

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
PURCHASE BUREAU
33 WEST STATE STREET
PO Box 230
TRENTON, NEW JERSEY 08625-0230

NOTICE OF AWARD (NOA)

FOR

Diesel Retrofit Device and Installation Reimbursement (T-2541)

Bid Number: 08-X-39424

Date Issued: 1/14/08

Using Agency

State of New Jersey
Cooperative Purchasing Members
Fleet Owners

The NOA consists of the following:

1. NOA text, which includes
 - a. Original Request for Proposal (RFP) specifications text
 - b. Standard Terms and Conditions
2. Vendor information sheet
3. Contract items by vendor
4. Contract items by price lines (in numerical order)

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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 the Department of Environmental Protection (DEP) and various Vehicle Owners located throughout the State of New Jersey.

The purpose of this Request for Proposal (RFP) is to solicit bid proposals from the installers authorized by the Closed Crankcase Ventilation System (CCVS) and/or diesel particulate emission control retrofit device manufacturer for the reimbursement of the cost of purchase and/or installation of CCVS for regulated school buses and/or retrofit devices for Regulated Vehicles or vehicles that have been designated retrofit candidates pursuant to N.J.S.A 26:2C-8.26 *et. seq.*, the Diesel Retrofit Law, any rules and regulations developed pursuant to the law, and any related DEP approved projects. The State will implement the reimbursement process by awarding a contract to one or more Authorized Installers, who have been deemed acceptable by this RFP process. The RFP will focus on CCVS and/or retrofit devices for school buses and solid waste collection vehicles, with the limited exceptions noted in Section 3.1.1.

Proposed N.J.A.C 7:27-32 *et. seq.*, the Mandatory Retrofit Rule (which can be viewed at www.nj.gov/dep/stopthesoot), includes a provision that indicates that only Authorized Installers who are awarded a State contract that will arise from this RFP will be eligible for reimbursements. It is possible for entities such as fleet owners, who want to perform their own CCVS/retrofit device installation to achieve Authorized Installer status and bid on this RFP.

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. Such separate procurement may include any upcoming RFP's issued to expand the existing list of sources of procurement, to utilize evolving technology and Industry and/or to address any growing user needs.

The NJ Standard Terms and Conditions version 05 09 06 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. Notwithstanding the Standard Terms and Conditions, this RFP is open to and for the benefit of the State Agencies, Cooperative Purchasing partners and Vehicle Owners.

1.2 BACKGROUND

Diesel exhaust is a complex mixture of hundreds of constituents in gas and particle form. Exhaust emissions vary in chemical composition among engine types, operating conditions and fuel formulations. The particles in diesel exhaust are composed of a central core of elemental carbon and adsorbed organic compounds, as well as small amounts of sulfate, nitrate, metals and other trace elements. Gases in diesel exhaust include carbon dioxide (CO₂), oxygen, water vapor, carbon monoxide (CO), oxides of nitrogen (NO_x), sulfur compounds, volatile organic compounds (VOC) and low molecular weight hydrocarbons.

According to the International Agency for Research on Cancer and the United States Environmental Protection Agency (USEPA), diesel exhaust has been identified as a toxic air contaminant and a probable human carcinogen. The California Air Resources Board (CARB)

has identified diesel exhaust as a toxic air contaminant. The USEPA, CARB, and others have determined that human exposure to diesel exhaust has been linked to premature death from lung cancer, and increased incidents of asthma, allergies, and other various cardiorespiratory disorders. Those most susceptible to diesel emissions include the elderly, the very young and those with pre-existing respiratory problems. Because of the carcinogenicity of diesel exhaust and the other health effects that can lead to premature death, the New Jersey State Legislature passed N.J.S.A 26:2C-8.26 *et. seq.*, the Diesel Retrofit Law, through which the Department of Environmental Protection (DEP) is proposing to control certain components of diesel exhaust emissions.

Of particular concern is the fine particulate matter contained in diesel exhaust referred to as PM_{2.5}. PM_{2.5} is composed of particles less than 2.5 microns in diameter, and includes both carbon particles and liquid droplets. PM_{2.5} is of special concern because these particles can be inhaled deep within the lung and can enter the blood stream. PM_{2.5} can aggravate asthma, increase respiratory symptoms such as coughing and difficult or painful breathing, cause chronic bronchitis and decreased lung function, contribute to cardiovascular problems such as heart attacks, and even result in premature death. Exposure has also been associated with increased hospital admissions and emergency room visits for respiratory illnesses.

Scientific and academic studies performed have repeatedly shown links between exposure to fine particles and health effects, including premature death and increased incidents of asthma, allergies, and other breathing disorders. A recent report by the New Jersey Clean Air Council states that only smoking and obesity outrank fine particulate matter in the estimated number of premature deaths caused every year. Asthma and emphysema are exacerbated by fine particulate matter in the atmosphere.

Components of diesel exhaust are genotoxic, mutagenic, and can produce allergy symptoms, including inflammation and irritation of airways. There is no known safe level of exposure to diesel exhaust for children.

The Center for Disease Control and Prevention (CDC) within the United States Department of Health estimates that 4.5 million children in the United States have asthma. Diesel exhaust can adversely affect children with underlying respiratory illnesses such as asthma, bronchitis, and infections, and may enhance the effects of some allergens among sensitive individuals. Children inhale more air than adults, relative to body surface area, breathing frequency, and heart rate, because children have greater metabolic needs, due to growth. The human lung continues to develop through adolescence and exposure to harmful air pollutants during childhood has an important impact on lung development, therefore children are at greater risk because a greater dose of pollution is delivered to their lungs during this crucial period.

Diesel-powered engines, such as those found in trucks and buses, are responsible for a significant amount of the particulate pollution in New Jersey, which can disproportionately affect people in densely populated high traffic areas, especially in urban centers. The emission of particulate matter and other chemical compounds in the exhaust of diesel engines poses a real health risk to the people of the State. Analysis of data from the Department's air monitoring system shows that diesel emissions contribute up to 12 percent of the PM_{2.5} in the State.

It is of vital importance to the health of the people of the State to begin to significantly reduce fine particle emissions and exposure of school children to these emissions. This start can be most effectively and economically accomplished by requiring the use of closed crankcase ventilation systems (CCVS) on school buses, and the use of retrofit device in diesel-powered commercial buses, solid waste vehicles, and publicly owned on-road vehicles and off-road equipment for the reduction of fine particle emissions.

The Diesel Retrofit Law that was passed on September 7, 2005 provides the foundation for the DEP to accomplish these goals. This legislation provides a source of funds to reimburse the contractors for the costs of purchasing and installing CCVS devices on school buses and retrofit devices on Regulated Vehicles. The Diesel Retrofit Law, and its subsequent rules, require that CCVS and retrofit devices be placed on approximately 40,000 vehicles registered and operating in New Jersey. These vehicles include school buses, publicly owned solid waste collection vehicles, privately owned solid waste collection vehicles used in a public contract, all commercial buses and publicly owned on-road and off-road heavy duty diesel vehicles as defined in the DEP's retrofit rules.

The State reserves the right to reimburse the cost of purchasing and/or installing retrofit and CCVS devices for diesel vehicles that are not currently subject to the Diesel Retrofit Law using this contract. Funding would come from sources other than the Diesel Risk Mitigation Fund, and may involve projects such as installing retrofit devices on privately owned construction equipment. Contracts resulting from this RFP would be used in these voluntary projects at the contract pricing listed to perform installations on vehicles or equipment not regulated by the Diesel Retrofit Program Rule. This would be limited to those vehicles that have been designated as retrofit candidates pursuant to a DEP voluntary retrofit project (grant) or other DEP related project and have signed purchase orders or funding authorizations.

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

The Purchase Bureau will accept questions and inquiries from all potential bidders electronically via web form. To submit a question, please go to Current Bid Opportunities webpage or to <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 are not to 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 Section 1.4.1. of this RFP 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 can be found at the following web address:
<http://www.state.nj.us/treasury/purchase/directions.htm>.

Note: Bidders using USPS Regular or Express mail services should allow additional time since USPS mail deliveries are not delivered directly to the Purchase Bureau.

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, SELECT THE BID NUMBER ON THE BIDDING OPPORTUNITIES WEB PAGE AT THE FOLLOWING ADDRESS:

<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.

By submitting a bid proposal, the bidder covenants and agrees that it has satisfied itself that it fully understands its obligation and that it will not make any claim for, or have any right to cancellation or relief, without penalty, because of any misunderstanding.

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

Subsequent to 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. If the State proposes to negotiate and/or pursue a Best and Final Offer, 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.**

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 agencies, cooperative purchasing partners and Vehicle Owners 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. Interested parties can make an appointment with the Purchase Bureau to inspect bid proposals received in response to this RFP.

1.4.5 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.

1.4.6 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 Business 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 Administration 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 – 9th Floor
Trenton, New Jersey 08625-0230
Attention: Supervisor, Business 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 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.

1.4.7 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.

1.5 PRICE LIST AND/OR CATALOG PRICING

The bidder's signature guarantees that prices set forth within the manufacturer's preprinted price lists and/or catalogs will govern for the period of the contract. The bidder also acknowledges that, notwithstanding any reference to price escalation clauses, FOB shipping point, and shipping charges contained in the preprinted price lists, catalogs, and/or literature, such references will not be part of any State contract awarded as a result of this RFP.

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.

Cooperative Purchasing Partners - Quasi-State agencies, counties, municipalities, school districts, volunteer fire departments, first aid squads, independent institutions of higher learning, County colleges and State colleges. Although the State is making the use of any contract resulting from this RFP available to the cooperative purchasing partners, the State makes no representation as to the acceptability of any State RFP terms and conditions under the Local Public Contracts Law or any other enabling statute or regulation.

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

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

2.2 CONTRACT SPECIFIC DEFINITIONS

Authorized Installer – means a person authorized, pursuant to a written agreement with a manufacturer of retrofit devices or closed crankcase ventilation systems to represent the manufacturer for the purpose of sales, installation, repair and/or dispersal of information regarding those retrofit devices or closed crankcase ventilation systems.

Best Available Retrofit Technology (BART) – means an aftermarket particulate emissions control device that may be used on or in Regulated Vehicles or Regulated Equipment, at a reasonable cost to achieve substantial reduction of fine particulate diesel emissions, and is either a diesel emissions control strategy for which CARB has issued an Executive Order, or a verified retrofit technology for which the USEPA has issued a Verification Letter. "Best available retrofit technology" only includes those retrofit devices and fuel for which the retrofit device manufacturer or fuel manufacturer agrees, in a manner determined appropriate by the DEP, that the installation and use of the retrofit device or the use of the special fuel would not jeopardize the original engine warranty in effect at the time of the installation or the commencement of use of the retrofit device or fuel, and for which the manufacturer has provided a warranty pursuant to the provisions of N.J.S.A.26:2C-8.26 *et seq.* The DEP may elect through a DEP grant or other DEP related projects as specified in Section 3.1 of this RFP to use these devices on non-Regulated Vehicles.

BART1 – means a BART that achieves a minimum particulate emissions control level of 25 percent reduction in mass.

BART2 – means a BART that achieves a minimum particulate emissions control level of 50 percent reduction in mass.

BART3 – means a BART that achieves a minimum particulate emissions control level of 85 percent reduction in mass.

NOTE: The specifications listed defining the minimum particulate emissions control level for each BART level are currently part of proposed N.J.A.C 7:27-32 *et seq.* Be advised these levels may change based on public comment to the regulations.

California Air Resources Board (CARB) – means the agency or its successor agency established and empowered to regulate sources of air pollution in the State of California, including motor vehicles, pursuant to section 39003, California Health & Safety Code, 1999, as amended or

supplemented. Information on the CARB program and technologies that have been verified can be found at <http://www.arb.ca.gov/diesel/verdev/verdev.htm>

Certified configuration – means a heavy-duty engine design certified by either of the following agencies as meeting the applicable emission standards for motor vehicles manufactured in a given model year:

1. USEPA for model year 1968 or for a more recent model year; or
2. CARB for model year 1966 or for a more recent model year.

Closed crankcase ventilation system (CCVS) – means a system installed upon an internal combustion engine that is designed to capture all solids, liquids and gases that are emitted from the crankcase vent and divert them to the engine intake air plenum for re-combustion.

Constitutionally-dedicated moneys – mean moneys dedicated pursuant to Article VIII, Section II, paragraph 6, subparagraph (d) of the State Constitution.

DEP – means the New Jersey Department of Environmental Protection.

Diesel engine – means an internal combustion engine with compression ignition using diesel fuel, including the fuel injection system but excluding the exhaust system.

Diesel Risk Mitigation Fund or fund – means the special, non-lapsing fund established pursuant to N.J.S.A. 26:2C-8.53.

Diesel solid waste vehicle – means any on-road diesel vehicle with a gross vehicle weight rating in excess of 14,000 pounds that is used to collect or transport residential or commercial solid waste, including vehicles powered by a diesel engine used for transporting waste containers, including, but not necessarily limited to, open boxes, dumpsters or compactors, which may be removed from the tractor. "Diesel solid waste vehicle" includes solid waste cabs and solid waste single-unit vehicles.

Early Retrofit – means proposed installation of a retrofit device to be completed prior to the deadline for submittals of a segment of vehicles with an earlier submittal date in accordance with the dates set forth in any DEP rules that may result from any proposed rulemaking.

