



# Request for Proposal 10-X-20856

## For: Mattress Cores – State Use Industries

Event	Date	Time
<b>Bidder's Electronic Question Due Date</b> (Refer to <a href="#">RFP Section 1.3.1</a> for more information.)	05/05/09	5:00 PM
<b>Mandatory Pre-bid Conference</b>	N/A	
<b>Mandatory Site Visit</b>	N/A	
<b>Bid Submission Due Date</b> (Refer to <a href="#">RFP Section 1.3.2</a> for more information.)	05/19/09	2:00 PM

Dates are subject to change. All changes will be reflected in Addenda to the RFP posted on the Division of Purchase and Property website.

<b>Small Business Set-Aside</b> (Refer to <a href="#">RFP Section 4.4.2.2</a> for more information.)	<b>Status</b> <input checked="" type="checkbox"/> Not Applicable	<b>Category</b> <input type="checkbox"/> I
	<input type="checkbox"/> Entire Contract	<input type="checkbox"/> II
	<input type="checkbox"/> Partial Contract	<input type="checkbox"/> III
	<input type="checkbox"/> Subcontracting Only	

RFP Issued By

Using Agency/Agencies

State of New Jersey  
 Department of the Treasury  
 Division of Purchase and Property  
 Trenton, New Jersey 08625-0230

State of New Jersey  
 Department of Corrections

Date: 5/9/09

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**IMPORTANT NOTICE -  
NEW “PAY-TO-PLAY” RESTRICTIONS TO TAKE EFFECT NOVEMBER 15, 2008**

**Note: This is for informational purposes only. Certification is to be completed upon award.**

Governor Jon S. Corzine recently signed Executive Order No. 117, which is designed to enhance New Jersey’s efforts to protect the integrity of government contractual decisions and increase the public’s confidence in government. The Executive Order builds on the provisions of P.L. 2005, c. 51 (“Chapter 51”), which limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government vendors.

Executive Order No. 117 extends the provisions of Chapter 51 in two ways:

1. The definition of “business entity” is revised and expanded so that contributions by the following individuals also are considered contributions attributable to the business entity:
  - Officers of corporations and professional services corporations, with the term “officer” being defined in the same manner as in the regulations of the Election Law Enforcement Commission regarding vendor disclosure requirements (N.J.A.C. 19:25-26.1), with the exception of officers of non-profit entities;
  - Partners of general partnerships, limited partnerships, and limited liability partnerships and members of limited liability companies (LLCs), with the term “partner” being defined in the same manner as in the regulations of the Election Law Enforcement Commission regarding vendor disclosure requirements (N.J.A.C. 19:25-26.1); and
  - Spouses, civil union partners, and resident children of officers, partners, LLC members and persons owning or controlling 10% or more of a corporation’s stock are included within the new definition, except for contributions by spouses, civil union partners, or resident children to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides.
2. Reportable contributions (those over \$300.00 in the aggregate) to legislative leadership committees, municipal political party committees, and candidate committees or election funds for Lieutenant Governor are disqualifying contributions in the same manner as reportable contributions to State and county political party committees and candidate committees or election funds for Governor have been disqualifying contributions under Chapter 51.

***Executive Order No. 117 applies only to contributions made on or after November 15, 2008, and to contracts executed on or after November 15, 2008.***

Updated forms and materials are currently being developed and will be made available on the website as soon as they are available. In the meantime, beginning November 15, 2008, prospective vendors will be required to submit, in addition to the currently required Chapter 51 and Chapter 271 forms, the Certification of Compliance with Executive Order No. 117. The Certification of Compliance form for Executive Order No. 117 can be found here:

[http://www.state.nj.us/treasury/purchase/forms/EO\\_117\\_NOTICE.doc](http://www.state.nj.us/treasury/purchase/forms/EO_117_NOTICE.doc)

## **1.0 INFORMATION FOR BIDDERS**

### **1.1 PURPOSE AND INTENT**

This Request for Proposal (RFP) is issued by the Purchase Bureau, Division of Purchase and Property, Department of the Treasury on behalf of Department of Corrections. The purpose of this RFP is to solicit bid proposals for Mattress Cores

The intent of this RFP is to award a contract to that responsible bidder whose bid proposals, conforming to this RFP is most advantageous to the State, price and other factors considered. The State, however, reserves the right to separately procure individual requirements that are the subject of the contract during the contract term, when deemed by the Director 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 a reprourement of the **Mattress Cores** term contract, presently due to expire on **July 31, 2009**. Bidders interested in the current contract specifications and pricing information may review the current contract ( T #0202) at <http://www.state.nj.us/treasury/purchase/contracts.htm>.

### **1.3 KEY EVENTS**

#### **1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD**

The Purchase Bureau will electronically accept questions and inquiries from all potential bidders via the web at <http://ebid.nj.gov/QA.aspx>.

