.

4.4.7 METHOD OF BIDDING

Important Note: The state requires the bidder to submit firm prices for the entire two (2) year period of this contract. No price escalation clauses or CPI increases will be permitted under the terms of this contract. Any bid proposals submitted with stipulated price increases will be rejected. No exceptions.

A) SUBMISSION OF BID PROPOSALS

The bidder may bid on one or more crew locations, but must be able to provide the total number of vehicles equal to the total sum of the required vehicles for all the crew locations bid. Generally, only one spreader truck will be assigned per crew location, however, at the NJDOT's option, additional spreader trucks may be assigned at some or all of the crew locations.

B) Forms

**THE BIDDER SHOULD FURNISH ALL INFORMATION REQUIRED
BY COMPLETING THE ATTACHED FORMS:**

"FORM 4" *Anti/Deicing Chemicals and/or Abrasives Spreading Services*

"FORM 5" *Affidavit for Leasing/Subletting Spreading Equipment*

FORM 4: This form should be submitted by the bidder who is offering spreading services for any crew location(s) listed in this RFP. The bidder must list the make, year, model, license plate number, the G.V.W. rating, the make and model of the spreader for each spreader truck it owns or will lease/sublet for another party, for each crew location bid. The number of trucks owned/leased by the bidder should equal the minimum number of spreader trucks the state has listed for each crew location in this RFP. Failure to do so may result in rejection of its bid proposal for that crew location only.

FORM 5: This form is required for each spreader truck that the bidder does not own but will lease/sublet from another party, as identified by the bidder in form 4. Information of the

person(s) from whom the bidder intends to lease/sublet the equipment must be provided on form 6 and the form must be notarized for state acceptability.

C) THESE FORMS SHOULD BE SUBMITTED BY THE BIDDER WITH ITS BID PROPOSAL. IF NOT RECEIVED WITH THE BID PROPOSAL, THE BIDDER MUST SUBMIT THESE FORMS WITHIN TEN (10) DAYS FROM EITHER VERBAL OR WRITTEN REQUEST BY THE STATE. FAILURE TO SUBMIT THE FORMS WITHIN THIS TIME FRAME WILL RESULT IN REJECTION OF ITS BID PROPOSAL.

4.4.8 CAUSES FOR REJECTION OF BID PROPOSAL

The state may reject any or all bid proposals not in accordance with the RFP specification or irregular in other respects, if the hourly rates are deemed to be excessive, or if it is deemed advisable to do so in the best interest of the state. The NJDOT reserves the right to inspect the bidders' equipment to ascertain that it is in satisfactory working condition prior to award of contract or anytime during the three (3) year contract period. The Director may reject a bid proposal or rescind a contract if equipment is found to be unsatisfactory.

5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS

5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

The contract awarded as a result of this RFP shall consist of this RFP, addendum to this RFP, the contractor's bid proposal and the Division's Notice of Award.

Unless specifically stated within this RFP, the Special Contractual Terms and Conditions of the RFP take precedence over the NJ Standard Terms and Conditions version 07/27/07 located on the Advertised Solicitation, Current Bid Opportunities webpage:

<http://www.state.nj.us/treasury/purchase/bid/summary/08x39692.shtml>.

In the event of a conflict between the provisions of this RFP, including the Special Contractual Terms and the NJ Standard Terms and Conditions version 07/27/07, and any Addendum to this RFP, the Addendum shall govern.

In the event of a conflict between the provisions of this RFP, including any Addendum to this RFP, and the bidder's bid proposal, the RFP and/or the Addendum shall govern.

5.2 CONTRACT TERM

The term of the contract shall be for a period of **two (2) years**.

5.3 CONTRACT TRANSITION

In the event that a new contract has not been awarded prior to the contract expiration date, as may be extended herein, it shall be incumbent upon the contractor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transition period extend more than **ninety (90)** days beyond the expiration date of the contract.

5.4 CONTRACT AMENDMENT

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

5.5 CONTRACTOR'S WARRANTY

- a) The Contractor is responsible for the quality, technical accuracy, timely completion and delivery of all deliverables and other services to be furnished by the Contractor under the Contract. The Contractor agrees to perform in a good, skillful and timely manner all services set forth in the Contract.
- b) The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its services and deliverables furnished under the Contract. The approval of interim deliverables furnished under the Contract shall not in any way relieve the Contractor of fulfilling all of its obligations 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 State or Agency, of any rights under the agreement or of any cause of action arising out of the Contractor's performance of the Contract.
- c) The acceptance of, approval of or payment for any of the services performed by the Contractor under the Contract shall not constitute a release or waiver of any claim the State or Agency, has or may have for latent defects or errors or other breaches of warranty or negligence.

5.6 REMEDIES FOR FAILURE TO COMPLY WITH CONTRACT REQUIREMENTS

In the event that the contractor fails to comply with any contract requirements, the Director may take steps to terminate the contract in accordance with the State administrative code.