Fine particle (PM_{2.5}) – means a particle emitted directly into the atmosphere from exhaust produced by the combustion of fuel and having an aerodynamic diameter of 2.5 micrometers or less.

Fine particulate diesel emissions – means emissions of fine particles from an on-road diesel vehicle or from off-road diesel equipment.

First fit inspection procedure - standard operating procedure that the State requires the Authorized Installer to have in place so that after the first installation of a device has taken place, the Authorized Installer can review the installation critically and determine what parts of the installation process need to be improved upon

G/bhp-hr – means grams per brake-horsepower hour.

Gross vehicle weight rating (GVWR) – means the value specified by the vehicle manufacturer as the maximum loaded weight of a single vehicle.

Hydrocarbons (HC) – means any compound or mixture of compounds whose molecules consist of atoms of hydrogen and carbon only.

MVC – means the New Jersey Motor Vehicle Commission.

Non-regulated vehicle – means any vehicle that is not regulated by the Diesel Retrofit Rule.

Owner or Vehicle Owner – means any person, the State, or any political subdivision thereof, that owns any on-road diesel vehicle or off-road diesel equipment, including public and private owners of regulated vehicles and equipment pursuant to proposed N.J.A.C 7:27-32.

Oxides of nitrogen (NOx) – all the oxides of nitrogen including, but not limited to, nitric oxide (NO) and nitrogen dioxide (NO₂), except nitrous oxide (N₂O).

Person – means an individual, public or private corporation, company, partnership, firm, association, society or joint stock company, municipality, state, interstate body, the United States, or any Board, commission, employee, agent, officer or political subdivision of a state, an interstate body or the United States.

Regeneration – a process which burns off the soot that overloads certain retrofit devices in an engine malfunction and needs to be removed from the filter in order to maintain operating efficiencies. This process clears the filter for further use. Methods include placing the filter element in a high temperature, kiln style furnace, or by activating internal soot combustion devices either by adding electricity or fuel to power.

Regulated Equipment – means any regulated off-road diesel equipment or any piece of off-road diesel equipment that is required to use best available retrofit technology.

Regulated school bus – means an in-service school bus originally designed to carry 10 or more passengers that is powered by a diesel engine, and owned by a school district, nonpublic school, or school bus contractor who has entered into a contract with a school district or a nonpublic school to transport children to and from a primary or secondary school in the State.

Regulated solid waste vehicle – means any diesel solid waste vehicle registered in the State that is owned by the State or any political subdivision thereof, or a county or municipality or any political subdivision thereof, or that is owned by a person providing solid waste services with the vehicle pursuant to a contract with the State or any political subdivision thereof, or a county or municipality or any political subdivision thereof.

Regulated Vehicle – means any regulated commercial bus, regulated on-road vehicle, regulated solid waste vehicle, or any on-road diesel vehicle registered in the State that is required to use best available retrofit technology pursuant to an approved fleet averaging plan pursuant to the Diesel Retrofit statute.

Retrofit device – means a best available retrofit technology that is installed on an on-road diesel vehicle or on a piece of off-road diesel equipment.

School bus – means a school bus as defined under N.J.S.A. 39:1-1.

Technology – means any equipment, device, or fuel used alone or in combination to achieve the reductions in emissions required for best available retrofit technology under this subchapter.

USEPA – means the United States Environmental Protection Agency. Information on the USEPA program and technologies that have been verified can be found at <http://www.epa.gov/otaq/retrofit/retrofittech.htm>

3.0 COMMODITY DESCRIPTION/SCOPE OF WORK

3.1 GENERAL

This Request for Proposal (RFP) provides the reimbursement of the cost of purchasing and/or installing CCVS and/or retrofit devices on regulated school buses and Regulated Vehicles, both publicly and privately owned, pursuant to N.J.S.A. 26:2C-8.25 through 8.56, the Diesel Retrofit Law, any rules and regulations developed pursuant to the Law; and any related DEP approved projects. The State will be able to pay for the costs of retrofits needed to comply with the law due to a Constitutional amendment, which provides the needed funding. The purchase and/or installation of CCVS and/or retrofit devices will not be required until the State confirms that sufficient funds are available for reimbursements.

The State will implement the reimbursement process by awarding a contract to one or more qualified bidders, as defined herein. A qualified bidder must be an Authorized Installer, as defined in Section 2.2 of this RFP, to bid on this contract. In addition, a qualified bidder shall own or lease maintenance, repair or installation facilities, employ trained mechanics, provide product support and training, and be able to perform retrofit device and/or CCVS installations primarily on-site at its own facility, or at a remote location such as the Vehicle Owner's facility, using its own qualified staff. A qualified bidder may, at its option, use sub-contractors to perform a portion of the work, but may not rely upon sub-contractors as the primary source of retrofit device and/or CCVS installations. A qualified bidder shall have qualified staff and be able to provide sufficient inventories to perform the types of installations necessary to meet the timelines in any rules adopted pursuant to the Diesel Retrofit Law, as well as the requirements of this RFP. The State anticipates that most qualified bidders will be distributors that already have Authorized Installer status, and are associated with a CCVS and/or retrofit device manufacturer.

Fleet owners, such as a privately owned solid waste collection company or school bus owner, may decide to perform their own CCVS and/or retrofit device installations. This would require that those fleet owners meet the definition of Authorized Installer. Note: Owners of a public fleet who have received Authorized Installer status from a CCVS and/or retrofit device manufacturer, and have entered into a grant agreement with the State for the purposes of this RFP, may be reimbursed for any labor costs associated with the installation of a CCVS and/or retrofit device through the grant agreement rather than through this contract.

The technical scope of work in this Section and the information required by Section 4.4.4 (Submittals) of this RFP are the operating and maintenance parameters associated with the equipment offered. Bidders must provide the information, in the format prescribed throughout this RFP, specifically Sections 3.0 (Scope of Work), 4.4.4 (Submittals) and 4.4.7 (Method of Bidding), the State needs in order to fully evaluate each bid proposal. All of the elements identified must be included in the proposal for each CCVS and/or retrofit device being offered. A bidder submitting a proposal for more than one make/brand (manufacturer) shall provide a distinct proposal for each make bid in response to this RFP, excluding the standard RFP forms and Bidder's Data Packet.

3.1.1 VEHICLES COVERED BY THIS RFP

The focus of this RFP is the purchase and/or installation of CCVS on regulated school buses and the purchase and/or installation of a retrofit device on regulated solid waste collection vehicles. However, this contract may be used to perform Early Retrofits on vehicles that are regulated by the Diesel Retrofit Law, but are not required by the law for retrofit device installation until after

solid waste collection vehicles should have completed retrofit device installation as prescribed by proposed N.J.A.C 7:27-32 *et. seq.* These Early Retrofits will be limited and prioritized by the policy and procedures of the DEP.

The RFP will focus on CCVS and/or retrofit devices for school buses and solid waste collection vehicles initially, with limited exceptions noted in Section 1.

3.2 ESTIMATED NUMBER OF AFFECTED VEHICLES AND MINIMUM CONTROL LEVELS

Table 1 lists the estimated number of vehicles expected to need either a CCVS or retrofit device under contracts established as a result of this RFP. The BART levels expressed are the minimum levels required for each listed vehicle type by the Diesel Retrofit Law, and its associated rules. Please note that the control level listed is a minimum treatment level. Therefore, any control devices listed in a higher control level will satisfy the requirements for the level below. For example, BART 3 devices are acceptable as BART 2 requirements. BART 2 and BART 3 satisfy the requirements of BART 1. (BART levels are defined under Section 2.2 and Table 3 of this RFP.)

TABLE 1: ESTIMATED AFFECTED VEHICLES AND MINIMUM CONTROL

Vehicle Types	Minimum Control Level	Estimated Quantities To Be Retrofitted
Regulated School Buses	CCVS	14,000
Regulated Solid Waste Vehicles		
Model Year: 2004-2006	BART 2	370
Model Year: 1994-2003	BART 2	1,354
Model Year: 1988-1993	BART 2	370
Model Year: Pre-1988	BART 1	86
Voluntary Retrofit Projects	BART 1, 2, or 3	< 1,000
Early Retrofit Projects	BART 1, 2, or 3	< 1,000

NOTE: The specifications listed defining the minimum particulate emissions control level for each BART level are currently part of proposed N.J.A.C 7:27-32 *et. seq.* Be advised these levels may change based on public comment to the regulations.

3.3 EMISSION CONTROL LEVEL REQUIREMENTS

Table 2 depicts the emission control levels that designate minimum particulate emissions reductions by vehicle type and model year. In some instances, if there are no retrofit devices available at the minimum control level or higher, the Vehicle Owner may petition the DEP that a retrofit device with a lower control level than the required BART level be used. If there is no retrofit device available for a vehicle at the minimum control level, it may be required by the DEP to retrofit the vehicle with a higher control level retrofit device. Any such petition must be accompanied by detailed explanations, including the selected contractor's recommendations, as to why a retrofit device with a BART level that is lower than the required BART levels for the vehicle must be used. Accordingly, bidders may include those lower or higher control level retrofit devices as part of their bids on this RFP.

TABLE 2: BART LEVEL DESIGNATIONS BY VEHICLE AND EQUIPMENT TYPE

Regulated Vehicle	Engine Model Year	Minimum BART Level or CCVS
School Bus	2006 & older	CCVS
Solid waste vehicle	1988-2006	BART 2
	1987 & older	BART 1

NOTE: The specifications listed defining the minimum particulate emissions control level for each BART level are currently part of proposed N.J.A.C 7:27-32 *et. seq.* Be advised these levels may change based on public comment to the regulations.

TABLE 3: BEST AVAILABLE RETROFIT TECHNOLOGY MINIMUM CONTROL

BART Level	Minimum Control Efficiency (particulate emission reduction by weight percentage)
3	85
2	50
1	25

NOTE: The specifications listed defining the minimum particulate emissions control level for each BART level are currently part of proposed N.J.A.C 7:27-32 *et. seq.* Be advised these levels may change based on public comment to the regulations.

3.4 CURRENT PRODUCTION ITEMS

Contractors shall provide only current production equipment. No used equipment or discontinued lines are acceptable. Contractors are cautioned that surplus, seconds, factory rejects, closeout or distressed items are not acceptable and, if furnished, will be rejected. The delivery of substandard items may result in a cancellation of the contract in whole or in part.

3.5 DELIVERY

Vehicle Owners may request a contractor to have a retrofit device or CCVS delivered to their own installation facility, if they are authorized to install the retrofit device or CCVS using their own mechanics. There shall be no additional charge for delivery.

Packaging shall be such as to protect the items adequately and to insure safe shipment. Shipping cases shall be marked to show the name of the contractor, name and address of the Vehicle Owner, and a purchase order number.

The contractor shall be responsible for the delivery of material in first class condition at the point of delivery, and in accordance with good commercial practice.

Bidders shall furnish, in the space provided on the Signatory page (additional sheets may be used), the time required for delivery after receipt of order (ARO). The Vehicle Owner must be notified at least forty-eight (48) hours in advance of shipment so that all necessary arrangements

can be made. The contractor must be able to ship a CCVS or retrofit device to all parts of the State.

Contract deliveries for all items shall be made at such time and in such quantities as ordered and in strict accordance with the instructions from the Vehicle Owner.

Brands delivered must be strictly in accordance with those listed in the contract. Product lines supplied must be strictly in accordance with those covered under the contract award.

Delivery of a CCVS and/or a retrofit device to a Vehicle Owner, who is an Authorized Installer, shall be in accordance with a mutually agreeable timeframe.

3.6 INSTALLATION REQUIREMENTS

In order to be eligible for reimbursement, an installation must be performed by an installer authorized by the manufacturer of the retrofit device or CCVS, holding a State contract resulting from this RFP, in accordance with the manufacturer's instructions. Conditions for gaining Authorized Installer status shall be determined by the retrofit device or CCVS manufacturer.

Installation of the CCVS or retrofit device must be in accordance with the manufacturer's instructions and specifications and shall not be compromised by the design configuration of the vehicle or the equipment.

In order to ensure that installations are completed within the timeframes specified by the Diesel Retrofit Rule, contractors may sub-contract installation work to entities that are not specifically named Authorized Installers, provided that the installation meets the requirements within this Scope of Work. If a contractor uses subcontractors, the contractor will still be held responsible for all work performed.

Installation quality shall meet the industry standards, with the installation performed in a workmanlike manner.

Installation design shall minimize connection points when possible.

3.7 WARRANTY

Contractors shall ensure that each CCVS or retrofit device provided under a contract resulting from this RFP is accompanied by a warranty whereby the manufacturer and the installer provide the warranty, at a minimum, set forth below.

3.7.1 PRODUCT AND INSTALLATION WARRANTY

The full repair and replacement costs of the retrofit device, including parts and labor, if the retrofit device fails to perform as verified, during the warranty period specified in Table 4 of this RFP.

The full repair and replacement cost of the CCVS or retrofit device, including parts and labor, if the CCVS or retrofit device contains defects in material or workmanship.

If the installation or use of the CCVS or retrofit device damages the engine or the engine components of the vehicle, the cost to repair or replace engine components to return the engine components of the affected vehicle or equipment to the condition they were in prior to the damage caused by the CCVS or retrofit device.