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.

Bidders must not contact the Using Agency directly, in person, by telephone or by email, concerning this RFP.

The cut-off date for electronic questions and inquiries relating to this RFP is indicated on the cover sheet. Addenda to this RFP, if any, will be posted on the Purchase Bureau website after the cut-off date. (See RFP Section 1.4.1 for further information.)

#### **1.3.2 SUBMISSION OF BID PROPOSAL**

In order to be considered for award, the bid proposal must be received by the Purchase Bureau of the Division of Purchase and Property at the appropriate location by the required time. **ANY BID PROPOSAL NOT RECEIVED ON TIME AT THE LOCATION INDICATED BELOW WILL BE REJECTED. THE DATE AND TIME IS INDICATED ON THE COVER SHEET. THE LOCATION IS AS FOLLOWS:**

BID RECEIVING ROOM - 9TH FLOOR  
PURCHASE BUREAU  
DIVISION OF PURCHASE AND PROPERTY  
DEPARTMENT OF THE TREASURY  
33 WEST STATE STREET, P.O. BOX 230  
TRENTON, NJ 08625-0230

Directions to the Purchase Bureau are available on the web at <http://www.state.nj.us/treasury/purchase/directions.htm>.

Note: Bidders using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Purchase Bureau.

Procedural inquiries concerning this RFP may be directed to [RFP.procedures@treas.state.nj.us](mailto:RFP.procedures@treas.state.nj.us). This e-mail address may also be used to submit requests to review bid documents. The State will not respond to substantive questions related to the RFP or any other contract via this e-mail address.

To submit an RFP or contract related question, go to the Current Bidding Opportunities webpage or to <http://ebid.nj.gov/QA.aspx>.

#### **1.4 ADDITIONAL INFORMATION**

##### **1.4.1 ADDENDA: REVISIONS TO THIS RFP**

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Any addendum to this RFP will become part of this RFP and part of any contract awarded as a result of this RFP.

ALL RFP ADDENDA WILL BE ISSUED ON THE DIVISION OF PURCHASE AND PROPERTY WEB SITE. TO ACCESS ADDENDA, THE BIDDER MUST SELECT THE BID NUMBER ON THE WEB PAGE AT <http://www.state.nj.us/treasury/purchase/bid/summary/bid.shtml>.

There are no designated dates for release of addenda. Therefore interested bidders should check the Purchase Bureau "Bidding Opportunities" website on a daily basis from time of RFP issuance through bid opening.

It is the sole responsibility of the bidder to be knowledgeable of all addenda related to this procurement.

##### **1.4.2 BIDDER RESPONSIBILITY**

The bidder assumes sole responsibility for the complete effort required in submitting a bid proposal in response to this RFP. No special consideration will be given after bid proposals are opened because of a bidder's failure to be knowledgeable as to all of the requirements of this RFP.

##### **1.4.3 COST LIABILITY**

The State assumes no responsibility and bears no liability for costs incurred by a bidder in the preparation and submittal of a bid proposal in response to this RFP.

#### **1.4.4 CONTENTS OF BID PROPOSAL**

If no negotiations are contemplated, after bid opening, all information submitted by bidders in response to the bid solicitation is considered public information, except as may be exempted from public disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law. Should the State, in advance of bid opening, determine to enter into negotiations with bidder(s), bid proposals will not be made public until the Letter of Intent to Award is issued.

A bidder may designate specific information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. The State reserves the right to make the determination and will advise the bidder accordingly. The location in the bid proposal of any such designation should be clearly stated in a cover letter. **The State will not honor any attempt by a bidder either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal.** In the event of any challenge to the bidder's designation of confidential/proprietary materials, the bidder shall be solely responsible for defending its designation and the State shall have no responsibility therefor.

By signing the cover sheet of this RFP, the bidder waives any claims of copyright protection set forth within the manufacturer's price list and/or catalogs. The price lists and/or catalogs must be accessible to State using agencies and cooperative purchasing partners and thus have to be made public to allow all eligible purchasing entities access to the pricing information.

All bid proposals, with the exception of information determined by the State or the Court to be proprietary, are available for public inspection after the Letter of Intent to Award is issued. At such time, interested parties can make an appointment with the Purchase Bureau to inspect bid proposals received in response to this RFP.

#### **1.4.5 BID OPENING**

On the date and time bid proposals are due under the RFP, all information concerning the bid proposals submitted may be publicly announced and those bid proposals, except for information appropriately designated as confidential, shall be available for inspection and copying. In those cases where negotiation is contemplated, only the names and addresses of the bidders submitting bid proposals will be announced and the contents of the bid proposals shall remain confidential until the Notice of Intent to Award is issued by the Director.