5.7 CLAIMS

All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1.1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

6.0 PROPOSAL EVALUATION

6.1 EVALUATION CRITERIA

The following criteria will be used to evaluate all bid proposals that meet the requirements of this RFP. The criteria are not necessarily listed in order of importance:

6.1.1 Price

6.1.2 Experience of the bidder

6.1.3 The bidder's past performance under similar contracts, including if applicable, the Division's vendor performance database.

6.2 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL

After the submission of bid proposals, unless requested by the State as noted below, vendor contact with the State is still not permitted.

The bidder may be required to give an oral presentation to the State concerning its bid proposal. The State may also require the bidder to submit written responses to questions regarding its bid proposal.

The purpose of such communication with the bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid proposal. Original bid proposals submitted, however, cannot be supplemented, changed, or corrected in any

way. No comments regarding other bid proposals are permitted. Bidders may not attend presentations made by their competitors.

It is within the State's discretion whether to require the bidder to give an oral presentation or require the bidder to submit written responses to questions regarding its bid proposal. Action by the State in this regard should not be construed to imply acceptance or rejection of a bid proposal. The Purchase Bureau buyer will be the sole point of contact regarding any request for an oral presentation or clarification.

6.3 BID DISCREPANCIES

In evaluating bids:

- 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 corrected sum of the column of figures.

6.4 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

Following the opening of bid proposals, the State shall, pursuant to N.J.S.A. 52:34-12(f), negotiate one or more of the following contractual issues: the technical services offered, the terms and conditions and/or the price of a proposed contract award with any bidder, and/or solicit a Best and Final Offer (BAFO) from one or more bidders.

Initially, the Evaluation Committee will conduct a review of all the bids and select bidders to contact to negotiate and/or conduct a BAFO based on its evaluation and determination of the bid proposals that best satisfy the evaluation criteria and RFP requirements, and that are most advantageous to the State, price and other factors considered. The Committee may not contact all bidders to negotiate and/or to submit a BAFO.

In response to the State's request to negotiate, bidders must continue to satisfy all mandatory RFP requirements but may improve upon their original technical proposal in any revised technical proposal. However, any revised technical proposal that does not continue to satisfy all mandatory requirements will be rejected as non-responsive and the original technical proposal will be used for any further evaluation purposes in accordance with the following procedure.

In response to the State's request for a BAFO, bidders may submit a revised price proposal that is equal to or lower in price than their original submission, but must continue to satisfy all mandatory requirements. Any revised price proposal that is higher in price than the original will be rejected as non-responsive and the original bid will be used for any further evaluation purposes.

After receipt of the results of the negotiation and/or the BAFO(s), the Evaluation Committee will complete its evaluation and recommend to the Director for award that responsible bidder(s) whose bid proposal, conforming to this RFP, is most advantageous to the State, price and other factors considered.

All contacts, records of initial evaluations, any correspondence with bidders related to any request for negotiation or BAFO, any revised technical and/or price proposals, the Evaluation

Committee Report and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

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-20.13-25 (FORMERLY EXECUTIVE ORDER 134) AND EXECUTIVE ORDER 117 (2008)

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the negotiation and award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, then-Governor James E. McGreevey issued Executive Order 134 on September 22, 2004. 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, which was signed into law on March 22, 2005 ("Chapter 51").

On September 24, 2008, 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 increase the public's confidence in government. The Executive Order builds upon the provisions of Chapter 51.

Pursuant to the requirements of this Legislation, the terms and conditions set forth in this section are material terms of any contract resulting from this RFP:

7.1.1.1 DEFINITIONS

For the purpose of this section, the following shall be defined as follows:

a) Reportable Contributions -- contributions, including in-kind contributions, in excess of \$300.00 in the aggregate per election made to or received by a candidate committee, joint candidates committee, or political committee; or per calendar year made to or received by a political party committee, legislative leadership committee, or continuing political committee.

b) Business Entity – means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. The definition also includes (i) if a business entity is a for-profit corporation, any officer of the corporation and any other person or business entity that owns or controls 10% or more of the stock of the corporation; (ii) if a business entity is a professional corporation, any shareholder or officer; (iii) if a business entity is a general partnership, limited partnership or limited liability partnership, any partner; (iv) if a business entity is a sole proprietorship, the proprietor; (v) if the business entity is any other form of entity organized under the laws of New Jersey or any other state or foreign jurisdiction, any principal, officer or partner thereof; (vi) any subsidiaries directly or indirectly controlled by the business entity; (vii) any political organization organized under 26 U.S.C.A. § 527 that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee;

and (viii) with respect to an individual who is included within the definition of “business entity,” that individual’s spouse or civil union partner and any child residing with that person.¹

c) Officer -- a president, vice-president with senior management responsibility, secretary, treasurer, chief executive officer, or chief financial officer of a corporation or any person routinely performing such functions for a corporation. Please note that officers of non-profit entities are excluded from this definition.

d) Partner -- one of two or more natural persons or other entities, including a corporation, who or which are joint owners of and carry on a business for profit, and which business is organized under the laws of this State or any other state or foreign jurisdiction, as a general partnership, limited partnership, limited liability partnership, limited liability company, limited partnership association, or other such form of business organization.