The warranty for the CCVS or retrofit device will run for the minimum periods shown in Table 4, provided the operation of, and conditions of use for the vehicle, engine, and CCVS or retrofit device conform to the operation and conditions specified in the Executive Order issued by CARB or the Verification Letter issued by the USEPA, if applicable.

Contractors must warrant that the installation is free from defects in workmanship or materials and that it shall not cause the CCVS or retrofit device to fail to conform to the emission control level it was verified to, or to the other requirements of the Diesel Retrofit Law, and any subsequent rules, for the minimum timeframes shown in Table 4.

The extent of the warranty coverage provided by contractors must be no less than the warranty provided by the manufacturer as established for each engine type and size listed in Table 4, and the same exclusions apply.

TABLE 4: MINIMUM WARRANTY PERIODS

ENGINE TYPE	ENGINE SIZE	MINIMUM WARRANTY PERIOD
On-road use	70 to 170 hp, GVWR ≤ 19,500 lbs.	5 years or 60,000 miles
	170 to 250 hp, GVWR ≥ 19,500 lbs. and ≤ 33,000 lbs.	5 years or 100,000 miles
	>250 hp, GVWR > 33,000 lbs.	5 years or 150,000 miles
	>250 hp, GVWR > 33,000 lbs., and the truck is: 1. Typically driven more than 100,000 miles per year and 2. Has less than 300,000 miles on the odometer at the time of installation	2 years, unlimited miles
Off-road use	≤ 50 Horsepower	5 years or 4,200 hours

3.7.2 EXCLUSIONS

The repair or replacement of any warranted part otherwise eligible for warranty coverage may be excluded from such warranty coverage if the CCVS or retrofit device, vehicle, equipment or engine has been abused, neglected, or improperly maintained, and such abuse, neglect or improper maintenance directly caused the need for the repair or replacement of the part.

Failure of the owner of the vehicle, equipment or engine to perform scheduled maintenance or to keep maintenance records for the vehicle, equipment, engine or retrofit device may be grounds for disallowing a warranty claim.

3.7.3 ADDITIONAL WARRANTY INFORMATION

Contractors will be responsible for ensuring that the owner's manual for the CCVS or retrofit device installed pursuant to the requirements of the Diesel Retrofit Law, and any subsequent rules, contains a copy of the owner's warranty statement. The owner's manual may also include a description of circumstances that may result in a denial of warranty coverage, but this description shall not be used to limit appropriate warranty coverage in any way and shall not amend a contract resulting from this RFP.

Contractors providing CCVS or retrofit device installation pursuant to the Diesel Retrofit Law, and any subsequent rules, must provide the Vehicle Owner with a copy of the installation warranty coverage.

3.8 REPLACEMENT OF UNSATISFACTORY PRODUCT

In the event the contracted product supplied is not providing satisfactory performance or requires an excessive amount of remedial maintenance, the contractor shall remove and replace the unit(s). There will be no cost to the DEP or the Vehicle Owner. Failure to comply may result in the said unit(s) being removed from the contract and similar units obtained from another contractor with all costs, including the cost of removal of the defective unit(s), the cost of purchase and installation of the new unit(s) and additional cost of the mobile inspection, borne by the defaulting contractor.

At a minimum, the product supplied must perform at the level specified in the CARB and/or USEPA verification letter for the lifetime of the warranty. In addition, at a minimum, installation shall be performed in accordance with the following:

- Component design and materials shall be compatible with conditions and substances normally encountered in an engine compartment of a heavy-duty diesel engine.
- Components shall be securely installed to prevent dislodging.
- Hoses and wires shall be securely mounted and routed to prevent interference with other vehicle components or from being dislocated.
- All piping, tubing and ducting connections shall be clamped to be secure and leak free. Clamps shall not be torqued excessively such as to cause damage to the interfacing components.
- CCVS filter drains shall return to the crankcase oil sump. If proper routing of the drain line cannot be done in accordance with the CCVS manufacturers specifications, or if the Vehicle Owner requests, the installer will install a drain reservoir receptacle of sufficient capacity to collect CCVS effluent fluids normally expected to accumulate between the CCVS manufacturer's recommended service intervals. The drain reservoir shall be securely installed, in accordance with all specifications contained herein, in an easily visible and readily accessible location for ease of maintenance.

3.9 MANUALS AND MAINTENANCE PROCEDURES

For each contracted product ordered, the contractor shall provide a set of manuals to the Vehicle Owner with installation, maintenance, operations procedures, as well as all necessary technical drawing(s), including:

- Description of any ancillary components required by either the manufacturer, CARB in an Executive Order, or USEPA in a Verification Letter, as applicable. Ancillary equipment includes, but is not limited to, back pressure monitors, audible alarms, visual indicators, and other electronic components that are necessary to properly maintain, diagnose and repair the retrofit device.

- Product maintenance procedures and schedule.
- Product brochures or additional descriptive information.
- The contractor is responsible for providing any updated information about the CCVS or retrofit device to Vehicle Owner.

3.10 OWNER'S MANUAL

The contractor must provide a complete diesel emission control system owner's manual, at the time of pickup or delivery that must clearly specify at least the following information:

- Warranty statement including the warranty period over which the contractor is liable for any defects.
- Operational instructions/Installation procedure (if necessary) and maintenance requirements for the diesel emission control system.
- Possible backpressure range imposed on the engine.
- Additional fuel consumption, if any.
- Fuel requirements including sulfur limit, if any.
- Handling and supply of additives, if any.
- Instructions for reading and resetting the backpressure monitor.
- Requirements for lubrication oil quality and maximum lubrication oil consumption rate.
- Contact information for replacement components and cleaning agents.
- Contact information to assist an end user in determining proper ways to dispose of waste generated by the diesel emission control strategy (e.g., ash accumulated in filter-based systems).
- Required maintenance and maintenance intervals.
- Other information determined necessary by the manufacturer or the contractor.

At a minimum, the owner's manual should indicate that disposal of any waste associated with the retrofit device, such as ash, spent filters, or the device itself, must be in accordance with all applicable Federal, State and local laws governing waste disposal.

3.11 LABELING

Each retrofit device that is installed pursuant to the Diesel Retrofit Law must be labeled with a legible and durable label affixed to a conspicuous location on the engine or engine compartment and control apparatus whereby it can be easily read and understood during daylight without the assistance of artificial lighting or reflective devices. The label shall provide a unique identification number to be matched to the specific retrofit device and the specific vehicle required to use the retrofit device. NOTE: the provisions of this section are contingent upon proposed N.J.A.C 7:27-32 *et. seq.* that may be adopted in accordance with N.J.S.A. 26:2C-8.26 *et. seq.*, the Diesel Retrofit Law. Any revisions in proposed N.J.A.C 7:27-32 *et. seq.* prior to adoption will also be reflected in the provisions of this section.

At a minimum, any retrofit label must include:

- Name, address, and phone number of the manufacturer;
- A unique serial number;
- The month and year of manufacture. The month and year of manufacture are not required on the label if the manufacturer of the retrofit device provides or encodes this information in the serial number; and
- The retrofit device family name, as described below.

The manufacturer of a retrofit device shall assign a retrofit device family name to each retrofit device in the following format:

CA or US/MMM/YYYY/BART#/APP/XXXXX; where:

CA designates a retrofit device verified solely by CARB or by both CARB and the USEPA, or US designates a retrofit device verified solely by the USEPA;

MMM designates and is to be replaced by the manufacturer code. For a retrofit device verified by CARB, MMM will be replaced by the manufacturer code assigned by the CARB Executive Officer; for a retrofit device verified by the USEPA, the MMM will be replaced by three zeroes (000);

YYYY designates and is to be replaced by the year of verification;

BART# designates and is to be replaced by the BART level of the retrofit device by replacing the pound sign (#) with the number of the BART level;

APP designates and is to be replaced by the application for which the retrofit device has been verified by CARB or the USEPA. The verified application may include a combination of on-road (ON), off-road (OF) or stationary (ST); and

XXXXX designates and, for a retrofit device verified by CARB, is to be replaced by the five alphanumeric character code issued by the CARB Executive Officer; for a retrofit device verified by the USEPA, the XXXXX will be replaced by five zeroes (00000).

3.12 DIRECT REIMBURSEMENT/PAYMENT PROCESS

This section will serve to supplement section 4 of the Purchase Bureau Standard Terms and Conditions. The Contractor is authorized to submit invoices to DEP monthly for tasks satisfactorily completed. Only Authorized Installers holding a contract resulting from this RFP will be reimbursed for any CCVS or retrofit device delivered and/or installed. Only installations of retrofit device technologies that have current valid certifications from CARB and/or USEPA at time of installation will be reimbursed.

Approval of the reimbursement for the installation of a CCVS or retrofit device shall be in accordance with the following procedure.

- The Vehicle Owner selects a CCVS or retrofit device and a contractor that best meets its needs and that are most advantageous to the State, price and other factors considered, from the list of contracts included in the Notice of Award (NOA), which will be published at the Division web site at <http://www.state.nj.us/treasury/purchase/index.shtml>. The specific address of the NOA web page will be <http://www.state.nj.us/treasury/purchase/noa/contracts/t2541.shtml>.
- The Vehicle Owner contacts the selected contractor and receives a written price estimate from the contractor, which verifies that the device is appropriate and can be installed on the vehicle. If it is a retrofit device, the contractor should also verify that the BART level of the identified device is correct for the vehicle.
- The Vehicle Owner submits the price estimate to the DEP, on a form provided by the DEP.

- For a CCVS device, this form may include, but is not limited to, the name of the CCVS device; the make, model, year, engine manufacturer and engine size of the vehicle; VIN; the Vehicle Owner's designation of the vehicle; the contractor performing the retrofit; and the price estimated.
- For a retrofit device, this form may include, but is not limited to, VIN; the name of the retrofit device; the BART level of the device; CARB and/or USEPA certification; the contractor performing the retrofit; and the price estimated. This form may be in addition to, or it may be included in, the inventory form (to be provided by the DEP) that is required pursuant to the Diesel Retrofit Law.
- DEP reviews the price estimate and either approves or denies.
- If the DEP approves the price estimate, the DEP will provide the Vehicle Owner with an approval document stating that the Vehicle Owner may commence with retrofitting their vehicle.
- The Vehicle Owner presents the approval document to the contractor who provided the price estimate.
- The contractor installs the retrofit device on the approved vehicle and signs the compliance form document (provided by the DEP) stating that the CCVS or retrofit device has been installed and the date of completed installation.
- The Vehicle Owner signs the compliance form document stating that the retrofit device has been installed to their satisfaction, and must submit a copy of the compliance form to the DEP within five (5) business days of completion of installation of the CCVS or BART.
- The contractor shall complete and submit a reimbursement application and a payment voucher (monthly for all of the installations performed in the previous month) to the DEP for reimbursement. Reimbursement applications and payment vouchers, which shall be a form provided by the DEP through the DEP website, must be submitted to the DEP along with supporting documentation substantiating that work has been satisfactorily completed and accepted by the Vehicle Owner. Supporting documentation shall also include, but is not limited to, an invoice, proof of purchase of the diesel emission control system, proof of installation, and certification that purchase and installation were in accordance with the manufacturer's instructions. The reimbursement application shall include, but is not limited to, the following information: VIN, license plate number, contract line number, device make and model, cost of the device, cost of labor, installation date, and if it is a retrofit device, then the device ID as specified in Section 3.11. The DEP must approve all reimbursement applications and payment vouchers, and the Vehicle Owner must approve all installations, by submitting the signed compliance form, before payment will be authorized.
- If the reimbursement application and payment voucher are deemed acceptable by the DEP, reimbursement of funds will be provided within 30 days of the DEP approving the reimbursement application and payment voucher.

Note that each cost estimate for device purchase and/or installation pursuant to proposed N.J.A.C 7:27-32 *et. seq.* must be submitted by the Vehicle Owner to DEP and reviewed and approved by the DEP before the purchase and/or installation occurs. Any installations performed without this DEP review and approval are performed at the contractor's risk and will not be eligible for reimbursement. In addition, a contractor who is reimbursed for the costs associated with the

purchase and installation of a C CVS or retrofit device will not impose any charge on any owner of a Regulated Vehicle or piece of Regulated Equipment for any cost associated with the purchase and installation of said device.

Installations performed pursuant to a DEP voluntary retrofit project (grant) or other DEP related project that have been scheduled using a specific purchase order or funding authorization, must be invoiced separately using that specific purchase order or funding authorization. Failure to invoice these projects separately will have a negative effect on the timeliness of reimbursement.

3.13 RANDOM AUDITS

The contractor may be subject to random audits through the contract term and for three years after final payment. Documents audited may include, but not be limited to, detailed expenditure reports and supporting documents, payroll records where applicable to labor rates charged, contract related invoicing documents, etc. Documents must be retained for audit.

3.14 VEHICLE/EQUIPMENT COMPATIBILITY EVALUATION

For each vehicle or piece of equipment, the contractor must provide the Vehicle Owner with a statement with supporting information that the engine being retrofitted meets the following criteria as determined by CARB or USEPA, as applicable:

- Does not have an existing diesel exhaust emissions control device that would preclude use of the retrofit device;
- Has a duty cycle with a temperature profile that is within the operating range that is recommended for the retrofit device;
- Is in its original certified configuration;
- Is well maintained and does not consume lubricating oil at a rate greater than that specified by the engine manufacturer;
- Was originally manufactured within the model year range specified on the CARB Verification Letter and/or USEPA Verification Letter for the supplied retrofit device; and
- Complies with any other terms and conditions specified by CARB, USEPA or the manufacturer of the supplied retrofit device.