#### **1.4.6 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.

#### **1.4.7 BID ERRORS**

In accordance with N.J.A.C. 17:12-1.22, "Bid Errors," a bidder may withdraw its bid as follows:

A bidder may request that its bid be withdrawn prior to bid opening. Such request must be made, in writing, to the Supervisor of the Business Unit. If the request is granted, the bidder may submit a revised bid as long as the bid is received prior to the announced date and time for bid opening and at the place specified.

If, after bid opening but before contract award, a bidder discovers an error in its proposal, the bidder may make written request to the Supervisor of the Bid Review Unit for authorization to withdraw its proposal from consideration for award. Evidence of the bidder's good faith in

making this request shall be used in making the determination. The factors that will be considered are that the mistake is so significant that to enforce the contract resulting from the proposal would be unconscionable; that the mistake relates to a material feature of the contract; that the mistake occurred notwithstanding the bidder's exercise of reasonable care; and that the State will not be significantly prejudiced by granting the withdrawal of the proposal. Note: a PB-36 complaint form may be filed and forwarded to the Division's Contract Compliance and Audit Unit (CCAU) for handling. A record of the complaint will also be maintained in the Division's vendor performance file for evaluation of future bids submitted.

All bid withdrawal requests must include the bid identification number and the final bid opening date and sent to the following address:

Department of the Treasury  
Purchase Bureau, PO Box 230  
33 West State Street – 9<sup>th</sup> Floor  
Trenton, New Jersey 08625-0230  
Attention: Supervisor, Bid Review Unit

If during a bid evaluation process, an obvious pricing error made by a potential contract awardee is found, the Director shall issue written notice to the bidder. The bidder will have five (5) days after receipt of the notice to confirm its pricing. If the vendor fails to respond, its bid shall be considered withdrawn, and no further consideration shall be given it.

If it is discovered that there is an arithmetic disparity between the unit price and the total extended price, the unit price shall prevail. If there is any other ambiguity in the pricing other than a disparity between the unit price and extended price and the bidder's intention is not readily discernible from other parts of the bid proposal, the Director may seek clarification from the bidder to ascertain the true intent of the bid.

#### **1.4.8 JOINT VENTURE**

If a joint venture is submitting a bid proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture's bid proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Ownership Disclosure Form, Disclosure of Investigations and Actions Involving Bidder, Affirmative Action Employee Information Report, MacBride Principles Certification, and Business Registration or Interim Registration must be supplied for each party to a joint venture.

### **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.

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

**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

**State Contract Manager** – The individual responsible for the approval of all deliverables, i.e., tasks, sub-tasks or other work elements in the Scope of Work, as set forth in Sections 8.1, 8.1.1 and 8.1.2.

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

**Using Agency[ies]**- The entity[ies] for which the Division has issued this RFP.

### **3.0 COMMODITY DESCRIPTION/SCOPE OF WORK**

This RFP is for the supply of highly flame resistant polymerized synthetic open celled low smoke mattress cores, which in their various finished forms are to be used in the production of mattress and cushioning products. Such finished products are intended to be placed in areas of confinement, and in places where high risk of arson is present, health care settings, and dorm-like settings.

#### **3.1 APPLICABLE DOCUMENTS**

References to specifications and standards shall be in accordance with the latest issue in effect at the time of the bid, unless otherwise specified.

#### **3.2 QUANTITY**

The estimated annual volume of mattress cores by Type is as follows:

<b>30" x 76" x 3"</b>	<b>9,000 each</b>	<b>@ 47.5 bf = 427,500 bf</b>
<b>36" x 76" x 3"</b>	<b>1,000 each</b>	<b>@ 57.0 bf = 57,000 bf</b>
<b>36" x 76" x 4"</b>	<b>2,000 each</b>	<b>@ 76.0 bf = 152,000 bf</b>
<b>36" x 76" x 5"</b>	<b>2,000 each</b>	<b>@ 95.0 bf = 190,000 bf</b>
<b>Estimated annual volume for Type 1</b>		<b>826,500 bf</b>
<b>Estimated annual volume for Types 2 - 7</b>		<b>Not available</b>

\* These are new items listed in this RFP for which no volume projections are available at this time.

**3.2.1** Quantities will be determined by actual needs of the using agency during the term of the actual contract. The State shall not be bound to any minimum or maximum quantity as a result of this bid proposal. On an annual basis, the agency plans to release orders approximating 826,500 board feet (bf). Such orders can be expected to be released in truckload quantities and to be of mixed dimensions. The State reserves the right to place orders for quantities of varied sizes and in less than truck load quantities.

**3.3 PACKAGING SHIPMENT**

Packaging and shipments shall be such as to protect the product adequately and permit safe shipment. All mattress cores shall be protected to prevent soiling and damage to product/material while in transit. Additionally, only palletized shipments will be acceptable, unless otherwise specified. (Four-way wood skids positioned at bottom of all mattress core stacks inside the trailer).