7.1.1.2 BREACH OF TERMS OF THE LEGISLATION

It shall be a breach of the terms of the contract for the Business Entity to (i)make or solicit a contribution in violation of the Legislation, (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 or any candidate of 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 the Legislation; (vi)fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii)engage in any exchange of contributions to circumvent the intent of the Legislation; 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 the Legislation.

7.1.1.3 CERTIFICATION AND DISCLOSURE REQUIREMENTS

a) The State 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

b) Prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall submit the Certification and Disclosure form, certifying that no contributions prohibited by either Chapter 51 or Executive Order 117 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 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the mean of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions, available for review on the Purchase Bureau website at

¹ Contributions made by a spouse, civil union partner or resident child to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides are permitted.

<http://www.state.nj.us/treasury/purchase/forms.htm#eo134>, shall be provided to the intended awardee for completion and submission to the Purchase Bureau with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit to the Division, in care of the Purchase Bureau Buyer, the Certification and Disclosure(s) within five (5) business days of the State's request. Failure to submit the required forms will preclude award of a contract under this RFP, as well as future contract opportunities.

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 Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134>, shall be provided to the intended awardee with the Notice of Intent to Award.

7.1.1.4 STATE TREASURER REVIEW

The State Treasurer or his designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardee, prior to award, or during the term of the contract, by the contractor. If the State Treasurer determines that any contribution or action by the contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this solicitation, the State Treasurer shall disqualify the Business Entity from award of such contract.

7.1.1.5 ADDITIONAL DISCLOSURE REQUIREMENT OF P.L. 2005, C. 271

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 P.L. 2005, c. 271, section 3 if the contractor receives contracts in excess of \$50,000 from a public entity in a calendar year. It is the contractor's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

7.1.2 SOURCE DISCLOSURE REQUIREMENTS

"NOT APPLICABLE TO THIS PROCUREMENT".

7.1.2.1 REQUIREMENTS OF N.J.S.A. 52:34-13.2

Under the referenced statute, effective August 3, 2005, 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.

7.1.2.2 SOURCE DISCLOSURE REQUIREMENTS

Pursuant to the statutory requirements, the intended awardee 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 Certification form accompanies this RFP.

FAILURE TO SUBMIT SOURCING INFORMATION WHEN REQUESTED BY THE STATE SHALL PRECLUDE AWARD OF A CONTRACT TO THE 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 certification that the services cannot be performed in the United States and whether to seek the approval of the Treasurer.

7.1.2.3 BREACH OF CONTRACT OF EXECUTIVE ORDER 129

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, the contractor or subcontractor, who had on 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, which contract shall be subject to termination for cause pursuant to Section 3.5b.1 of the Standard Terms and Conditions version 07/27/07 of the RFP, unless previously approved by the Director and the Treasurer.

7.1.3 AFFIRMATIVE ACTION

The intended awardee must submit a copy of a New Jersey Certificate of Employee Information, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Intended awardee(s) not in possession of either a New Jersey Certificate of Employee Information or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at http://www.nj.gov/treasury/purchase/forms/AA_%20Supplement.pdf.

7.2 FINAL CONTRACT AWARD

Contract award[s] shall be made with reasonable promptness by written notice to that responsible bidder(s), whose bid proposal(s), conforming to this RFP, is(are) most advantageous to the State, price, and other factors considered. Any or all bid proposals may be rejected when the State Treasurer or the Director determines that it is in the public interest to do so.

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, naming the State as an Additional Insured.

7.4 PERFORMANCE BOND

"NOT APPLICABLE TO THIS PROCUREMENT".]

8.0 CONTRACT ADMINISTRATION

8.1 CONTRACT MANAGER

The State Contract Manager is the State employee responsible for the overall management and administration of the contract.

The State Contract Manager 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 email address.

8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES

For an agency contract where only one State office uses the contract, the State Contract Manager 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 State Contract Manager is the person that the contractor will contact **after the contract is executed** for answers to any questions and concerns about any aspect of the contract. The State Contract Manager is responsible for coordinating the use and resolving minor disputes between the contractor and any component part of the State Contract Manager's Department.

If the contract has multiple users, then the State Contract Manager 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 that use the contract must notify and coordinate the use of the contract with the State Contract Manager.

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 State Contract Manager for resolution. Any questions related to performance of the work of the contract by contract users shall be directed to the State Contract Manager. The contractor may contact the State Contract Manager if the contractor can not resolve a dispute with contract users.