If the retrofit device contracted has exhaust temperature requirements, the contractor will be required to provide the Vehicle Owner with information demonstrating that such exhaust temperature requirements can be met by the vehicles and/or equipment in the owner's fleet, for all like applications. This information shall include a report of exhaust temperatures, percentage of time at required exhaust temperatures, and dwell time analysis when operated on the engine makes, models, classes, and families that are in the owner's fleet. Also, the contractor shall provide any other information that was used to determine the adequacy for the Vehicle Owner's specific vehicle/equipment applications.

3.15 SUBSTITUTIONS/REPLACEMENTS/ADDITIONS

If a current product is discontinued or updated by the manufacturer during the term of the contract, it may be replaced with a product of equal or lower cost to the State and with equal performance features. The equivalent retrofit device must have current CARB and/or USEPA verification. If the manufacturer introduces new technology to the existing manufacturer line, the new product may also be considered. A proposal to substitute a contracted product or a request for new technology will be considered if the proposed substitution/new technology meets original RFP specifications. In case of a retrofit device, the proposed substitute must meet the proper BART levels and be certified by either CARB or the USEPA.

The request must be for equipment from the same manufacturer line originally awarded. All requests must be submitted in writing and approved by the Director, Division of Purchase and Property before being offered to any Vehicle Owner. In all cases, the said additions/changes will be made available to Vehicle Owners at the same pricing.

3.16 IN-USE TESTING

A contractor may be required to assist a manufacturer of a retrofit device perform 15% of the In-Use Testing required by the USEPA on vehicles that have been retrofitted for use in New Jersey, if In-Use Testing has not already been performed or initiated. This information can be obtained from USEPA's Office of Transportation and Air Quality (OTAQ) <http://www.epa.gov/otaq/retrofit/retrotesting.htm>.

3.17 GENERAL CONDITIONS

Retrofit devices outlined in this specification are for a standard manufacturer's product line available to the general public. This RFP is intended to be non-restrictive to allow bidders to bid any unit make, which is equal in performance to the one specified herein.

Bidders are strongly advised not to take any deviations or substitutions. **Any material deviations shall result in rejection of the bid proposal as non-responsive.**

IMPORTANT NOTE: Each retrofit device and its components shall be completely assembled, installed if so ordered, serviced and ready for use when delivered to the Vehicle Owner. Unless specified otherwise; any parts, components, equipment, controls, materials, features, performances, capacities, ratings or designs which are standard and/or necessary to form an efficient and complete working device shall be furnished whether specifically required herein or not. Any item not specified herein but deemed necessary for the application shall be supplied and shall meet industry standards and practices, and Federal and New Jersey Standards and Regulations.

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 Purchase Bureau in accordance with the instructions on the RFP signatory page <http://www.state.nj.us/treasury/purchase/bid/summary/08X39424.shtml>. 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 **two (2) full, complete and exact copies** of the original. The copies requested are necessary in the evaluation of the bid proposal. 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

The bid proposal should be submitted in one volume and that volume divided into four (4) parts with tabs (separators), and the content of the material located behind each tab, as follows:

- Part 1 – Forms (Section 4.4.1 – 4.4.3)
- *Part 2 – Submittals (Section 4.4.4.1 through 4.4.4.3)
- Part 3 – Bidder Data Sheet (Section 4.4.4.4)
- Part 4 – Cost Proposal (Section 4.4.6)

*Note: For Part 2, within the main tab, indicate "sub-tabs" for each make and group bid.

4.4.0 ELEMENTS OF A QUALIFIED BID PROPOSAL

A qualified bid proposal for a diesel oxidation catalyst shall include the following, along with all other requirements specified in Sections 3 (Scope of Work), 4.4.4 (Submittals) and 4.4.7 (Method of Bidding):

- For each make bid, the manufacturer's latest, complete and uniform price list (attached with the bid proposal)
- Manufacturer's catalog listing, for each model offered, engine model year and size (HP) range, BART level and PM reduction/CARB level
- For each make and model bid, CARB and/or EPA Verification Letter (attached with the bid proposal)
- CARB and/or EPA verified for the bidder
- Copy of contractual agreement from a manufacturer, for each make bid, stating that the bidder is authorized to sell and install the manufacturer's products bid (attached with the bid proposal)
- Statement confirming all brackets, back pressure monitors, wiring, hoses, clamps, etc., and retrofit labels will be installed properly, and the operating manual and the warranty statement will be provided to the Vehicle Owner upon completion.
- For each make bid, attached with the bid proposal, percentage discount off manufacturer's list price bid on price line 3 (retrofit device purchase price line), range of installation time (minimum to maximum) needed for each model offered in the catalog or like attachment, and hourly labor rate for installation bid on price line 4 (retrofit device installation price line).

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 on the Advertised Solicitation, Current Bid Opportunities webpage

<http://www.state.nj.us/treasury/purchase/bid/summary/08X39424.shtml>. 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. 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.

The Ownership Disclosure Form is located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/08X39424.shtml>.

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. The bidder shall use the Disclosure of Investigations and Actions Involving Bidder form located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/08X39424.shtml>.

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 05 09 06 located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/08X39424.shtml>.

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/08X39424.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/08X39424.shtml>.

4.4.4 SUBMITTALS

All of the elements identified herein must be provided for each CCVS and/or retrofit device being offered. A bidder submitting a proposal for more than one make/brand shall provide a distinct proposal section for each make bid in response to this RFP. The following information must be submitted for each manufacturer bid. Failure to submit this information may cause a bid rejection for the affected make and group bid.

4.4.4.1 SUBMITTALS/INFORMATION REQUIRED FOR EACH CCVS BID

A) Administrative Product Information:

1. The technology being offered, including the manufacturer's name and the product part or ID number, a description of how the technology reduces fine particulate diesel emissions, and the engine model/vehicle and/or engine model/equipment to which the technology will be applied and chassis identification.
2. A copy of the documents memorializing an agreement between the CCVS manufacturer and the bidder so authorizing the bidder to represent the manufacturer for the purpose of sale, installation, repair and/or dispersal of information regarding that retrofit device or closed crankcase ventilation system.
3. The installation procedures for each engine model/vehicle type and engine model/equipment type.
4. The minimum and maximum number of person-hours needed to complete installation, including installation of insulation, if insulation is needed to ensure proper function under all operating conditions of each retrofit device listed by the bidder.
5. Special tools to be identified that are needed to perform the installation and maintenance of the emission control equipment.

B) Certifications and Equipment Requirements

1. Impact on fuel economy, if any (stated in percent expected increase or decrease).
2. Operating costs for technology, if any.
3. Annual maintenance costs and requirements, if any.
4. Indicate whether back pressure and monitor systems or any other equipment required by the manufacturer, USEPA or CARB are necessary to ensure proper everyday operation of the CCVS.
5. Insulation type used, (if needed).

6. Flanges, joints, clamps and connectors typically used for installation.
7. Standard operating procedure for evaluating initial installation process.
8. Installation procedure for specific equipment and vehicles.

C) Manuals and Maintenance Procedures

1. A set of manuals with installation, maintenance, operations procedures, as well as all necessary technical drawing(s).
2. Description of any ancillary components required by the manufacturer. Ancillary equipment includes, but is not limited to, back pressure monitors, audible alarms, visual indicators, and other electronic components that are necessary to properly maintain, diagnose and repair the CCVS.
3. Product maintenance procedures and schedule.
4. References, including contact names and phone numbers, for any installation experience
5. Product brochures or additional descriptive information.

4.4.4.2 SUBMITTALS/INFORMATION REQUIRED FOR EACH RETROFIT DEVICE BID

A) Administrative Product Information:

1. The technology being offered, including the manufacturer's name and the product part or ID number, a description of how the technology reduces fine particulate diesel emissions, and the engine model/vehicle and/or engine model/equipment to which the technology will be applied and chassis identification.
2. A copy of the documents memorializing an agreement between the retrofit device manufacturer and the bidder so authorizing the bidder to represent the manufacturer for the purpose of sale, installation, repair and/or dispersal of information regarding that retrofit device or closed crankcase ventilation system.
3. The installation procedures for each engine model/vehicle type and engine model/equipment type.
4. The minimum and maximum number of person-hours needed to complete installation, including installation of insulation, if insulation is needed to ensure proper function under all operating conditions of each retrofit device bid.
5. Special tools to be identified that are needed to perform the installation and maintenance of the emission control equipment.

B) Certifications and Equipment Requirements

1. A copy of the CARB Retrofit Program Executive Order finding that the device is a Diesel Emissions Control Strategy that reduces emissions of diesel particulate matter by a certain level, or USEPA Voluntary Retrofit Program Verification Letter finding that the device is a Verified Retrofit Technology that reduces diesel emissions of certain criteria pollutants by certain percentages.

2. Verified PM, HC, CO, and NOx emission reduction capability (stated as percent reduction), as determined by CARB or USEPA.
3. Whether the retrofit device is a muffler replacement or add-on installation.
4. Impact on fuel economy, if any (stated in percent expected increase or decrease).
5. Operating costs for technology, if any.
6. Annual maintenance costs and requirements, if any.
7. Indicate whether back pressure and monitor systems or any other equipment required by the manufacturer, USEPA or CARB are necessary to ensure proper everyday operation of the retrofit device.
8. Insulation type used, (if needed).
9. Flanges, joints, clamps and connectors typically used for installation.
10. Standard operating procedure for evaluating initial installation process.
11. Installation procedure for specific equipment and vehicles.

C) Manuals and Maintenance Procedures

- 1) A set of manuals with installation, maintenance, operations procedures, fuel-use requirements, as well as all necessary technical drawing(s).
- 2) Description of any ancillary components required by either the manufacturer, CARB in an Executive Order, or USEPA in a Verification Letter. Ancillary equipment includes, but is not limited to, back pressure monitors, audible alarms, visual indicators, and other electronic components that are necessary to properly maintain, diagnose and repair the retrofit device.
- 3) Product maintenance procedures and schedule.
- 4) References, including contact names and phone numbers, for any prior installation experience.
- 5) Product brochures or additional descriptive information.

4.4.4.3 PRODUCT SUPPORT/TRAINING

Bidders shall provide details on the type and breadth of customer support that will be provided for each retrofit device or CCVS, including repair, maintenance and other training for mechanics, supervisors, and equipment/vehicle operators. Training sessions do not need to be provided with each retrofit installed. Training and product support shall include but not be limited to the following:

- An instructional session on how to properly maintain the retrofit device or CCVS
- How to change any filters that might be used with the diesel emission control system
- How to change and/or replace retrofit mounting equipment
- How to properly recharge filters and filtration units
- How to identify and troubleshoot any problems that might arise with the units, including but not limited to:
 - How to read the back pressure meters

- What to do when back pressure limits are exceeded
- Process for informing users of any product upgrades

4.4.4.4 MANUFACTURER'S PRICE LIST

4.4.4.4.1 Bidders must submit, with the bid proposal, manufacturer's descriptive catalog and its latest price list as of the bid opening date for every make/brand bid. All catalogs and price lists submitted must be properly labeled, showing the bidder's name and bid number. Manufacturer's catalog must include the following information for each device model offered: retrofit device model name and number; engine model year and size (HP) range; minimum and maximum number of labor hours required for device installation; BART level and PM reduction/CARB level for retrofit devices; and all other information necessary, whether specifically listed in this RFP or not, to make an informed decision for a retrofit device purchase and installation. Manufacturer's list prices included in its catalog are acceptable in lieu of the required price list.

4.4.4.4.2 In the event that two or more bidders submit different price lists for the same make/brand, the most recent price list will be accepted as the basis for the evaluation of each bid proposal and contract award.

4.4.4.4.3 If a manufacturer's price list is not published, then the manufacturer's prices listed on its letterhead and dated with authorized signature are acceptable. It is advised that the manufacturer's letterhead include the bid number.

4.4.4.4.4 If the price list submitted has more than one price list column, it will be the bidder's responsibility to "blank out" all columns except the lowest price column, to which the discount shall be applied to obtain the net purchase price. Bidders shall not change any prices on a manufacturer's price list. The State reserves the right to require bidders bidding the same make to provide or adopt the manufacturer's latest and uniform price list. Price lists made up by a bidder are not acceptable and will be rejected.

4.4.4.4.5 Any references to price increases, shipping charges, etc. on the price lists will not be considered.

4.4.4.4.6 A bidder's signature guarantees that prices set forth within the submitted price list will govern for the first two-year term of the contract. Prior to the third year of the contract term, the State will permit contractors to submit any revised price lists to be applicable for the next two-year term of the contract. Any revised price list for each manufacturer awarded must be received by the State no later than two months prior to the end of the two-year term of the contract. For example, if a contract is established on July 1, 2007, the original price list submitted with the bid proposal will govern until June 30, 2009. Any revised price list that would govern, if approved by the State, from July 1, 2009 through June 30, 2011 must be submitted no later than April 30, 2009. Any submission received after the due date will not be accepted and the contractor must continue to accept orders for the next two years based on the manufacturer's price list in effect. All requests for a price list revision must be submitted in writing and are subject to the State's approval. The State will permit a submission of any revised price lists at the end of every two years, in case of any contract extension, utilizing the same process as outlined previously.