**3.4 DELIVERY**

All prices shall include F.O.B. destination - Trenton, NJ. Deliveries may be made weekdays 8:30 a.m. to 2:30 p.m., excluding holidays. Contractor and/or their trucking company must call at least 24 hours prior to delivery to schedule an appointment. Rigs that show up without an appointment will be refused at the contractor's expense. Contractor shall provide delivery of ordered quantities within 30 calendar days upon receipt of purchase order. All deliveries shall be accompanied by a Certificate of Compliance (COC) from the contractor that the product/materials meet or exceed these specifications, based upon test data derived from the identified production lot run and sources of raw materials. Such COC must be provided at contractor's expense, from a qualified testing laboratory.

**3.5 CORE SIZE**

Cores shall be ordered in finished sizes, with dimensional tolerances: width: +/- 1/4", length: +/- 3/8", height: +/- 1/8". The state reserves the right to order various quantities of cores in alternate sizes per order release. Pricing for each size shall be determined by the following formula, which will provide price per board foot (bf):

Width x Length x Thickness (Divided By) 144 Cubic Inches = Mattress Board Feet (BF)  
 144 Cubic Inches = 1 Mattress Board Foot

(Example: 30" X 76" X 3"/144 (Cubic Inches) = 47.5 Mattress board feet)

### 3.6 FLAMMABILITY AND SMOKE CHARACTERISTICS:

#### 3.6.1 RADIANT PANEL

**Flame Spread Index:** When tested in accordance with ASTM-D-3675, the flame spread index shall not exceed a value of 5 without the test specimen showing signs of melting or dripping. Material offered with molded skin or treated surfaces shall be tested with those surfaces exposed to the test flame/heat source. Test specimens will be 6" wide x 18" long x 1" thick, in accordance with ASTM-D-3675, paragraph 6 - test specimens.

#### 3.6.2 NBS SMOKE CHAMBER

**Smoke Accumulation:** When tested in accordance with ASTM-E-662, the total smoke accumulation  $D_m$  (maximum specific optical density), shall not exceed 175 in the flame mode or smoldering modes. Material offered with molded skin or treated surfaces shall be tested with those surfaces exposed to the test chamber. Test specimens shall be 3" x 3" (tolerance: +0"/-0.03") and 1" thick (nominal) in accordance with ASTM-E-662, paragraph 8 -test specimens, sub-paragraph 8.1.

#### 3.6.3 HEAT RELEASE

**Radiant Flux:** When tested in accordance with ASTM-E-1354 with the test specimen (approximately 4" x 4" x 1"), horizontally mounted, with a radiant flux of 3.5 W/cm<sup>2</sup>, the rate of heat release shall be 50 kW/m<sup>2</sup> with the heat release at 3 minutes 5.0 MJ/m<sup>2</sup> maximum.

**Oxygen Index:** When tested in accordance with ASTM-D-2863, the oxygen index (OI) shall be 50 minimum, when calculated in accordance with ASTM-D-2863, paragraph 9.

### 3.7 PHYSICAL CHARACTERISTICS

#### 3.7.1 TYPE 1 (STANDARD CORE)

**Density:** When tested in accordance with ASTM-D-3574 (test a), the density of the finished core shall be 6.0 pounds per cubic foot (tolerance: +/- 0.5 pounds per cubic foot).

**Tensile Strength:** When tested in accordance with ASTM-D-3574 (test e), the tensile strength shall be 8 pounds per square inch, minimum. Specimen must be free of skin or surface fabric in accordance with ASTM-D-3574, test method e, paragraph 47 - test specimens, sub- paragraph 47.1.

**Elongation:** When tested in accordance with ASTM-D-3574 (test e), the elongation at break shall be 150% minimum. The specimen must be free of skin or surface fabric in accordance with ASTM-D-3574 test method e, paragraph 47 - test specimens, sub-paragraph 47.1. Additionally, material must withstand being bent on itself, for 100 cycles, without evidence of splitting, cracking, or discernable disintegration, sample size: 12" wide x 12" long x 3" high.

**Tear Resistance:** When tested in accordance with ASTM-D-3574 (test f), the tear resistance (free of skin or surface fabric) shall be 2 pounds per square inch, minimum.

**Indentation Force Deflection:** When tested in accordance with ASTM-D- 3574 (test b1), the indentation force deflection @ 25% is 35 lbs. (tolerance: +/- 10 lbs.), 2" thick sample.

**Compression Set Test:** When tested in accordance with ASTM-D-3574 (test d), compression set test, the test specimen is to be held under constant deflection @ 50 % +/- 1 %, of the test

sample's 1" thickness, for a period of 22 hours, at 70 degrees +/- 2.0 degrees centigrade, with a 50% +/- 2 % relative humidity, the specimen shall not exceed a 10% loss.

**Flexing Fatigue Test:** When tested in accordance with ASTM-D-1055, flexing tests (suffix h), the test samples shall be tested in accordance with paragraph 26 - test methods, sub-paragraph 26.1 for 250,000 cycles with 3" thick samples, the material shall withstand flexing without the physical breakdown of the cellular structure, by evidence of cracking/splitting or disintegration of the foam as a result of the flexing test. The "set"/deformity exhibited by the test samples after one (1) hour, at rest, shall not exceed 10%.

**Resilience:** When tested in accordance with ASTM-D-3574 (test h), the resilience shall be 30% minimum. Test specimens shall have parallel top and bottom surfaces and shall consist of the entire product sample or a significant portion. No test samples may be less than 2 inches thick.

**Fungal/Bacterial Growth:** Test specimens are not to show any evidence of fungal or bacterial growth when tested in accordance with ASTM-G-21 & ASTM-G-22.

**Odor:** The foam shall not be odoriferous or exhibit any objectionable odor.

### **3.7.2 TYPE 2**

Same specifications as Type 1 with the following additions:

Mattress insert shall be constructed of Fire Resistant Polyurethane per California Technical Bulletin #117 with a density of 2.4 lbs. Per cubic foot and I.F.D. of 30 lbs.

The interior/base shall be solid polyurethane with the top of the mattress convoluted with an overall thickness of 2 inches with 1 inch flat peaks. The convoluted top shall be securely laminated to the base cushioning.

Minimum thickness of the mattress shall be 5 inches with other thicknesses available. Length and width will vary depending upon size required.

### **3.7.3 TYPE 3**

Same specifications as Type 1 with the following additions:

Mattress insert shall be constructed for Fire Resistant Polyurethane per California Technical Bulletin #117 with a density of 2.4 lbs. per cubic foot and I.F.D. of 30 lbs.

Sides, ends and bottom of mattress shall be encapsulated with a minimum of 1/2" fire resistant medium cushioning.

The top of the mattress shall be constructed of hi-density, special soft AIRFLEX (or approved equal) 20-30 convoluted with an overall thickness of 1-1/2 inches and 1-inch flat peaks.

The top, bottom, sides and ends shall be securely laminated to the interior polyurethane. The completed (covered) mattress shall comply with California Technical Bulletin #129 and Boston BFD IX-11.

Minimum thickness of the mattress shall be 5 inches with other thicknesses available. Length and width will vary depending upon size required.

### **3.7.4 TYPE 4**

Same specifications as Type 1 with the following additions:

Mattress insert shall be constructed for Fire Resistant Polyurethane per California Technical Bulletin #117 with a density of 2.4 lbs. Per cubic foot and I.F.D. of 30 lbs.

The interior shall be solid polyurethane with the top and bottom convoluted with an overall thickness of 2 inches with 1 inch flat peaks. The convoluted top and bottom shall be securely laminated to the base cushioning.

Minimum thickness of mattress shall be 5 inches with other thicknesses available. Length and width will vary depending upon size required.

### **3.7.5 TYPE 5**

Same specifications as Type 1 with the following additions:

Mattress insert shall be constructed of Fire Resistant Polyurethane per California Technical Bulletin #117 with a density of 2.4 lbs. Per cubic foot and I.F.D. of 30 lbs.

The sides, ends shall be encapsulated with a minimum of 1/2" fire-resistant medium cushioning.

The top and bottom shall be constructed of hi-density, special soft AIRLFEX (or approved equal) 20-30 convoluted with an overall thickness of 1-1/2" inches and 1 inch flat peaks.

The top, bottom sides and ends shall be securely laminated to the interior. The completed (covered) mattress shall comply with California Technical Bulletin #129 and Boston BFD IX-11.

Minimum thickness of the mattress shall be 5 inches with other thicknesses available. Length and width will vary depending upon size required.

### **3.7.6 TYPE 6**

Same specifications as Type 1 with the following additions:

The inner core shall be 1.65 +/- .5 lbs. per cubic foot. Firmness of polyurethane shall be dependent upon the completed mattress thickness, 5 inches at 30 lbs., 6 inches at 27 lbs., and 7 inches at 23 lbs.

Minimum 1/2 low smoke medium polychloroprene fire resistant cushioning shall be securely laminated to the sides, ends, top and bottom of the polyurethane.

Lamination of polychloroprene compound cushioning shall completely encapsulate the polyurethane on top, bottom, and sides. A neoprene adhesive must be used.

### **3.7.7 TYPE 7**

Same specifications as Type 1 with the following additions:

Mattress insert shall be manufactured with a built-in-pillow. The pillow shall be constructed of fire resistant foam cushioning and securely laminated to the top of one end of the mattress insert. The pillow shall have a peak height of 2-1/2" with a contour radius of 3/4 inch. The depth shall be 12 inches with the width equaling the width of the mattress insert.