4.4.4.4.7 Excluding the price list revision every two years, if approved by the State, all contract terms, conditions, specifications and pricing, including the contract discount and labor rate, shall remain in effect for the term of the contract and any extension thereof.

4.4.4.4.8 Contractors must provide a copy of the manufacturer's price list in effect to the Vehicle Owner if so requested.

4.4.4.5 BIDDER'S CAPABILITY

Bidders must provide the following information:

- The installation facilities and locations, indicating the number of service bays available, number of vehicles that can be serviced at the bidder's facilities at one time.
- Staff qualified to perform services specified herein.
- Potential monthly throughput for installations pursuant to this RFP.
- Mobile installation capability (if any) to perform installations at a fleet's base location.
- Satellite service locations and potential monthly satellite service capacity including locations where retrofit devices can be sent for Regeneration.

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

4.4.7.1 There are two (2) groups in this RFP, one for CCVS and the other for retrofit devices. Each group has two price lines, one for a device purchase and the other for its installation. The fifth price line is for an additional cost of a mobile installation - remote installation carried out at a Vehicle Owner's location. The mobile installation price line will be used for both CCVS and retrofit devices, and will include transportation cost to and from the Vehicle Owner's location.

4.4.7.2 Awards will be made for each group, and not for each price line separately. Bidders must bid on both price lines in a group to be qualified for award for the group. Bidders, however, can bid on one or both groups. If a bid proposal is rejected, or determined to be non-responsive, for any of the two price lines in a group, the entire bid proposal for the group shall be rejected, or determined to be non-responsive, leaving the bid proposal for the other group eligible for contract award, if so bid.

4.4.7.3 Price lines are grouped for bid evaluation and award purposes only. A Vehicle Owner shall be able to order a retrofit device only or device installation only or both device and installation.

4.4.7.4.1 A device purchase price line (price line 1 for CCVS devices or price line 3 for retrofit devices) is for the entire line of devices for a specific make bid. Bidders shall bid firm, fixed % discount off manufacturer's latest price list on a device purchase price line, by entering the percentage discount bid in "DISCOUNT %" column on price line 1 or 3 on the price sheets. A bidder's entry in the "DISCOUNT %" column shall be considered a percentage (%). For example, entry of "50" shall be considered "50%" and that of "0.50" shall be considered "0.50%". If a bidder identifies the make bid but leaves "DISCOUNT %" column blank on price line 1 or 3, it shall be considered that the bidder provided no bid proposal for that price line item. Multiple or series or range of discounts (including plus and minus discounts), volume discounts, mark-up pricing (+5%, for example) or fixed price (firm dollar amount) on price line 1 or 3 will not be acceptable. However, bidders are encouraged to offer volume discounts, using a letterhead or like as a supplement to the RFP.

4.4.7.4.2 A device installation price line (price line 2 for CCVS device installation or price line 4 for retrofit device installation) is for a labor rate for an installation of any model device of the make bid on the corresponding device purchase price line. Bidders shall bid firm, fixed hourly labor rate on the device installation price line, by entering the hourly rate bid in the "HOUR.RATE" column on the price line 2 or 4 on the price sheets. Multiple or series hourly rates will not be acceptable. For a capability of installing a device at a Vehicle Owner's location, bidders must bid firm, fixed price on the mobile installation price line.

4.4.7.5 Bidders must bid on both price lines in a group for a specific make bid. In case of a bidder representing more than one device manufacturer, the bidder can present as many alternate bid proposals as a number of additional make bid. Bidders bidding more than one make will copy all required RFP pages, including the price sheets, and clearly label each bid proposal and attach all required submittals for the make bid. If qualified, it will be possible for a bidder to be awarded for more than one make.

4.4.7.6 Bid proposals for each group for a given make will be ranked, evaluated and awarded based on a group price index - a formulation based on the percentage discount off manufacturer's list prices and hourly rate bid, as explained in the "Proposal Evaluation" (6.0).

4.4.7.7 **Most Favored Nation Contract:** Pricing bid by a bidder must be the best pricing offered within the past year - whether the current market price or that have been provided to similarly situated most favored customers having the same terms and conditions as listed herein. The State may compare pricing with other States, Quasi-State agencies, and cooperative purchasing organizations such as U.S. Communities. The State reserves the right to make a final determination as to comparable pricing for the State contracts. The State will not permit a contract award for any brand with submitted pricing that are determined as not being in the best interest of the State. Prices bid may be no higher than those costs charged to any other State or government entity for identical goods and services throughout New Jersey and the nation. The State will make the final determination of the suitability of all discounts and labor rates.

4.4.7.8 Group price index is calculated for bid ranking, evaluation and award purposes only and will have no bearing once contracts are awarded.

4.4.7.9 Pricing bid for CCVS (price line 1) and retrofit devices (price line 3) shall be inclusive of all requirements of this RFP, such as exhaust temperature data logging services, retrofit labels, operating manual, warranty, Authorized Installer status, inclusion of back pressure monitor, brackets, hoses, clamps, etc., to ensure proper installation, any other equipment, excluding fuel and fuel additives, necessary for the daily operation of the BART, USEPA and/or CARB verification, and any items not specifically listed in this RFP but otherwise required to meet device manufacturer's guidelines, all latest applicable Federal and State regulations and guidelines, and industry standards.

4.4.7.10 Bidders must provide complete and accurate information throughout this RFP. Bidders are cautioned to thoroughly review the information provided before submitting the bid proposal.

4.4.7.11 The State reserves the right to request any additional information necessary to evaluate the bid proposal from the bidder. The bidder must respond to such request within twenty-four (24) hours from the time the bidder is notified. If the information requested is not received within twenty-four (24) hours, the bid proposal will be rejected. **A bid proposal which does not identify the make of the device bid shall be rejected.**

4.4.7.12 The bidder's signature guarantees that discount and hourly rate bid will govern for the entire contract period, if awarded, and any extensions thereof. The bidder also acknowledges that, notwithstanding any reference to price escalation clauses, FOB shipping point, and shipping charges contained in the preprinted price lists, catalogs, and/or literature, such references will not be part of any State contract awarded as a result of this RFP.

4.4.7.13 Prices bid shall be legible. Any alteration or appearance of alteration must be initialed by the authorized person. Any missing or illegible price or price correction or appearance of price alteration without bidder's qualifying initials shall cause the bid to be disqualified for that price line item and the group that price line item is part of.

4.4.7.14 **NOTE:** Bidders are advised to initial prices bid regardless of price alteration, to avoid a bid rejection due to causes mentioned in requirement 5.0 on the signatory page of this RFP, including, but not limited to, appearance of alteration.

4.4.7.15 The State guarantees neither any minimum or average or maximum quantity per order nor per contract term, including any extension thereof.

4.4.7.16 Bidders should note that all State agencies, non-State agencies (such as quasi-State agencies, county governments and municipalities) and private fleet and Vehicle Owners (as per the terms specified in Section 3.1.1) will be able to utilize contracts resulting from this RFP.

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 05 09 06 located on the Advertised Solicitation, Current Bid Opportunities webpage:

<http://www.state.nj.us/treasury/purchase/bid/summary/08X39424.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 05 09 06, 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 four (4) years. The anticipated "Contract Effective Date" is provided on the signatory page of this RFP:

<http://www.state.nj.us/treasury/purchase/bid/summary/08X39424.shtml>. 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 four one-year periods, by the mutual written consent of the contractor and the Director.

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 120 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 ITEMS ORDERED AND DELIVERED

The using agency is authorized to order and the contractors 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.

5.7 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.

5.8 MANUFACTURING/PACKAGING REQUIREMENTS

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

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

5.8.3 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.

5.9 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 Group price index:

6.1.1.1 For CCVS group (price lines 1 and 2):

Group price index = $\{73 \times (1 - D1/100)\} + HR2$

Where D1 is the % discount bid on price line 1, and

HR2 is the hourly rate bid on price line 2.

6.1.1.2 For BART retrofit device group (price lines 3 and 4):

Group price index = {1192 x (1-D3/100)} + HR4
Where D3 is the % discount bid on price line 3, and
HR4 is the hourly rate bid on price line 4.

6.1.2 A bid proposal awarded either CCVS or BART retrofit device group, or both, will also be awarded the mobile installation price line (price line 5) if a price bid is reasonable and if doing so serves the best interest of the State.

6.1.3 Experience of the bidder

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

6.1.5 The reasonableness of a bid proposal will be evaluated against other bid proposals that include similar retrofit devices. A bid proposal that offers a retrofit device at a price 50 percent higher than that of another bid proposal where both achieve similar PM reductions for similar vehicle may be rejected.

6.1.6 The State reserves the right to invite bidders bidding the same make to match pricing provided by the lowest responsive bidder.

6.2 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL

Prior to contract award and with the exception of scheduling a review of submitted bids, unless requested by the State, contact with the State is limited to status inquiries only and such inquiries are only to be made through the Division's "Contact DPP" web page (<http://www.state.nj.us/treasury/purchase/contactus.html>). Any further contact or information about the proposal with the buyer or any other State official connected with the solicitation will be considered an impermissible supplementation of the bidder's bid proposal.

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.

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.

7.2 FINAL CONTRACT AWARD

Contract awards 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.

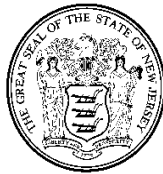
8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES

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.



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
33 West State Street
P. O. Box 230
Trenton, New Jersey 08625-0230

JON S. CORZINE
Governor

BRADLEY I. ABELOW
State Treasurer

May 21, 2007

To: All Interested Vendors

Re: RFP #: 08-X-39424 (T-2541) DIESEL RETROFIT DEVICE AND INSTALLATION REIMBURSEMENT

Previous Bid Due Date: **June 1, 2007** (2:00 p.m.)

Revised Bid Due Date: **June 19, 2007** (2:00 p.m.)

ADDENDUM #1

The following constitutes Addendum #1 to the above referenced solicitation. This addendum is divided into the following parts:

Part 1: Answers to questions. **(See pages 2 through 12.)**

Part 2: Additions and modifications to the RFP. **(See pages 13 and 14.)**

It is the bidder's responsibility to ensure that all changes are incorporated into the original RFP.

All other instructions, terms and conditions of the RFP shall remain the same.

PART 1
DIESEL RETROFIT DEVICE AND INSTALLATION REIMBURSEMENT
Bid Number 08-X-39424 (T-2541)

Answers to Questions

Note: Some of the questions have been paraphrased in the interest of readability and clarity. Each question is referenced by the appropriate RFP page number(s) and section where applicable.

#	Page #	RFP Section Ref.	Question	Answer
1.	6 of 39	1.2, paragraph 9	Section 1.2 (paragraph 9) states, "The Diesel Retrofit Law, and its subsequent rules, require that CCVS and retrofit devices be placed on approximately 40,000 vehicles". Is this bid for 40,000 units or for the volumes listed in Section 3.2 (Table 1)?	This RFP is not for 40,000 vehicles. The 40,000 vehicle number is an estimated number for all of the vehicles in New Jersey that will be regulated by the Diesel Retrofit Law. The number of vehicles that are expected to be retrofitted with the contracts resulting from this RFP is estimated in Table 1 in Section 3.2. Because a contract will be awarded to one or more qualified bidders and the Vehicle Owner will select a contractor, there is no way to estimate how many vehicles a contractor will be able to retrofit.
2.	6 of 39, 1st paragraph	1.2	If a fleet owner has a few trucks used only for commercial solid waste pickup, are these trucks omitted from the RFP?	Privately-owned solid waste vehicles used <u>solely</u> in the execution of a commercial (non-public) contract are not covered in the Diesel Retrofit Law. Solid waste vehicles that are publicly owned, or are used in a public contract are required to be retrofitted.
3.	6 of 39 Paragraph 1	1.2	Does DEP intend to apply CCVS to all vehicles in the program, including school bus and Solid Waste Collection Vehicles?	No, only to school buses.
4.	6 of 39 22 of 39	1.2 3.12	Which types of vehicles do voluntary and early retrofits apply to? Is the Direct Reimbursement Process the same as this RFP?	Voluntary retrofits, unlike early retrofits, apply to vehicles that are not covered by the Diesel Retrofit law. The direct reimbursement does not apply. Retrofitting of vehicles or equipment subject to a voluntary retrofit project and under this contract will be procured using a separate State purchase order issued to the contractor.