### **3.7.8 FINISHED MATTRESSES (CORE TYPE(S) 1-7)**

Description/Scope of Work:

When needed, DEPTCOR may request a "finished" order of neoprene cores. This cost will be classified as a "per each" price and identified as a separate line item in addition to the neoprene core board foot price.

"Finished" = covered with vinyl ticking (specifications below) and sewn shut. Mattresses are intended for institutional use and must be finished in such a way as to prevent tearing, unraveling or penetration.

Mattress Ticking Requirements: Herculite (trademark) brand, Sure-Chek XL (or approved equal). Color: Fawn/Tan.

Samples or additional specifications regarding the ticking can be furnished upon request.

## **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.

**The forms discussed herein and required for submission of a bid proposal in response to this RFP are available on the web at <http://www.state.nj.us/treasury/purchase/bid/summary/10x20856.shtml> unless noted otherwise.**

### **4.2 BID PROPOSAL DELIVERY AND IDENTIFICATION**

In order to be considered, a bid proposal must arrive at the Purchase Bureau in accordance with the instructions on the RFP signatory page accompanying this RFP. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of bid proposals. **State regulation mandates that late bid proposals are ineligible for consideration. THE EXTERIOR OF ALL BID PROPOSAL PACKAGES ARE TO BE LABELED WITH THE BID IDENTIFICATION NUMBER AND THE FINAL BID OPENING DATE OR RISK NOT BEING RECEIVED IN TIME.**

### **4.3 NUMBER OF BID PROPOSAL COPIES**

The bidder must submit **one (1) complete ORIGINAL bid proposal**, clearly marked as the “ORIGINAL” bid proposal.

The bidder should submit **one (1) full, complete and exact copy(ies)**, clearly marked “COPY” of the original.

Copies are necessary in the evaluation of the bid proposal and for record retention purposes. A bidder failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. It is suggested that the bidder make and retain a copy of its bid proposal.

#### **4.4 BID PROPOSAL CONTENT**

##### **4.4.1 FORMS/PROOF OF REGISTRATION REQUIRED WITH BID PROPOSAL**

###### **4.4.1.1 SIGNATORY PAGE**

The bidder shall complete, including signature of an authorized representative of the bidder, and submit the Signatory Page accompanying this RFP. 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. Failure to comply will result in rejection of the bid proposal.

###### **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 (5) years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. The bidder shall use the Disclosure of Investigations and Actions Involving Bidder form for this purpose.

###### **4.4.1.4 BUSINESS REGISTRATION CERTIFICATE FROM THE DIVISION OF REVENUE**

FAILURE BY THE BIDDER TO SUBMIT A COPY OF ITS 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/nibgs](http://www.nj.gov/nibgs) to register with the New Jersey Division of Revenue or to obtain a copy of an existing Business Registration Certificate. Further information is provided in Section 1.1 of the NJ Standard Terms and Conditions version 07/27/07 accompanying this RFP.

###### **4.4.1.5 SMALL BUSINESS SET-ASIDE CONTRACTS**

Not Applicable to this RFP.

#### **4.4.2 FORMS REQUIRED BEFORE CONTRACT AWARD AND THAT SHOULD BE SUBMITTED WITH THE BID PROPOSAL**

##### **4.4.2.1 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.

##### **4.4.2.2 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.

##### **4.4.3 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.

##### **4.4.3.1 BIDDER EXPERIENCE - DATA SHEETS**

The bidder must provide all of the information requested in the Bidder's Data Packet accompanying this RFP.

##### **4.4.3.2 SAMPLES/SAMPLE TESTING**

##### **4.4.3.2 SAMPLES/SAMPLE TESTING**

The samples submitted must meet the specification requirements set forth in the RFP and must be representative of the product bid. Bid samples **for pricing lines 00001 to 00028** for evaluation and testing purposes are to be made available at no charge and delivered to **DEPTCOR State Use Industries**, at the bidder's expense. The bidder must, within **ten (10)** working days following a request from the State, submit bid samples to the **DEPTCOR State Use Industries**. Bid samples will not be returned. The **DEPTCOR State Use Industries**, will conduct laboratory tests to assure that the bid samples submitted **for pricing lines 00001 to 00028** conform to this RFP. The State reserves the right to perform any tests necessary to assure that the bid samples conform to this RFP **for pricing lines 00001 to 00028**. The testing results of the State are final.