#	Page #	RFP Section Ref.	Question	Answer
5.	12 of 39	2.2	Are diesel powered mini-buses subject to the RFP for CCVS installations?	All school buses described within the defined term "regulated school bus" pursuant to Section 2.2 are subject of the RFP for CCVS installations. If it is not feasible to retrofit, with CCVS, a specific mini-bus that is otherwise required to be retrofitted with a CCVS, DEP may, upon receipt of notification and proper documentation, issue an exemption for the vehicle in accordance with proposed N.J.A.C. 7:27-32.4(c).
6.	10 of 39	2.2, 2nd definition	Are the BART levels definitions inclusive of tailpipe emissions and/or crankcase emission?	The BART level definitions are for tailpipe emissions only.
7.	10 and 13 of 39	2.2	Define the CARB/EPA verification requirements for the bidder.	Section 2.2 provides definitions of CARB and USEPA, and a web address where a bidder can find information about either program, including verification requirements.
8.	13 of 39	3.1	Will the State reimburse contractors for regular maintenance items required for emission control devices to operate properly?	No, the State will not reimburse for maintenance costs.
9.	13 of 39	3.1	Does the State define a clear timeline for project completion?	All timelines for project completion are defined in the proposed rules N.J.A.C. 7:27-32.4, 32.12, and 32.18. (A copy of the proposed rules is available for download from Diesel Risk Reduction Program website at www.stopthesoot.org.) For the purposes of this RFP project timelines are as follows. For school buses requiring installation of closed crankcase ventilation systems (CCVS), all CCVS must be installed within 2 years of the effective date of the proposed N.J.A.C. 7:27-32 (anticipated effective date: August 16, 2007). For solid waste collection vehicles, a Vehicle Owner is required to provide the DEP with a vehicle/fleet inventory, which includes a retrofit device cost estimate, within 180 days of the effective date of the proposed

#	Page #	RFP Section Ref.	Question	Answer
				rule. The solid waste collection Vehicle Owner will then have, based on the size of its fleet, either 120 days, 180 days or 270 days to install the retrofit device after the DEP has notified the vehicle/fleet owner that it can commence installation.
10.	13 of 39	3.1	Are contractors expected to work overtime and holidays to meet DEP timelines?	The responsibility for meeting the timeline lies with the Vehicle Owner. If contractors indicate to the Vehicle Owner that they may not meet the timeline established for retrofit installation, then it is the Vehicle Owner's responsibility to request a deadline extension from DEP.
11.	14 of 39 and 15 of 39	3.2 (Table 1) and 3.3 (Table 2)	It appears that there are no BART2 technologies verified for 1988-1990 or 2004-2006 MY on-road engines. What products is DEP expecting to be applied in these applications?	BART 2 means a minimum of 50 percent particulate emissions reduction. A CARB level 2 or level 3 can satisfy this requirement if verified for the specified engine and application. A device verified by the USEPA to meet at least 50 percent particulate matter reduction can satisfy this requirement if verified for the specified engine and application.
12.	14 of 39	3.3	If the duty cycle does not permit the use of BART2, is there a preference to the selection of BART1 technology between one that is a tailpipe only solution vs. one that controls tailpipe plus CCVS?	DEP does not express any preference in this regard.
13.	15 of 39 Last paragraph	3.5	It seems reasonable that deliveries be made in strict accordance with the instructions of the Vehicle Owner, provided that those instructions take into account normal manufacturer's lead-times. Manufacturers cannot be expected to meet non-standard lead-times in a build-to-order business.	As required in Section 3.5 (4th paragraph), "Bidders shall furnish, in the space provided on the Signatory page (additional sheets may be used), the time required for delivery after receipt of order (ARO)...." If awarded, bidder's delivery schedule, supposedly in line with manufacturer's lead-time, will become its contract delivery schedule. The contractor then will be obligated to deliver in accordance with the contract delivery schedule.

#	Page #	RFP Section Ref.	Question	Answer
14.	15 of 39	3.5	Approximately how many "ship to" locations will be involved in the RFP?	It is unknown how many ship-to locations will be involved because it is dependent on how many regulated vehicle/fleets will become authorized installers. Since the State can only reimburse an authorized installer holding a contract resulting from this RFP, a bidder must bid based upon its judgment and device manufacturer's policies for giving a fleet the status of "authorized installer". The State has no control over the process of becoming an authorized installer and, therefore, is unable to provide a numerical answer to this question.
15.	18 of 39	3.8 (paragraph 1)	In the discussion about replacement of non-satisfactory product, who decides what is 'an excessive amount of remedial maintenance' and how does one define excessive? Will an approval body make such decisions or a committee?	The State is relying upon the contractor to properly apply retrofit devices and CCVS. This includes determining whether a vehicle/equipment is a poor candidate for a specific application. Maintenance that is described in the owner's manual required in Section 3.10 is not considered to be excessive. Conditions that significantly exceed the statement in the owner's manual may be considered to be an excessive amount of remedial maintenance. The State Contract Manager (Section 8.0) is responsible for determining if remedial maintenance is excessive. (See the answer to question # 37.)
16.	18 of 39	3.8 (paragraph 2)	What is meant by 'leak-free' piping? Piping, tubing and ducts on heavy-duty diesel equipment are not leak-free today. Is flex tubing allowed? Is the contractor expected to replace damaged or leaking components and charge them to the program? Or is the Vehicle Owner expected to pay for those components?	Leak-free piping means that the piping does not leak. Components that inherently leak may not be installed upstream of the retrofit device. Under no circumstances may components that inherently leak be used in conjunction with a CCVS installation upon a regulated school bus. The Vehicle Owner is responsible for repair of pre-existing damaged or leaking components that would compromise the emission control effectiveness of a retrofit device or CCVS.

#	Page #	RFP Section Ref.	Question	Answer
17.	19 of 39	3.10	Provide an example of a manufacturer's definition of a "possible back pressure range" in an operating manual.	The "possible back pressure range" is an indication of the amount of back pressure the installation of the retrofit device will impose upon the engine. This is information that the bidder should obtain from the retrofit manufacturer where the information constitutes an acceptable operating range.
18.	19 of 39	3.10	Provide a source for defining proper local disposal of waste generated by a diesel emission control strategy.	Waste generated by a diesel emission control strategy is currently regulated as ID27 - dry industrial solid waste in New Jersey, and should be disposed off in accordance with a district's solid waste management plan and solid waste regulations - N.J.A.C. 7:26-1.
19.	19 of 39	3.11	Will the State accept manufacturer's labeling methods without serialized identification?	No. Section 3.11 specifies the labeling requirements in which a manufacturer is required to provide a unique identification number to be matched to the specific retrofit device and the specific vehicle required to use the retrofit device. This requirement of the RFP is consistent with proposed N.J.A.C. 7:27-32.10 and the labeling requirements of the California Air Resources Board. (See the answer to question # 20 below.)
20.	19 of 39	3.11	Is the use of CARB tags considered as an acceptable approach to meet the labeling requirements or are unique tags specific to the NJ program required to meet the intent?	Labels meeting the specifications set forth in Title 13, California Code of Regulations Chapter 14, 2706(g) are acceptable.
21.	19 of 39	3.11	It is clear that labels are required for retrofit devices, but are they also required for CCVS? If so, what are the requirements for CCVS?	There are no labeling requirements for CCVS. Standard manufacturers' labels are acceptable for CCVS.

#	Page #	RFP Section Ref.	Question	Answer
22.	20 of 39	3.12	a. How are emission devices procured, i.e. ordering location, cost, quantity?	a. A Vehicle Owner will select a CCVS or retrofit device and a contractor that best meets its needs and that are most advantageous to the State, price and other factors considered. Contract price will be based on the discount offered by the contractor (discount off device manufacturer's list price).
	13 of 39	3.1	b. How is training and certification obtained?	b. A qualified bidder is required to obtain "Authorized Installer" status, along with any training and certifications that are required by the manufacturer for an "Authorized Installer", from the emission device manufacturer for the emission device bid.
	26 of 39 27 of 39 29 of 39	4.4.4.1.A4 4.4.4.2.A4 4.4.4.4	c. Are there times allotted to install the emission devices?	c. There is no time allotment; a qualified bidder is required to provide a minimum and maximum hours of labor needed to install each emission device bid.
23.	21 of 39	3.12	How is supporting documentation (i.e. certification, purchase, installation) verified? Will there be a form available to fill in all of the required information? How long will it take to approve a reimbursement application?	The Vehicle Owner is required by the DEP to submit a compliance form within 5 business days after installation is completed in which the owner verifies that installation is complete and satisfactory. This compliance form will be used to verify the reimbursement application submitted by the contractor. The DEP is in the process of developing forms that will be available through the DEP website, www.stopthesoot.org , when they are available. As long as a reimbursement application is administratively and technically complete, then approval will occur in a timely manner. Submitting false documentation may result in contract termination, debarment or suspension of the contractor from contracting with the State pursuant to NJAC 17:12-6 et seq. and disqualification of the contractor from award of future State contracts. The Division's Contract Compliance and Audit Unit ("CCAU") maintains vendor performance file, which may be shared with other local, State and Federal agencies.

#	Page #	RFP Section Ref.	Question	Answer
24.	21 of 39	3.12 (paragraph 7)	What does Vehicle Owner's 'satisfaction' mean in regards to the vehicle reimbursement process? It seems a more precise definition would benefit all as Vehicle Owners may request unapproved or unnecessary modifications before being satisfied.	<p>Any effort to define "satisfaction" will require "unapproved" or "unnecessary" or like term to be defined. A practical solution would be to bring any request for unapproved or unnecessary modifications to the attention of the State Contract Manager, who is responsible for dispute resolution, in accordance with Section 8.0 (Contract Administration).</p> <p>Modifications that are unnecessary will be at the Vehicle Owner's expense.</p>
25.	22 of 39	3.14	How is the contractor expected to certify original engine configuration and engine maintenance? Also, if it is deemed not to be, what steps are required to bring it into compliance and who is responsible to bear those costs?	The contractor is expected to visually confirm the engine's conformance to the original certified configuration. The contractor is expected to have a reasonable basis to believe that the engine has been well maintained and is in good working condition and otherwise meets the conditions set forth in the verification letter as per Section 3.14. It is in the contractor's best interest to establish these conditions to ensure the proper long-term operation of the retrofit, where non-conformance to these conditions will increase the risk of device failure and the trigger warranty provisions or require replacement as per Section 3.8. If the engine is deemed not to be within its certified configuration, it is the owner's responsibility to restore the condition and bear the costs.
26.	22 of 39	3.14	It would seem that engine diagnostic tests would be required for a contractor to determine if the engine being retrofitted is not consuming lubricating oil at a rate greater than that specified by the manufacturer? Are monies provided to conduct engine assessments to determine the answers to these questions? Also, if it is deemed to consume engine oil in excess, what steps are required to bring it into	If the engine is determined to consume excess lubricating oil, it is the Vehicle Owner's responsibility to remedy the condition and bear the costs.

#	Page #	RFP Section Ref.	Question	Answer
			compliance, if any, and who is responsible to bear those costs?	
27.	22 of 39	3.14	How is EPA/CARB equipment compatibility defined and does the burden of compliance fall on contractor or manufacturer?	For each verified retrofit device, EPA and/or CARB have established a list of engines that the retrofit device is compatible with. These lists can be found on the EPA and/or CARB websites, and should be provided by the manufacturer of the verified retrofit device. It is the contractor's responsibility to ensure that the retrofit device installed on a vehicle is verified for the vehicle engine and use and is the proper choice to ensure optimal operation of the vehicle and the retrofit device. This is part of the service to be provided by a successful bidder upon award of a contract pursuant to this RFP.
28.	22 of 39	3.14	Where do I go to obtain the technical specifications for the regulated waste vehicles, i.e engine specs, exhaust temperature profile & duty cycles of these vehicles? We use this information to size the appropriate Level II catalyst.	The State requires a contractor to provide a range of retrofit devices that will be compatible with a range of regulated waste vehicles. If selected, the contractor will be required to inspect all vehicles that are presented and ascertain which retrofit device is best for the vehicle in order to ensure compatibility. If the contractor does not have a retrofit device that is best for the vehicle, it would need to relay that information to the Vehicle Owner. Therefore, the State is requesting that a range of retrofit devices with pricing be submitted with the bid proposal.
29.	23 of 39	3.16	Is there a requirement that manufacturers conduct a portion of their in-use compliance testing within the state of NJ?	No, the testing is not required to be performed in New Jersey. The requirement in Section 3.16 means that the vehicles must be included in the required testing by the USEPA.
30.	28 of 39	4.4.4.3	It states that the bidder will provide details on product support and training. What type of training and how much is required?	The type of training required in the RFP is outlined in Section 4.4.4.3 ("Product Support/Training"), which requires the bidder to provide details on how it would implement training and customer support. Training is not required with every device installed, but should

#	Page #	RFP Section Ref.	Question	Answer
				be reasonably available upon request to ensure the user's understanding of the proper use and maintenance of the system.
31.	29 of 39	4.4.4.4.6 and 4.4.4.4.7	How are price adjustments factored and approved following year two; and is the criteria consistent between parts and labor?	In accordance with Section 4.4.4.4.7, " Excluding the price list revision every two years, if approved by the State, all contract terms, conditions, specifications and pricing, including the contract discount and labor rate, shall remain in effect for the term of the contract and any extension thereof." Section 4.4.4.4.6 permits only price list revisions, every two years.
32.	30 of 39 Price page 2 of 3	4.4.7.1 Price line 5	What is the definition of a unit (time or mileage) and total amount under mobile installation?	Unit shown on price line 5 is for an <u>additional</u> cost of a mobile installation and will include transportation cost to and from the Vehicle Owner's location. Mobile installation cost will be added to device installation cost derived from contract labor rate for price line 2 item (CCVS) or price line 4 item (BART).
33.	Price pages 1 and 2 of 3	Price line 1 and 3	What is the definition of "price list type" on the price sheet line 1 and line 3?	If a manufacture has more than one price list - retail, wholesale and/or jobber's price lists, then the bidder will list the type of price list used on the price line bid on.
34.	32 of 39	4.4.7.9	What is the procedure for quoting essential parts (i.e. fastener/hoses/ clamps) not included in the manufacturer's list pricing?	As required in Section 4.4.7.9, pricing bid shall be inclusive of all requirements of the RFP. If a manufacturer's list price does not include hoses or clamps, for example, the bidder may size the discount offered accordingly to offset the cost of specified components or requirements not included in the manufacturer's list price.
35.	33 of 39	5.2	Does a sunset provision exist for this contract and any extension?	No. As stated in Section 5.2, the term of the contract shall be for a period of four years. Further, the contract may be extended for a total period of up to four years. Prior to the contract expiration, a reprocured RFP will be issued for the next bidding cycle to establish new contracts.

#	Page #	RFP Section Ref.	Question	Answer
36.	38 of 39	7.2	Ideally, how many bidders will be qualified by the State?	There is no pre-determined number. The State will accept as many authorized installers as meet the requirements of the RFP, and provide a competitive and responsible bid proposal.
37.	4 of 10 (Rev 05/09/2006 ST&C)	T&C Section 3.5b	What is the method for dispute resolution between contractors and fleet operators/owners/ New Jersey state agencies?	In accordance with Section 8.0 (Contract Administration), all disputes shall be referred to the State Contract Manager. If unable to resolve, in accordance with N.J.A.C. 17:12-4, a Formal Vendor Complaint (Form PB-36) can be filed against a contractor for its failure to comply with the contract terms and conditions. As stated in Section 3.5b of the Standard Terms and Conditions (Rev. 05/09/2006), "where a contractor fails to perform" or "continues to perform poorly", the contract may be terminated for cause. Further, in the public interest, the Director may debar the contractor for its failure to perform or for unsatisfactory performance.
38.	-	-	Which State or local agency is charged with enforcing New Jersey emission diesel laws?	DEP is responsible for enforcing New Jersey diesel emission laws.
39.	-	-	Can we use after-treatment devices that are verified for off-road or stationary applications for the NJ Retrofit project?	Retrofit devices, as defined in Section 2.2, may only be installed upon the engine families and applications for which they were verified. Some publicly-owned off-road vehicles may be retrofitted under this contract if a public entity opts to comply earlier than required in proposed N.J.A.C. 7:27-32, or pursuant to a voluntary retrofit project.
40.	-	-	Can BART level 2 technology that is verified for 1990 to 2002 be used for a 2005 solid waste truck?	No.

#	Page #	RFP Section Ref.	Question	Answer
41.	-	-	Will the contractor be permitted to provide pricing (min/max) for specific vehicle/engine configurations?	No.
42.	-	-	Is it mandatory that a CCVS be verified alone or in combination with a tailpipe device to be used in this program?	No.
43.	-	-	Does NJDOT have kit approval requirements for CCVS installations or are inspections required to ascertain the installations meets some DOT standard?	No.
44.	-	-	Is there available a representative inventory of vehicles or vehicle types to describe: 1) Make and/or Model of affected vehicles, 2) Make and/or Model and /or Horsepower ratings of affected engines.	No.

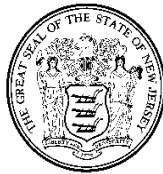
PART 2

Additions and Modifications to the RFP

**DIESEL RETROFIT DEVICE AND INSTALLATION REIMBURSEMENT
Bid Number 08-X-39424 (T-2541)**

#	Page #	RFP Section Reference	Additions and Modifications
1.	Signatory page	Signatory page, Item 1	The bid opening date has been changed to June 19, 2007.
2.	6 of 39	1.3.1	The cut-off date for electronic questions and answers has been changed to June 1, 2007.
3.	10 of 39	2.2, 2nd definition	The BART level definitions are for tailpipe emissions only.
4.	13 of 39	3.1	All timelines for project completion are defined in the proposed rules N.J.A.C. 7:27-32.4, 32.12, and 32.18. (A copy of the proposed rules is available for download from Diesel Risk Reduction Program website at www.stopthesoot.org .) For the purposes of this RFP project timelines are as follows. For school buses requiring installation of closed crankcase ventilation systems (CCVS), all CCVS must be installed within 2 years of the effective date of the proposed N.J.A.C. 7:27-32 (anticipated effective date: August 16, 2007). For solid waste collection vehicles, a Vehicle Owner is required to provide the DEP with a vehicle/fleet inventory, which includes a retrofit device cost estimate, within 180 days of the effective date of the proposed rule. The solid waste collection Vehicle Owner will then have, based on the size of its fleet, either 120 days, 180 days or 270 days to install the retrofit device after the DEP has notified the vehicle/fleet owner that it can commence installation.
5.	19 of 39	3.11	Labels meeting the specifications set forth in Title 13, California Code of Regulations Chapter 14, 2706(g) are acceptable.
6.	21 of 39	3.12	Submitting false documentation may result in contract termination, debarment or suspension of the contractor from contracting with the State pursuant to NJAC 17:12-6 et seq. and disqualification of the contractor from award of future State contracts. The Division's Contract Compliance and Audit Unit ("CCAUC") maintains vendor performance file, which may be shared with other local, State and Federal agencies.

#	Page #	RFP Section Reference	Additions and Modifications
7.	Price pages 1 and 2 of 3	Price line 1 and 3	If a manufacture has more than one price list - retail, wholesale and/or jobber's price lists, then the bidder will list the type of price list used on the price line bid on.



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
33 West State Street
P. O. Box 230
Trenton, New Jersey 08625-0230

JON S. CORZINE
Governor

BRADLEY I. ABELOW
State Treasurer

June 4, 2007

To: All Interested Vendors

Re: RFP #: 08-X-39424 (T-2541) DIESEL RETROFIT DEVICE AND INSTALLATION REIMBURSEMENT

Bid Due Date: **June 19, 2007** (2:00 p.m.)

ADDENDUM #2

The following constitutes Addendum #2 to the above referenced solicitation. This addendum is divided into the following parts:

Part 1: Answers to questions. **(See pages 2 and 3.)**

Part 2: Additions and modifications to the RFP. **(See page 4.)**

It is the bidder's responsibility to ensure that all changes are incorporated into the original RFP.

All other instructions, terms and conditions of the RFP shall remain the same.

PART 1
DIESEL RETROFIT DEVICE AND INSTALLATION REIMBURSEMENT
Bid Number 08-X-39424 (T-2541)

Answers to Questions

Note: Some of the questions have been paraphrased in the interest of readability and clarity. Each question is referenced by the appropriate RFP page number(s) and section where applicable.

#	Page #	RFP Section Ref.	Question	Answer
1.	10 of 39	2.2, 2nd definition	In Addendum #1, the answer to question #6 and modification #3 define the BART level emission reductions to include exhaust tailpipe reductions only. BART level 1 is defined as a <25% reduction which can commonly be achieved using a Diesel Oxidation Catalyst. Many manufacturers' DOC's are EPA verified at a 20% level and widely accepted as "Level 1" devices. Does the given BART level 1 definition in this RFP exclude those products or will an EPA verified DOC be considered as BART level 1 at a 20% reduction?	BART Level 1 is defined in Section 2.2 as a BART that achieves a minimum particulate emissions control level of 25 percent reduction in mass. Therefore, in order to meet the requirements of this RFP and proposed N.J.A.C. 7:27-32 for BART Level 1, a diesel oxidation catalyst must be verified to reduce particulate matter by at least 25 percent. Any devices that have less than a 25% control level will not be considered a Level 1 retrofit device and will not be eligible for this program.
2.	30 of 39 Price page 2 of 3	4.4.7.1 Price line 5	Your previous reply #32 is not clearly understood. Please explain in detail what numbers need to be entered into price line 5, column 5 "Unit Price" and column 6 "Total Amt."	Again, a bidder is to enter the cost of a mobile installation in the fifth column from the left ("Unit Price") on price line 5 in FIXED DOLLAR AMOUNT. Since quantity listed on price line 5 is 1 (third column from left), the total amount bid will be same as the unit price bid.
3.	24 of 39	4.4	What part of the bid must contain the State supplied "Bidder's Data Packet" sheet? (Part 3 only refers to 4.4.4.4, which is the manufacturer's price list)	Part 3 of a bid proposal should include both Bidder's Data Packet and bidder's capability (Section 4.4.4.5) The second bullet of Section 4.4 (page 24 of 39) is revised as follows: • *Part 2 – Submittals (Section 4.4.4.1 through 4.4.4.4) The third bullet of Section 4.4 (page 24 of 39) is revised as follows: • Part 3 – Bidder Data Packet and Bidder's Capability (Section 4.4.4.5)

#	Page #	RFP Section Ref.	Question	Answer
4.	30 of 39	4.4.4.5	Which part of the bid must contain the "Bidder's Capability" information as per 4.4.4.5?	Part 3. See the answer to question # 3 above.
5.	36 through 38 of 39	7.1 and 7.3	Do any of the documents or certificates (e.g. Non-contribution disclosure, insurance certificate, etc.) mentioned in this section have to be submitted with the bid? Which ones and under which part of the bid?	No. As stated in Section 7.1.1.3b (page 37 of 39), " Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit...the Certification and Disclosure(s) within five (5) business days of the State's request."
6.	29 of 39	4.4.4.4	Is the submission of a manufacturer's price list with the bid proposal mandatory?	Yes. As stated in Section 4.4.4.4.1 (and Section 4.4.0), "Bidders must submit, with the bid proposal, manufacturer's descriptive catalog and its latest price list as of the bid opening date for every make/brand bid."

PART 2

Additions and Modifications to the RFP

**DIESEL RETROFIT DEVICE AND INSTALLATION REIMBURSEMENT
Bid Number 08-X-39424 (T-2541)**

#	Page #	RFP Section Reference	Additions and Modifications
1.	6 of 39	1.2 (second paragraph)	The last paragraph of Section 1.2 (second paragraph of page 6 of 39), which states "The State reserves the right to reimburse the cost of purchasing...DEP related project and have signed purchase orders or funding authorizations.", is moved to the last paragraph of Section 3.1.1 (second paragraph of page 14 of 39).
2.	17 of 39	Table 4 (Minimum Warranty Periods), "Off-road use" row.	Engine Size reference of "<= 50 Horsepower" for off-road use engine in Table 4 on page 17 of 39 is revised to read ">= 50 Horsepower"
3.	24 of 39	4.4	<p>The second bullet of Section 4.4 (page 24 of 39) is revised as follows:</p> <ul style="list-style-type: none"> • *Part 2 – Submittals (Section 4.4.4.1 through 4.4.4.4) <p>The third bullet of Section 4.4 (page 24 of 39) is revised as follows:</p> <ul style="list-style-type: none"> • Part 3 – Bidder Data Packet and Bidder's Capability (Section 4.4.4.5)

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STANDARD TERMS AND CONDITIONS:

- I. Unless the bidder is specifically instructed otherwise In the Request for Proposal, the following terms and conditions 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 the Request for Proposal (RFP) and should be read in conjunction with same unless the RFP specifically indicates otherwise. If a bidder proposes changes or modifications or takes exception to any of the State's terms and conditions, the bidder must so state specifically in writing in the bid proposal. Any proposed change, modification or exception in the State's terms and conditions by a bidder will be a factor in the determination of an award of a contractor purchase agreement.
- II. All of the State's terms and conditions will become a part of any contract(s) or order(s) awarded as a result of the Request for Proposal, whether stated in part, in summary or by reference. In the event the bidder's terms and conditions conflict with the State's, the State's terms and conditions will prevail, unless the bidder is notified in writing of the State's acceptance of the bidder's terms and conditions.
- III. The statutes, laws or codes cited are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.
- IV. If awarded a contract or purchase agreement, the bidder's status shall be that of any independent principal and not as an employee of the State.

1. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

- 1.1 BUSINESS REGISTRATION** –Effective September 1, 2004, pursuant to an amendment to N.J.S.A. 52:32-44, State and local entities (including the Division of Purchase and Property) are prohibited from entering into a contract with an entity unless the contractor has provided a copy of its business registration certificate (or interim registration) as part of its bid submission. Failure to submit a copy of the Business Registration Certificate within the bid proposal may be cause for rejection of the bid proposal.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. This requirement shall apply to all contracts awarded on and after September 1, 2004. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.htm>

- 1.2 ANTI-DISCRIMINATION** - All parties to any contract with the State of New Jersey agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A.10:5-1 et seq. and N.J.S.A.10:5-31 through 10:5-38, and all rules and regulations issued there under.
- 1.3 PREVAILING WAGE ACT** - The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.26 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act.
- 1.4 AMERICANS WITH DISABILITIES ACT** - The contractor must comply with all provisions of the Americans With Disabilities Act (ADA), P.L 101-336, in accordance with 42 U.S.C. 12101 et seq.
- 1.5 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT** - The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the Act.
- 1.6 OWNERSHIP DISCLOSURE** - Contracts for any work, goods or services cannot be issued to any corporation or partnership unless prior to or at the time of bid submission the bidder has disclosed the names and addresses of all its owners holding 10% or more of the corporation or partnership's stock or interest. Refer to N.J.S.A. 52:25-24.2.

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- 1.7 COMPLIANCE - LAWS** - The contractor must comply with all local, state and federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.
- 1.8 COMPLIANCE - STATE LAWS** - It is agreed and understood that any contracts and/or orders placed as a result of this proposal shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the STATE OF NEW JERSEY.
- 1.9 COMPLIANCE - CODES** - The contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor will be responsible for securing and paying all necessary permits, where applicable.