##### **4.4.4 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.

#### **4.4.5 PRICING**

In order for the State to make sound business judgments regarding products and prices offered in response to this RFP, the bidder must supply, with its bid proposal, the information requested on the RFP's pricing lines in sufficient detail as to allow the State to determine the firm, fixed bid pricing and the precise product or service being offered, i.e., with no possible misinterpretation of the price or product/service being offered by the bidder. A bidder's failure to provide, within its bid proposal, the information deemed by the State to be essential for product identification or price determination will result in rejection of that bidder's proposal. Notwithstanding the aforementioned material obligation, in order to support the State's decision-making process, the State may require a bidder to provide additional information or documentation that has been deemed not to be material to product identification or price determination, in which case, the bidder shall, within the time limit set forth in the written request, comply with said request. Each bidder is required to hold its prices firm through issuance of contract.

#### **4.4.6 METHOD OF BIDDING**

Bidders must bid all grouped price line items (00001 to 00028) in order to be considered for an award. Failure to do so will result in the rejection of your bid proposal.

### **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 accompanying this RFP.

In the event of a conflict between the provisions of this RFP, including the Special Contractual Terms and Conditions 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 AND EXTENSION OPTION**

The term of the contract shall be for a period of **two (2) years**. The anticipated "Contract Effective Date" is provided on the signatory page accompanying this RFP. If delays in the procurement process result in a change to the anticipated Contract Effective Date, the bidder agrees to accept a contract for the full term of the contract. The contract may be extended for all or part of **one (1)** one-year periods, by the mutual written consent of the contractor and the Director. **Purchase orders may be placed against the contract up to and including the end of business on the last day of the contract, for delivery no more than 45 days after contract expiration.**

## **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 RESPONSIBILITIES**

The contractor shall have sole responsibility for the complete effort specified in the contract. Payment will be made only to the contractor. The contractor shall have sole responsibility for all payments due any subcontractor.

The contractor is responsible for the professional quality, technical accuracy and timely completion and submission of all deliverables, services or commodities required to be provided under the contract. The contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its deliverables and other services. The approval of deliverables furnished under this contract shall not in any way relieve the contractor of responsibility for the technical adequacy of its work. The review, approval, acceptance or payment for any of the services shall not be construed as a waiver of any rights that the State may have arising out of the contractor's performance of this contract.

## **5.6 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.

## **5.7 ITEMS ORDERED AND DELIVERED**

The **Using Agency[ies] is[are]** authorized to order and **the contractor/contractors is/are** authorized to ship only those items covered by the contracts resulting from this RFP. If a review of orders placed by the Using Agency [Agencies] reveals [reveal] that material other than that covered by the contract has been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or as a basis not to award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the Agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price.

The contract involves items which are necessary for the continuation of ongoing critical State services. Any delay in delivery of these items would disrupt State services and would force the State to immediately seek alternative sources of supply on an emergency basis. Timely delivery is critical to meeting the State's ongoing needs.

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

In the event that the contractor fails to comply with any material contract requirements, the Director may take steps to terminate the contract in accordance with the State administrative code and/or authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor's price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor.

## **5.9 MANUFACTURING/PACKAGING REQUIREMENTS**

5.9.1 All products must conform in every respect to the standards and regulations established by Federal and New Jersey State laws.

5.9.2 All products shall be manufactured and packaged under modern sanitary conditions in accordance with federal and state law and standard industry practice.

5.9.3 All products are to be packaged in sizes as specified in this RFP and shall be packaged in such a manner as to ensure delivery in first class condition and properly marked for identification. All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton. Deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection by the Using Agency at the contractor's expense.

## **5.10 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.

## **5.11 CONTRACT ACTIVITY REPORT**

As required by paragraph 3.19 of the NJ Standard Terms and Conditions version 07/27/07 accompanying this RFP, contractor(s) must provide, on a calendar quarter basis, to the assigned Purchase Bureau representative, a record of all purchases made under the contract resulting from this RFP. This reporting requirement includes sales to State using agencies, political subdivisions thereof and, if permitted under the terms of the contract, sales to counties, municipalities, school districts, volunteer fire departments, first aid squads and rescue squads, independent institutions of higher education, state and county colleges and quasi-state agencies. Quasi-state agencies include any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

This information must be provided in a tabular format such that an analysis can be made to determine the following:

- Contractor's total sales volume to each purchaser under the contract, subtotaled by product, including, if applicable, catalog number and description, price list with appropriate page reference and/or contract discount applied.
- Total dollars paid to subcontractors.

Submission of purchase orders, confirmations, and/or invoices do not fulfill this contract requirement for information.

Contractors must submit the required information in Microsoft Excel format.

Failure to report this mandated information will be a factor in future award decisions.

#### **5.12 CONTRACT PRICE INCREASE (PREVAILING WAGE)**

If the Prevailing Wage Act (N.J.S.A. 34:11-56 et seq.) is applicable to the contract, the contractor may apply to the Director, on the anniversary of the effective date of the contract, for a contract price increase. The contract price increase will be available only for an increase in the prevailing wages of trades and occupations covered under this contract during the prior year. The contractor must substantiate with documentation the need for the increase and submit it to the Director for review and determination of the amount, if any, of the requested increase, which shall be available for the upcoming contract year. No retroactive increases will be approved by the Director.

#### **5.13 PUBLIC WORKS CONTRACT-ADDITIONAL AFFIRMATIVE ACTION REQUIREMENT**

N.J.S.A. 10:5-33 requires that:

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

- a) The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading,

demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

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

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

## **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.

After reviewing bid proposals, the Buyer or the Evaluation Committee (generically, the "evaluation committee") may ask one, some or all of the bidders to clarify certain aspects of their proposals. A request for clarification may be made in order to resolve minor ambiguities, irregularities, informalities or clerical errors. Clarifications cannot correct any deficiencies or material omissions or revise or modify a proposal, except to the extent that correction of apparent clerical mistakes results in a modification.

The bidder may be required to give an oral presentation to the State concerning its bid proposal.

Bidders may not attend the oral presentations of 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.

### **6.2.1 EVALUATION OF THE BID PROPOSALS**

After the Evaluation Committee completes its evaluation, it recommends to the Director for award the responsible bidder(s) whose bid proposal, conforming to this RFP, is most advantageous to the State, price and other factors considered. The Evaluation Committee considers and assesses price, technical criteria, and other factors during the evaluation process and makes a recommendation to the Director. The Director may accept, reject or modify the recommendation of the Evaluation Committee. Whether or not there has been a negotiation process as outlined in 6.4 below, the Director reserves the right to negotiate price reductions with the selected vendor.

### **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)**

After evaluating bid proposals, the evaluation committee may enter into negotiations with each bidder in the competitive range, unless there are too many highly rated proposals to evaluate efficiently. In this situation, the State may limit the competitive range to the number of proposals that will permit efficient competition among the most highly rated proposals. The primary purpose of negotiations is to maximize the State's ability to get the best value, based on the requirements and evaluation criteria set forth in the RFP. Negotiations may involve the identification of significant proposal weaknesses, ambiguities and other deficiencies that could limit a bidder's award potential, including price. More rounds of negotiations may be held with one bidder in the competitive range than with another. Negotiations will be structured to safeguard information and ensure that all bidders in the competitive range are treated fairly.

When the evaluation committee determines to conclude negotiations, all bidders in the competitive range will be so notified and advised of the time and place for submission of best and final offers. The best and final offer can modify any aspect of the bid proposal, provided mandatory RFP requirements are satisfied and further provided that the revised price proposal is not higher than the original price proposal. Any revised price proposal that is not equal to or lower in price than the original price proposal will be rejected as non-responsive.

Evaluation of the best and final offers will be on the basis of price and the evaluation criteria set forth in the RFP. If, after review of the best and final offers, clarification is required, it may be sought from the bidders. If further negotiation is desired after evaluation of the revised proposals,

it will be followed by another BAFO opportunity. The State reserves the right to reassess the competitive range before proceeding with a subsequent round of negotiations and BAFO submissions and to remove from the competitive range any proposal that is no longer considered to be a leading contender for award.

After evaluation of the final BAFO submissions, the evaluation committee will recommend to the Director for award the responsible bidder(s) whose bid proposal(s), conforming to the RFP, is most advantageous to the State, price and other factors considered. The Director may accept, reject or modify the recommendation of the Evaluation Committee. The Director may negotiate further reductions in price with the selected bidder.

**Negotiations will only be conducted in those circumstances where they are deemed by the State to be in the State's best interests and to maximize the State's ability to get the best value. Therefore, bidders are advised to submit their best technical and price proposals in response to this RFP, because the State may, after evaluation, make a contract award based on the content of these initial submissions, without further negotiation with any bidder.**

All contacts, records of initial evaluations, any correspondence with bidders related to any request for clarification, 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 N.J.S.A. 19:44A-20.13-25 (FORMERLY EXECUTIVE ORDER 134)**

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, the Legislature enacted N.J.S.A. 19:44A-20.13 – 25 on March 22, 2005 (the "Legislation"), retroactive to October 15, 2004, superseding the terms of Executive Order 134. Pursuant to the requirements of the 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) **Contribution** – means a contribution reportable as a recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act." P.L. 1973, c. 83 (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Through December 31, 2004, contributions in excess of \$400 during a reporting period were deemed "reportable" under these laws. As of January 1, 2005, that threshold was reduced to contributions in excess of \$300.

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 of a business entity includes (i) all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as

appropriate; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse or child, residing in the same household.

#### **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 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 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 to any State or county political party 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 the Legislation 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

<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](http://www.elec.state.nj.us).

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

One contract award for all grouped line items 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.

### **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.