2. LIABILITIES

- 2.1 LIABILITY - COPYRIGHT** - The contractor shall hold and save the State of New Jersey, its officers, agents, servants and employees, harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of his contract.
- 2.2 INDEMNIFICATION** - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this agreement.
- 2.3 INSURANCE** - The contractor shall secure and maintain in force for the term of the contract liability insurance as provided herein. The Contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof, naming the State as an Additional Insured and shall contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after thirty days written notice to:

STATE OF NEW JERSEY
Purchase Bureau – Bid Ref. #

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

- a. Comprehensive General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Comprehensive General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as Additional Insureds. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic, unamended, and unendorsed Comprehensive General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage.
- b. Automobile liability insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.
- c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 - \$1,000,000 BODILY INJURY, EACH OCCURRENCE
 - \$1,000,000 DISEASE EACH EMPLOYEE
 - \$1,000,000 DISEASE AGGREGATE LIMIT

3. TERMS GOVERNING ALL PROPOSALS TO NEW JERSEY PURCHASE BUREAU

- 3.1 CONTRACT AMOUNT** - The estimated amount of the contract(s), when stated on the Advertised Request for Proposal form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of this Request for Proposal or any contract entered into as a result of this Request for Proposal.

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3.2 CONTRACT PERIOD AND EXTENSION OPTION - If, in the opinion of the Director of the Division of Purchase and Property, it is in the best interest of the State to extend a contract entered into as a result of this Request for Proposal, the contractor will be so notified of the Director's Intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director's request to extend the contract. If the contractor agrees to the extension, all terms and conditions of the original contract, including price, will be applicable.

3.3 BID AND PERFORMANCE SECURITY

- a. Bid Security - If bid security is required, such security must be submitted with the bid in the amount listed in the Request for Proposal, see N.J.A.C. 17: 12- 2.4. Acceptable forms of bid security are as follows:
1. A properly executed individual or annual bid bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of the Treasurer, State of New Jersey, or an irrevocable letter of credit drawn naming the Treasurer, State of New Jersey as beneficiary issued by a federally insured financial institution.
 2. The State will hold all bid security during the evaluation process. As soon as is practicable after the completion of the evaluation, the State will:
 - a. Issue an award notice for those offers accepted by the State;
 - b. Return all bond securities to those who have not been issued an award notice.

All bid security from contractors who have been issued an award notice shall be held until the successful execution of all required contractual documents and bonds (performance bond, insurance, etc. If the contractor fails to execute the required contractual documents and bonds within thirty (30) calendar days after receipt of award notice, the contractor may be found in default and the contract terminated by the State. In case of default, the State reserves all rights inclusive of, but not limited to, the right to purchase material and/or to complete the required work in accordance with the New Jersey Administrative Code and to recover any actual excess costs from the contractor. Collection against the bid security shall be one of the measures available toward the recovery of any excess costs.

- b. Performance Security - If performance security is required, the successful bidder shall furnish performance security in such amount on any award of a term contractor line item purchase, see N.J.A.C. 17: 12- 2.5. Acceptable forms of performance security are as follows:
1. The contractor shall be required to furnish an irrevocable security in the amount listed in the Request for Proposal payable to the Treasurer, State of New Jersey, binding the contractor to provide faithful performance of the contract.
 2. The performance security shall be in the form of a properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of the Treasurer, State of New Jersey, or an irrevocable letter of credit drawn naming the Treasurer, State of New Jersey as beneficiary issued by a federally insured financial institution.

The Performance Security must be submitted to the State within 30 days of the effective date of the contract award and cover the period of the contract and any extensions thereof. Failure to submit performance security may result in cancellation of contract for cause pursuant to provision 3.5b,1, and nonpayment for work performed.

3.4 VENDOR RIGHT TO PROTEST - INTENT TO AWARD - Except in cases of emergency, bidders have the right to protest the Director's proposed award of the contract as announced in the Notice of Intent to Award, see N.J.A.C. 17:12-3.3. Unless otherwise stated, a bidder's protest must be submitted to the Director within 10 working days after receipt of written notification that its bid has not been accepted or that an award of contract has been made. In the public interest, the Director may shorten this protest period, but shall provide at least 48 hours for bidders to respond to a proposed award. In cases of emergency, stated in the record, the Director may waive the appeal period. See N.J.A.C. 17: 12- 3 et seq.

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3.5 TERMINATION OF CONTRACT

a. For Convenience

Notwithstanding any provision or language in this contract to the contrary, the Director may terminate at any time, in whole or in part, any contract entered into as a result of this Request for Proposal for the convenience of the State, upon no less than 30 days written notice to the contractor.

b. For cause:

1. Where a contractor fails to perform or comply with a contract, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Director may terminate the contract upon 10 days notice to the contractor with an opportunity to respond.
2. Where a contractor continues to perform a contract poorly as demonstrated by formal complaints, late delivery, poor performance of service, short-shipping etc., so that the Director is repeatedly required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq. the Director may terminate the contract upon 10 days notice to the contractor with an opportunity to respond.

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

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

3.6 COMPLAINTS - Where a bidder has a history of performance problems as demonstrated by formal complaints and/or contract cancellations for cause pursuant to 3.5b a bidder may be bypassed for this award. See N.J.A.C. 17:12-2.8.

3.7 EXTENSION OF CONTRACT QUASI-STATE AGENCIES - It is understood and agreed that in addition to State Agencies, Quasi-State Agencies may also participate in this contract. Quasi-State Agencies are defined in N.J.S.A. 52:27B-56.1 as 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.

3.8 EXTENSION OF CONTRACTS TO POLITICAL SUBDIVISIONS, VOLUNTEER FIRE DEPARTMENTS AND FIRST AID SQUADS, AND INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION - N.J.S.A. 52:25-16.1 permits counties, municipalities and school districts to participate in any term contract(s), that may be established as a result of this proposal.

N.J.S.A. 52:25-16.2 permits volunteer fire departments, volunteer first aid squads and rescue squads to participate in any term contract(s) that may be established as a result of this proposal.

N.J.S.A. 52:25-16.5 permits independent institutions of higher education to participate in any term contract(s) that may be established as a result of this proposal, provided that each purchase by the Independent Institution of higher education shall have a minimum cost of \$500.

In order for the State contract to be extended to counties, municipalities, school districts, volunteer fire departments, first aid squads and independent institutions of higher education the bidder must agree to the extension and so state in his bid. proposal. The extension to counties municipalities, school districts, volunteer fire departments, first aid squads and Independent Institutions of higher education must be under the same terms and conditions, including price, applicable to the State.

3.9 EXTENSIONS OF CONTRACTS TO COUNTY COLLEGES - N.J.S.A. 18A:64A - 25. 9 permits any college to participate in any term contract(s) that may be established as a result of this proposal.

3.10 EXTENSIONS OF CONTRACTS TO STATE COLLEGES - N.J.S.A. 18A:64- 60 permits any State College to participate in any term contract(s) that may be established as a result of this proposal.

3.11 SUBCONTRACTING OR ASSIGNMENT - The contract may not be subcontracted or assigned by the contractor, in whole or in part, without the prior written consent of the Director of the Division of Purchase and

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Property. Such consent, if granted, shall not relieve the contractor of any of his responsibilities under the contract.

In the event the bidder proposes to subcontract for the services to be performed under the terms of the contract award, he shall state so in his bid and attach for approval a list of said subcontractors and an Itemization of the products and/or services to be supplied by them.

Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the State.

3.12 MERGERS, ACQUISITIONS - If, subsequent to the award of any contract resulting from this Request for Proposal, the contractor shall merge with or be acquired by another firm, the following documents must be submitted to the Director, Division of Purchase & Property.

- a. Corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices.
- b. State of New Jersey Bidders Application reflecting all updated information including ownership disclosure, pursuant to provision 1.5.
- c. Vendor Federal Employer Identification Number.

The documents must be submitted within thirty (30) days of completion of the merger or acquisition. Failure to do so may result in termination of contract pursuant to provision 3.5b.

If subsequent to the award of any contract resulting from this Request for Proposal, the contractor's partnership or corporation shall dissolve, the Director, Division of Purchase & Property must be so notified. All responsible parties of the dissolved partnership or corporation must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment should be made until all parties to the dissolved partnership or corporation submit the required documents to the Director.

3.13 PERFORMANCE GUARANTEE OF BIDDER - The bidder hereby certifies that:

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

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3.14 DELIVERY GUARANTEES - Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the Request for Proposal.

The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice.

Items delivered must be strictly in accordance with the Request for Proposal.

In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the Request for Proposal, the using agency may be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor failing to meet his commitments.

3.15 DIRECTOR'S RIGHT OF FINAL BID ACCEPTANCE - The Director reserves the right to reject any or all bids, or to award in whole or in part if deemed to be in the best interest of the State to do so. The Director shall have authority to award orders or contracts to the vendor or vendors best meeting all specifications and conditions in accordance with N.J.S.A. 52:34-12. Tie bids will be awarded by the Director in accordance with N.J.A.C.17:12-2.1D.

3.16 BID ACCEPTANCES AND REJECTIONS - The provisions of N.J.A.C. 17:12-2.9, relating to the Director's right, to waive minor elements of non-compliance with bid specifications and N.J.A.C. 17: 12- 2.2 which defines causes for automatic bid rejection, apply to all proposals and bids.

3.17 STATE'S RIGHT TO INSPECT BIDDER'S FACILITIES - The State reserves the right to inspect the bidder's establishment before making an award, for the purposes of ascertaining whether the bidder has the necessary facilities for performing the contract.

The State may also consult with clients of the bidder during the evaluation of bids. Such consultation is intended to assist the State in making a contract award which is most advantageous to the State.

3.18 STATE'S RIGHT TO REQUEST FURTHER INFORMATION - The Director reserves the right to request all information which may assist him or her in making a contract award, including factors necessary to evaluate the bidder's financial capabilities to perform the contract. Further, the Director reserves the right to request a bidder to explain, in detail, how the bid price was determined.

3.19 MAINTENANCE OF RECORDS - The contractor shall maintain records for products and/or services delivered against the contract for a period of three (3) years from the date of final payment. Such records shall be made available to the State upon request for purposes of conducting an audit or for ascertaining information regarding dollar volume or number of transactions.

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3.20 ASSIGNMENT OF ANTITRUST CLAIM(S) - The contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this contract, the contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this contract.

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

- a. It will take no action which will in any way diminish the value of the rights conveyed or assigned hereunder.
- b. It will advise the Attorney General of New Jersey:
 1. in advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action;
 2. immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
- c. It will notify the defendants in any antitrust suit of the fact of the within assignment at the earliest practicable opportunity after the contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice will be sent to the Attorney General of New Jersey.

Furthermore, it is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

4. TERMS RELATING TO PRICE QUOTATION

4.1 PRICE FLUCTUATION DURING CONTRACT - Unless otherwise noted by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract.

In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director of Purchase and Property must be notified, in writing, of any price reduction within five (5) days of the effective date.

Failure to report price reductions will result in cancellation of contract for cause, pursuant to provision 3.5b.1.

4.2 DELIVERY COSTS - Unless otherwise noted in the Request for Proposal, all prices for items in bid proposals are to be submitted F.O.B. Destination. Proposals submitted other than F.O.B. Destination may not be considered. Regardless of the method of quoting shipments, the contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the State's using agency or designated purchaser.

F.O.B. Destination does not cover "spotting" but does include delivery on the receiving platform of the ordering agency at any destination in the State of New Jersey unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at contractor's convenience when a single shipment is ordered. The weights and measures of the State's using agency receiving the shipment shall govern.

4.3 C.O.D. TERMS - C.O.D. terms are not acceptable as part of a bid proposal and will be cause for rejection of a bid.

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

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4.5 PAYMENT TO VENDORS - Payment for goods and/or services purchased by the State will only be made against State Payment Vouchers. The State bill form in duplicate together with the original Bill of Lading, express receipt and other related papers must be sent to the consignee on the date of each delivery. Responsibility for payment rests with the using agency which will ascertain that the contractor has performed in a proper and satisfactory manner in accordance with the terms and conditions of the award. Payment will not be made until the using agency has approved payment.

For every contract the term of which spans more than one fiscal year, the State's obligation to make payment beyond the current fiscal year is contingent upon legislative appropriation and availability of funds.

The State of New Jersey now offers State contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State Agency's use of the p-card, however, is optional. P-card transactions do not require the submission of either a contractor invoice or a State payment voucher. Purchasing transactions utilizing the p-card will usually result in payment to a contractor in three days. A Contractor should take note that there will be a transaction processing fee for each p-card transaction. To participate, a contractor must be capable of accepting MasterCard. For more information, call your bank or any merchant services company.

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

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

4.7 RECIPROCITY - In accordance with N.J.S.A. 52:32-1.4 and N.J.A.C. 17: 12- 2. 13, the State of New Jersey will invoke reciprocal action against an out-of-State bidder whose state or locality maintains a preference practice for their bidders.

5. CASH DISCOUNTS - Bidders are encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts, but discounts will not be considered in determining the lowest bid.

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

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6. STANDARDS PROHIBITING CONFLICTS OF INTEREST - The following prohibitions on vendor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

- a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g.
- b. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.
- c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52: 130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.
- d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.
- f. The provisions cited above in paragraph 6a through 6e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 6c.

7. NOTICE TO ALL BIDDERS SET-OFF FOR STATE TAX NOTICE

Please be advised that, pursuant to P.L 1995, c. 159, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

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8. **APPLICABLE LAW** - This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles.