



Request for Proposal 09-X-20302

For: Ice and Snow Removal Liquids/Chemicals For DOT and the Authorities

Event	Date	Time
Bidder's Electronic Question Due Date (Refer to RFP Section 1.3.1 for more information.)	8/4/08	5:00 PM
Mandatory Pre-bid Conference	N/A	
Mandatory Site Visit	N/A	
Bid Submission Due Date (Refer to RFP Section 1.3.2 for more information.)	8/15/08	2:00 PM

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

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

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

Using Agency/Agencies

State of New Jersey
Cooperative Purchasing Members

Date: 7/16/08

Table of Contents

1.0 INFORMATION FOR BIDDERS	4
1.1 PURPOSE AND INTENT	4
1.2 BACKGROUND.....	4
1.3 KEY EVENTS.....	5
1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD	5
1.3.2 SUBMISSION OF BID PROPOSAL	5
1.4 ADDITIONAL INFORMATION.....	6
1.4.1 ADDENDA: REVISIONS TO THIS RFP.....	6
1.4.2 BIDDER RESPONSIBILITY	6
1.4.3 COST LIABILITY.....	6
1.4.4 CONTENTS OF BID PROPOSAL.....	6
1.4.5 PRICE ALTERATION.....	7
1.4.6 BID ERRORS.....	7
1.4.7 JOINT VENTURE.....	8
2.0 DEFINITIONS	8
2.1 GENERAL DEFINITIONS.....	8
3.0 COMMODITY DESCRIPTION/SCOPE OF WORK	9
SECTION 101 – GENERAL INFORMATION	9
1. GENERAL.....	9
2. ABBREVIATION.....	9
3. TERMS.....	10
CONTRACT DOCUMENTS	10
DAYS.....	10
DEPARTMENT.....	10
DEPARTMENT LABORATORY	10
ENGINEER.....	10
INSPECTOR	10
MATERIALS QUESTIONNAIRE	10
PROJECT.....	10
SPECIFICATIONS	11
STATE BUSINESS DAY	11
WORKING DAY	11
4. INQUIRIES REGARDING PROJECT	11
SECTION 102 – BIDDING REQUIREMENTS AND CONDITIONS	11
5. INTERPRETATION OF QUANTITIES IN BID SCHEDULE	11
SECTION 104 – SCOPE OF WORK	11
6. INTENT OF CONTRACT	11
SECTION 105 – CONTROL OF WORK	11
105.01 AUTHORITY OF THE ENGINEER.....	11
7. CONFORMITY WITH CONTRACT DOCUMENTS.....	11
105.13 DUTIES OF THE INSPECTOR	12
8. INSPECTION OF WORK.....	12
SECTION 106 – CONTROL OF MATERIALS	12
9. SOURCE OF SUPPLY AND QUALITY REQUIREMENTS.....	12
10. MATERIALS, INSPECTIONS, TESTS AND SAMPLES	13
SECTION 107 – LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC	14
11. PUBLIC CONVENIENCE AND SAFETY	14

SECTION 108 – TERM AND PERFORMANCE	14
12. TIME OF COMPLETION.....	14
SECTION 109 – MEASUREMENT AND PAYMENT	14
13. MEASUREMENT OF QUANTITIES.....	14
14. SCOPE OF PAYMENT	15
SECTION 919 – MISCELLANEOUS	15
MATERIAL DESCRIPTIONS/SPECIFICATIONS	16
SHIPMENT AND DELIVERIES FOR THE D.O.T.....	18
COMPENSATION	19
SPLIT DELIVERY PAYMENT	19
EMERGENCY MATERIAL TRANSFER CHARGE	20
4.0 BID PROPOSAL PREPARATION AND SUBMISSION	20
4.1 GENERAL	20
4.2 BID PROPOSAL DELIVERY AND IDENTIFICATION.....	20
4.3 NUMBER OF BID PROPOSAL COPIES.....	20
4.4 BID PROPOSAL CONTENT	21
4.4.1 FORMS THAT MUST BE SUBMITTED WITH BID PROPOSAL	21
4.4.2 PROOFS OF REGISTRATION THAT MUST BE SUBMITTED WITH THE BID PROPOSAL	21
4.4.3 FORMS THAT MUST BE SUBMITTED BEFORE CONTRACT AWARD AND SHOULD BE SUBMITTED WITH THE BID PROPOSAL.....	22
4.4.4 SUBMITTALS.....	22
4.4.5 FINANCIAL CAPABILITY OF THE BIDDER	23
4.4.6 PRICING	23
4.4.7 COOPERATIVE PURCHASING	23
4.4.8 METHOD OF BIDDING.....	23
5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS	24
5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS.....	24
5.2 CONTRACT TERM AND EXTENSION OPTION	24
5.3 CONTRACT TRANSITION.....	25
5.4 CONTRACT AMENDMENT	25
5.5 CONTRACTOR'S WARRANTY	25
5.6 ITEMS ORDERED AND DELIVERED.....	25
5.7 REMEDIES FOR FAILURE TO COMPLY WITH MATERIAL CONTRACT REQUIREMENTS.....	25
5.8 MANUFACTURING REQUIREMENTS	26
5.9 CLAIMS	26
5.10 CONTRACT ACTIVITY REPORT	26
5.11 PUBLIC WORKS CONTRACT-ADDITIONAL AFFIRMATIVE ACTION REQUIREMENT	26
6.0 PROPOSAL EVALUATION	27
6.1 EVALUATION CRITERIA	27
6.2 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL.....	28
6.3 BID DISCREPANCIES	28
7.0 CONTRACT AWARD	28
7.1 DOCUMENTS REQUIRED BEFORE CONTRACT AWARD	28
7.1.1 REQUIREMENTS OF N.J.S.A. 19:44A-20.13-25 (FORMERLY EXECUTIVE ORDER 134).....	28
7.2 FINAL CONTRACT AWARD	30
7.3 INSURANCE CERTIFICATES	30
8.0 CONTRACT ADMINISTRATION	30
8.1 CONTRACT MANAGER	30
8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES.....	31
8.1.2 COORDINATION WITH THE STATE CONTRACT MANAGER	31

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 NJ Department of Transportation and Quasi-state agencies. The Quasi-State agencies participating in this RFP are the South Jersey Transportation Authority and the New Jersey Turnpike Authority. The purpose of this RFP is to solicit bid proposals for the following Ice & Snow Removal Liquids/Chemicals: Calcium Chloride Solution, Potassium Acetate Solution and a new product titled, Natural Agricultural Based Deicing Liquid.

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

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

The State intends to extend the contract[s] awarded to the Purchase Bureau's cooperative purchasing partners. These partners include 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, with the assent of the vendor(s), is making the use of any contract resulting from this RFP available to non-State Agencies, 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.

1.2 BACKGROUND

This is a reprourement of the **"Ice and Snow Removal Chemicals, D.O.T and the Authorities"** term contract, presently due to expire on October 31, 2008. **Current State contract titled "Potassium Acetate Solution, Department of Transportation", T#2295 due to expire December 4, 2008 is being merged with the "Ice and Snow Removal Chemicals for DOT and the Authorities" contract T#0120.** Vendors who are interested in the current contract specifications and pricing information are encouraged to visit the Purchase Bureau's website on the World Wide Web. The applicable "T" reference number for this lookup is **T-#0120 and T#2295 respectively.** The exact WWW address is: <http://www.state.nj.us/treasury/purchase/contracts.htm>

IMPORTANT NOTE:

It should also be noted that a new commodity titled "Natural Deicing Liquid", is being ADDED to the current "Ice and Snow Removal Chemicals, DOT and the Authorities", contract T#0120.

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.

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

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

1.4 ADDITIONAL INFORMATION

1.4.1 ADDENDA: REVISIONS TO THIS RFP

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

ALL RFP ADDENDA WILL BE ISSUED ON THE DIVISION OF PURCHASE AND PROPERTY WEB SITE. TO ACCESS ADDENDA, 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.](http://www.state.nj.us/treasury/purchase/bid/summary/bid.shtml)

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

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

1.4.2 BIDDER RESPONSIBILITY

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

1.4.3 COST LIABILITY

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

1.4.4 CONTENTS OF BID PROPOSAL

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 using agencies and cooperative purchasing partners and thus have to be made public to allow all eligible purchasing entities access to the pricing information.

All bid proposals, with the exception of information determined by the State or the Court to be proprietary, are available for public inspection. 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 Audit Unit (CCAU) for handling. A record of the complaint will also be maintained in the Division's vendor performance file for evaluation of future bids submitted.

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

Department of the Treasury
Purchase Bureau, PO Box 230
33 West State Street – 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.

2.0 DEFINITIONS

2.1 GENERAL DEFINITIONS

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

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

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

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

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

Contractor - The contractor is the bidder awarded a contract.

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

Division - The Division of Purchase and Property.

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

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

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

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

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

State - State of New Jersey

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

3.0 COMMODITY DESCRIPTION/SCOPE OF WORK

This RFP includes the supply and delivery of THREE (3) different deicing materials used in the removal of ice and snow build up on roadways.

1. **Calcium Chloride Solution** for use by NJDOT and the Authorities listed in this RFP. The material must meet with the technical specifications listed on page 16, Section 919 – Miscellaneous of the RFP.
2. **Potassium Acetate Solution** for use by NJ Department of Transportation. The material must meet the technical specifications listed on page 16, Section 919 – Miscellaneous of the RFP.
3. **Natural Deicing Liquid** for use by the NJ Department of Transportation. The material must meet the technical specifications listed on page 17, Section 919 – Miscellaneous of the RFP.

Once the contract(s) are awarded by the Director, the NJDOT and the authorities shall be authorized to order materials listed herein on an as needed basis for the duration of the contract, and any extensions thereof.

NOTE: All paragraph numbers mentioned in this section of the bid proposal refer to specific sections of standard D.O.T. specification and reference books. Accordingly some of the numbering may not follow strict consecutive order.

SECTION 101 – GENERAL INFORMATION

1. **GENERAL**

Wherever in the specifications or other contract documents the following abbreviations and terms, or pronouns in place of them, are used, the intent and meaning, unless a different intent or meaning is clearly indicated, shall be interpreted as set forth in the following subsections.

When a publication is specified, it shall refer to the most recent date of issue prior to the date for the receipt of bids for the project unless the issue as of a specific date or year is provided for.

2. **ABBREVIATION**

Wherever the following abbreviations are used, they are to be constructed the same as the respective expressions represented.

AASHTO	American Association of State Highway and Transportation Officials
ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
CIAP	Construction Industry Advancement of New Jersey
FHWA	Federal Highway Administration
FSS	Federal Specifications and Standards, General Services Administration
NEMA	National Electrical Manufacturers Association
NJAC	New Jersey Administrative Code
NJDOT	New Jersey Department of Transportation
NJSA	New Jersey Statutes Annotated
OSHA	Occupational Safety and Health Administration Underwriters' Laboratories

PNS Pacific Northwest Snowfighters
UL Underwriters' Laboratories

3. TERMS

When the following terms are used in the contract documents, the intent and meaning shall be as follows:

CONTRACT DOCUMENTS

The term "contract documents" include: advertisement for proposal, bid proposal, award of contract, executed form of contract, bid security bond, performance bond, specifications, plans, addenda, standard terms and conditions, affirmative action, affirmative action affidavit, affirmative action employee information report, stockholder disclosure, attachments, price sheet, or other information mailed or otherwise transmitted to the prospective bidders prior to the receipt of bids. All of which are to be treated as one instrument whether or not set forth at length in the form of contract.

DAYS

Unless otherwise designated, days as used in the contract documents mean calendar days.

DEPARTMENT

The term "department" means the department of transportation of the state of new jersey, as created by law.

DEPARTMENT LABORATORY

The term "department laboratory" means the main testing laboratory of the department located at 930 Lower Ferry Road, Trenton, New Jersey 08625 or such other laboratory as the department may designate.

ENGINEER

The term "engineer" means the state transportation engineer, as created by law, acting directly or through his duly authorized representatives, such representatives acting within the scope of the particular duties delegated to them.

INSPECTOR

The engineer's authorized representative assigned to inspect contract performance, methods and materials related to the work both on and off the site of the project.

MATERIALS QUESTIONNAIRE

The specified forms on which the contractor shall notify the engineer of the sources of materials he expects to use.

PROJECT

The specific section of highway or other public improvement together with all appurtenances and construction to be performed thereon under the contract. The necessary work of providing the various materials and services in combination or individually and performing the

work in order to obtain the product required under the terms of this contract. The project may include work by others under other contracts.

SPECIFICATIONS

The term “specifications” means the directions, provisions and requirements giving interpretations of the work to be performed under this contract.

STATE BUSINESS DAY

Calendar days, exclusive of Saturdays, Sundays, state recognized legal holidays, and such other holidays or state office closings as declared by the governor.

WORKING DAY

Any calendar day, exclusive of Saturdays, Sundays and state holidays.

4. INQUIRIES REGARDING PROJECT

After award of the contract inquiries regarding material to be supplied in this RFP, should be directed to the Buyer, Operations Division at the New Jersey Department of Transportation offices located at 1035 Parkway Avenue, Trenton, New Jersey 08625, Telephone: (609) 530-3713.

SECTION 102 – BIDDING REQUIREMENTS AND CONDITIONS

5. INTERPRETATION OF QUANTITIES IN BID SCHEDULE

The quantities appearing on the pricing sheets of this RFP are approximate only and are prepared for the comparison of bids proposals. Payment will be made only for the actual quantities of materials furnished in accordance with this RFP. Such payment shall be made at the original unit prices for the accepted quantities of material accepted by the engineer. The scheduled quantities of materials to be furnished may each be increased or decreased, or pay items may be eliminated in their entirety.

SECTION 104 – SCOPE OF WORK

6. INTENT OF CONTRACT

The intent of this RFP is to obtain timely quantities of calcium chloride solution potassium acetate solution & material agricultural based deicing solution delivered to the specific locations listed on the pricing pages of this RFP.

SECTION 105 – CONTROL OF WORK

105.01 AUTHORITY OF THE ENGINEER

The engineer will decide all questions which may arise as to the quality and acceptability of materials furnished in this RFP.

7. CONFORMITY WITH CONTRACT DOCUMENTS

All materials furnished shall be in conformity with the material requirements, including tolerances, if any, specified in this RFP.

In the event the engineer finds the materials or the finished product in which the materials are used, or the work performed are not in conformity with the RFP specifications, and have resulted in any inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected at no cost to the state/authorities

105.13 DUTIES OF THE INSPECTOR

Inspectors employed by the department will be authorized by the engineer to inspect all work done and materials furnished. Such inspection may extend to all or any part of the work and to the preparation, or manufacture of the materials to be used.

8. INSPECTION OF WORK

All materials and each part or detail of the work shall be subject to inspection by the engineer. The engineer shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the contractor as is required to make a complete and detailed inspection. When the engineer is in or about the premises above referred to in the course of his employment, he is deemed conclusively to be an invitee of the contractor. If the contractor is not the owner of the place where preparation or manufacture is in progress, the owner thereof shall be deemed to be the agent of the contractor with respect to the obligation assumed hereunder. The contractor or his agent shall be responsible for the payment of claims for injuries to the engineer due to negligence on the part of the said contractor or his agent.

The engineer may order any materials delivered without his supervision or inspection to be removed and replaced at the contractor's expense. Also, should the materials delivered prove unacceptable, the removal and replacement of such materials will be at the contractor's expense.

The contractor is responsible for carrying out the provisions of this RFP at all times and for control of the quality of the materials regardless of whether an authorized inspector is present or not. This obligation to provide the required materials in accordance with the contract documents is not relieved by the observations of the engineer in the administration of the contract, nor by inspections, tests or approvals by others. Materials not meeting the RFP requirements may be rejected, and shall be replaced at no additional cost to the state/authorities, notwithstanding the fact that such work or materials have been previously inspected and approved by the department/authority or that payment therefore has been included in a monthly invoice.

SECTION 106 – CONTROL OF MATERIALS

9. SOURCE OF SUPPLY AND QUALITY REQUIREMENTS

All materials shall be furnished by the contractor, unless otherwise specifically prescribed in this RFP. The materials shall conform to the requirements of this RFP and shall be from approved sources. Only materials which have been approved by the engineer shall be used.

Promptly after the award of the contract, the engineer shall be notified on materials questionnaire forms furnished by the department, of the sources of materials expected to be used during the 6 month period thereafter. Such notice shall be received by the engineer no later than 10 days prior to the shipment of materials from a previously approved source and no later than 30 days prior to the shipment of materials from a source not previously approved, except that, with the engineer's consent, shipments of materials from approved stocks may be permitted to be made two (2) after notice to the engineer.

All materials shall be handled properly to insure that material stockpiled or material in delivery trucks is an uniformly homogeneous mixed material.

No shipment will be made from storage tanks to locations specified in the bid proposal until the material has been approved by the department for delivery. The engineer may reject for use any material delivered from unapproved stockpiles and the removal and replacement of such rejected materials will be at the contractor's expense.

Within 12 hours after receiving a shipment of materials, the engineer shall be notified of the kind, size, quantity and location thereof.

In any item, the sources, brands or types of materials shall not be changed without the consent of the engineer. Request for such changes shall be filed with the engineer the number of days in advance of such changes as required above.

The foregoing provisions shall apply with regard to requests by subcontractors for the sources of the materials they propose to use, such requests to be submitted through the contractor.

The notice provisions of this subsection shall not be so construed as to relieve the contractor of his obligation to ensure that all materials required shall be available at the time and place as set forth in subsection 108.10 is met. If any doubt exists as to the timely availability of a material, the engineer shall be immediately informed, in writing, of the potential problem and of the action to be taken to guaranty the availability of such materials.

Stock storage of materials whose availability is or may be problematical shall be established at an early date.

10. MATERIALS, INSPECTIONS, TESTS AND SAMPLES

After notification of contract award and prior to shipment of the material, the contractor shall contact the Manager, Bureau of Materials, 930 Lower Ferry Road, Trenton, New Jersey 08625, Telephone:609-530- 2307, to arrange for inspection and testing of the material. Only material which clearly exhibits the appropriate stamp or has obtained the necessary approvals of the department for approved material will be accepted upon delivery except that material which will be sampled after delivery will be accepted conditionally pending satisfactory results of the required tests.

All materials being used are subject to inspection, testing or rejection at any time prior to acceptance. Samples will be taken by a representative of the department. Results of tests, made with the department laboratory's apparatus and conforming to the requirements specified in the prescribed methods of tests, are official. Copies of test results will be furnished upon request.

Sampling and testing of the material at the point of delivery may be performed randomly by department personnel to assure compliance of the calcium chloride solution prior to unloading.

Testing will be performed in accordance with AASHTO or ASTM methods of tests.

Except as otherwise provided, all materials will be tested at the expense of the state.

The required number of samples and rate of sampling or certifications of compliance for the various materials are as specified in the respective methods of test or in the subsections applicable to that particular material or pay item.

The materials shall be tested to validate conformance to the specifications described for each product.

The state reserves the right to reject any material not complying with the requirements set forth in this RFP. If the material fails to comply with the RFP requirements, it shall be removed and replaced by the contractor, at no cost to the state authority with material complying with the requirements set forth herein.

SECTION 107 – LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

11. PUBLIC CONVENIENCE AND SAFETY

Precaution shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws, OSHA regulations, building and construction codes, and the rules and regulations of the state department of labor and industry, shall be observed.

SECTION 108 – TERM AND PERFORMANCE

12. TIME OF COMPLETION

The contract duration as specified in the bid proposal shall be the period that orders may be submitted for the receipt of material. The contractor will be required to make delivery of all ordered materials after expiration of the contract provided an order for the material was submitted prior to the expiration date of the contract.

SECTION 109 – MEASUREMENT AND PAYMENT

13. MEASUREMENT OF QUANTITIES

Measurements will be made in accordance with United States standard measure. The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the contract will be those methods generally recognized as conforming to good engineering practice.

All materials which are measured or proportioned by weight shall be weighed on accurate, approved scales by competent, qualified personnel at locations designated by the engineer.

Platform truck scales shall be direct-reading, cabinet dial type or an electronic load cell type with a visual indicating device capable of automatically printing both gross and tare weights and time and date on the delivery ticket. The time and date may be printed automatically by a time clock each time the truck passes over the scale. The scales shall be equipped with a motion detection device or a time delay relay which prevents printing the weight on the delivery ticket until the scale is fully at rest. Tare beams must be removed or permanently locked in place.

The approaches to the scale at both ends shall have a level grade at the same elevation as the platform. The scale cabinet and dial and the mechanical weight recorder shall be housed in a suitable shelter, furnished with adequate heat and light.

The scale shall have a manufacturer's rating equal to or greater than the maximum gross load being weighed.

All plant scales shall be of the spring less dial type or electronic load cell type, with a read-out, and shall be accurate within the tolerances permitted by the New Jersey Department of Law And Public Safety, Office of Weights and Measures, and shall conform to the requirements of the national bureau of standards handbook 44. Scales shall be tested annually and certified by the office of weights and measures, New Jersey Department of Law and Public Safety, or a municipal weights and measures agency. Contractors must provide upon request copies of the annual scale certification report to both the D.O.T. Engineer and the director of the division of purchase and property.

Scales or slave systems shall be so located that they are plainly visible to the plant operator at all times.

When directed, checks shall be made to verify the accuracy of the scales within the normal weighing range and to assure that the interlocking devices and automatic recordation equipment are functioning properly. At least ten 50-pound standard weights shall be provided for testing all scales. For each scale, a suitable cradle or platform shall be provided for applying the test load so that the load may be uniformly distributed. The test weights shall be kept clean and stored at the plant.

Scales overweighing (indicating more than true weight) will not be permitted to operate and all materials received subsequent to the last previous correct weighing accuracy test will be reduced by the percentage of error in excess of one-half of one percent.

In the event inspection reveals the scales have been under weighing, they shall be adjusted and no additional payment to the contractor will be allowed for materials previously weighed and recorded.

14. SCOPE OF PAYMENT

The contractor shall receive and accept the compensation provided for in the contract as full payment for furnishing all labor, materials, tools, trucking expense, proper unloading where directed, equipment and incidentals necessary to provide complete and acceptable deliveries of calcium chloride solution. Also, except where specifically provided elsewhere in the specifications for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof.

SECTION 919 – MISCELLANEOUS

Proportioning and mixing methods necessary to produce the required solution shall be established and conducted at the discretion of the contractor. However, the contractor shall insure that all mixing complies with federal and state laws, rules and regulations, and local ordinances, which may apply.

Material Safety Data Sheets

Bidders are required to submit with their bids Material Safety Data Sheets (MSDS) (OSHA #20 or equivalent) covering the material being quoted. If not submitted with the bid proposal the MSDS sheets must be submitted within five (5) days of either verbal or written notification by the State. Failure to meet this deadline will result in the rejection of your bid for that product only.

MATERIAL DESCRIPTIONS/SPECIFICATIONS

15. CALCIUM CHLORIDE SOLUTION:

The Material required is a homogeneous solution containing a thirty-two (32) percent, plus or minus one (1) percent, concentration of calcium chloride by weight.

The calcium chloride shall conform to ASTM D98 or AASHTO M144 except that the alkali and impurity requirements need not apply. The water used in the solution to provide the required concentration of calcium chloride solution shall be clean (without sediment or suspended particles) and uncontaminated (free from foreign matter).

Minimum Ordering Quantity: The NJDOT will initiate orders for shipment of a minimum quantity of 4000 gallons of Liquid Calcium Chloride Solution to the storage sites listed in the price lines.

16. POTASSIUM ACETATE SOLUTION:

The State requires provision of corrosion inhibited liquid potassium acetate which shall meet the following specifications, in addition to the general guidelines and specifications.

The contractor shall provide corrosion inhibited liquid potassium acetate which shall:

- Be clear, mobile liquid, free from matter in suspension, with pH in the range of 9.5 to 11.5 according to ASTM D1293.
- Be a minimum of 50% potassium acetate by weight with a freezing point of -70° F (-57° C) or lower according to ASTM D1177.
- Have a specific gravity at -20° C that is between 1.25-1.30.
- Be compliant with U.S. EPA requirements for acute toxicity and have a 48-hour LC50 that is above 1000mg/L
- Have a biochemical oxygen demand (BOD) that is less than 0.34 grams oxygen/gram.
- Can not separate during storage.
- Be accompanied by a complete acute aquatic toxicity test report for the fluid. The report shall be by an independent party and affirm compliance with U.S. EPA test methods. The 48-hour LC50 shall not be less than 1000 mg/L for any test species.

- Use water which is clean (without sediment or suspended particles) and uncontaminated in the solution to provide the required concentration of potassium acetate solution.

MINIMUM ORDER QUANTITY and SOLE DELIVERY LOCATION for POTASSIUM ACETATE.

The NNDOT will initiate orders for shipment of a minimum quantity of 4000 gallons of potassium acetate solution to the following storage site:

NJDOT Pump House
Tunnel Road. At Rt. 78 Overpass
Bethlehem, NJ 08802

17. NATURAL DEICING LIQUID:

A natural, agriculturally based enhancer (ABE), renewable resource that is derived from the sugar beet plant, processing of grains or other agricultural products that is less corrosive than traditional chlorides and that is less harmful to the environment. The product must demonstrate passing limits that the Pacific Northwest Snow fighters require for deicers to be used in their States. The deicer must have a freeze point of at least -26 degrees Fahrenheit below zero. The deicer must be biodegradable and non toxic to humans, animals, and aquatic life. The product must be acceptable for use as in inhibitor for salt brines and thus be able to be blended with all salt solutions without stratification at any time. The product must be able to be used as an admix for salt stockpile mixing to prevent freezing of the pile, without leaching. The material must have a minimum viscosity of 30 cp at 30 degrees Fahrenheit and a minimum concentration of 55% anti-icing solids and 20% or higher sugar level. The product must have less than 3% chloride and any chloride present must be naturally occurring in the product, not added to the natural deicer. The product should improve the ice melting ability and help prevent ice hard pack from bonding to the road surface.

Typical Properties

Appearance	Clear/Amber/Brown
Specific Gravity	Min. 1.22 Max. 1.32
Pounds per Gallon	10.5 +/- .3
PH	6-9
Water Miscibility	Complete

Typical analysis shall show the heavy metals content to be tested for the following EPA Gold Standard Parameters (only the phosphorous is diluted).

PARAMATER	LIMIT
Arsenic	5 ppm
Barium	10 ppm
Cadmium	0.2 ppm
Chromium	0.5 ppm
Copper	3 ppm
Lead	1 ppm
Mercury	0.05 ppm
Selenium	5 ppm
Zinc	15 ppm
Cyanide Total	0.2 ppm

Phosphorous Total (1% solution) 5 ppm

MINIMUM ORDERING QUANTITY: The NJDOT will initiate orders for shipment of a minimum quantity of 2000 gallons of the Natural Deicing Liquid to the three regional areas listed in the price lines.

SHIPMENT AND DELIVERIES FOR THE D.O.T

Shipments must be delivered within two (2) days after notification from the department to ship. No deliveries will be accepted unless shipment had been requested by the department (either central office or various field locations). When a shipment is requested, deliveries will be accepted, as required, at the designated maintenance site(s) specified in the bid proposal. The contractor will notify the Buyer, Operations Unit at the New Jersey Department of Transportation offices located at 1035 Parkway Avenue, Trenton, New Jersey 08625, Telephone: 609-530-3713, a minimum of twenty-four (24) hours in advance of any shipment.

Deliveries must be arranged to be made on a state business day between the hours of 8:00 a.m. and 3:00 p.m. No deliveries will be accepted after 3:00 p.m. except if an extreme stock shortage exists which requires immediate deliveries, then other prearranged scheduled delivery times may be established.

In the event deliveries are not received within two (2) days after notification, the Director, may authorize the NJDOT/Authorities to secure the full quantity of the requested delivery from the nearest available source, and the difference in price, if any, will be deducted from monies due to the defaulting contractor.

All trucks delivering material to the specified storage site(s) listed in this RFP must be properly cleaned prior to the loading of the material to prevent any contamination of the solution.

The department will only accept initiated orders for delivery of full capacity truck loads of the material at each storage site specified in the bid proposal. Short or split shipments will not be accepted, unless approved by the NJDOT Buyer, Operations Unit.

The department will initiate orders for shipment of a minimum quantity of 4,000 gallons of Calcium Chloride solution and Potassium Acetate solution to the storage site(s) specified in the bid proposal. The Natural Deicing liquid shall have a minimum ordering quantity of 2,000 gallons. The department may require, in special situations, at the option and approval of the NJDOT Buyer, Operations Unit, Bureau of Maintenance Engineering and Operations, to split a shipment. A shipment shall be constituted as a split delivery whenever more than one storage site receives material from the same shipment. A subsequent delivery site(s) of a split delivery will be located within a thirty (30) mile radius from the initial designated shipment site.

The contractor will furnish to the department the following information attached to each invoice submitted for payment:

1. Contractor's name and address.
2. Date and method of shipment.
3. Delivery site.
4. Description of material delivered.
5. Quantity (gallons) of material delivered.
6. Unit weight (lbs./gal.) of the material delivered.
7. The percent (%) concentration, by weight, of the material delivered.

8. Signature of a person having legal authority to bind the vendor relative to the material and information provided.
9. Signature attested to by a notary public or other properly authorized person.

NOTE: POTASSIUM ACETATE ONLY – Deliveries must be arranged by calling the Bloomsbury Maintenance Yard at (908) 479-4851. Generally, deliveries are to be made on a State business day between the hours of 8:00 am and 3:00 pm unless extreme stock shortage exist which require immediate delivery. In that case, prearranged scheduled delivery times may be established.

COMPENSATION

Method of Measurement. The quantity of liquid material will be the sum of the total quantity, measured in gallons, actually received at the site(s) specified in the bid proposal. The gallons of calcium chloride solution actually received will be based on the calculation from the net weight of the shipment.

The weigh ticket shall be furnished to the department's representative at the storage site. No materials will be accepted unless accompanied by a weigh ticket, which shall be completely legible and clearly indicates the name of the delivery destination, date, truck number, name of material being delivered and the gross, tare and net weight of each truck with an affixed signature and official seal of a certified weighmaster. The truck scale weighing devices must be approved and certified by the weights and measures office, division of consumer affairs, department of law and public safety.

BASIS OF PAYMENT BY GALLON

Payment will be made as under:

Pay Item	Pay Unit
Calcium Chloride Solution	Gallon
Potassium Acetate Solution	Gallon
Natural Deicing Liquid	Gallon

NOTE: The pay item(s) quantity will be determined by converting the net weight of the delivered materials into gallons.

SPLIT DELIVERY PAYMENT

Payment for the quantity of calcium chloride solution received in split deliveries shall be made for the actual quantity received at each site at the unit price bid for that site. In addition, a fifty (50) dollar expense fee will be paid to the contractor for each delivery to a subsequent site(s) following delivery to the initial designated shipment site. The fee entails total reimbursement for all expenses incurred related to trucking and additional time required to complete split deliveries.

BASIS OF PAYMENT BY LUMP SUM

Payment will be made as under:

Pay Item	Pay Unit
Split-Delivery	Lump Sum
Expense Fee	

EMERGENCY MATERIAL TRANSFER CHARGE

The emergency material transfer charge of \$75.00 per hour will be paid on an hourly basis. The intent of this pay item is to provide the Department of Transportation with a method of moving the liquid materials from a facility that is either at or near full storage capacity to a yard or facility that is either out of calcium chloride solution or at a very low capacity. This item will not normally be used unless there is a problem obtaining delivery of the material from the vendor in a timely manner. The vendor will be paid on an hourly basis for all time spent in the material transfer process, including travel time to the yard containing which is near full capacity, time spent at the yard loading the material onto the vendors truck, traveling time to the yard in need of material, unloading time and the travel time back to the vendor's facility. At no time will the vendor be given more than 3 hours of total travel time for the trips back and forth to the vendor's facility. All trucks utilized for the transfer of materials must be properly cleaned prior to the pick up of material at the yard to prevent any contamination of the solution.

BASIS OF PAYMENT BY HOUR

Payment will be made as under:

Pay Item	Pay Unit
Emergency Material Transfer Charge	Hour

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/09x20302.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.

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

4.4 BID PROPOSAL CONTENT

4.4.1 FORMS 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/09x20302.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/09x20302.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/09x20302.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 07/27/07 located on the Advertised Solicitation, Current Bid Opportunities webpage
<http://www.state.nj.us/treasury/purchase/bid/summary/09x20302.shtml>.

4.4.2.2 SMALL BUSINESS SET-ASIDE CONTRACTS

Not applicable to this RFP.

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/09x20302.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/09x20302.shtml>.

4.4.4 SUBMITTALS

Material Safety Data Sheets (MSDS) should be submitted with your bid proposal as required in Section 4.4.4.3 of the RFP. MSDS should also be submitted at the time of delivery or at the request of the ordering agency or authority.

4.4.4.1 BIDDER EXPERIENCE - DATA SHEETS

The bidder must provide all of the information requested in the Bidder's Data Packet located on the Advertised Solicitation, Current Bid Opportunities webpage:
<http://www.state.nj.us/treasury/purchase/bid/summary/09x20302.shtml>.

4.4.4.2 SAMPLES/SAMPLE TESTING

Products offered must be in accordance with this RFP. Bid samples for pricing lines 00001 to 00113, for evaluation and testing purposes must be made available at no charge and delivered to NJDOT/Authorities at the bidder's expense. Bidders must, within 5 working days following a request from the state, submit bid samples to the NJDOT/Authorities. Bid samples will not be

returned. The NJDOT/Authorities will conduct laboratory tests to assure that the bid samples submitted for pricing lines 00001 to 00113 to conform to this RFP. The state reserves the right to perform any tests necessary to assure that the bid samples conform to this RFP for pricing lines 00001 to 00113. The testing results of the state are final.

4.4.4.3 DISCLOSURE OF PRODUCT COMPOSITION

The bidder should furnish material safety data sheets (MSDS) or manufacturers' equivalent information sheets on the products and/or chemicals used in performing the services specified in this RFP with the bidder's bid proposal. The bidder must submit the MSDS within 7 days of written notification. Failure to supply this information within the 7 day period will result in rejection of the bid for that price line.

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 COOPERATIVE PURCHASING

The bidder should complete the attached Cooperative Purchasing Form indicating willingness or unwillingness to extend State contract pricing and terms to Cooperative Purchasing partners

4.4.8 METHOD OF BIDDING

- A. The bidder may chose to bid on any one or more locations listed on the pricing pages, for either one or more of the three different deicing materials specified in this RFP.

The breakdown of the price lines for the three (3) Deicing Materials is as follows:

1. Price lines 00001 to 00075 for Calcium Chloride Solution – NJ DOT Locations
 2. Price lines 00076 to 00078 for Calcium Chloride Solution – South Jersey Transportation Authority Locations
 3. Price lines 00079 to 00103 for Calcium Chloride Solution – New Jersey Turnpike Authority Locations.
 4. Price lines 00104 to 00112 for Natural Deicing Liquid – NJDOT Locations
 5. Price lines 00113 for Potassium Acetate Solution – NJDOT Locations.
- B. The bidder must agree to deliver all orders received from both the Department of Transportation and participating authorities within two (2) days from notification.
- C. The State reserves the right to reject any bid proposal that cannot meet the delivery time of two (2) days ARO.
- D. The State reserves the right to reject any bid proposal which lists its delivery time as a spread (e.g. 2-4 days ARO) on the front Signatory Page of this RFP (Section 16, "delivery can be made _____)".
- E. The bidder is not required to submit bid prices for price lines 00114 and 00115 as these are pre-determined fixed prices to be paid only if the agency requires the services listed on pages 19 and 20, Sections "Split Delivery Payment" and "Emergency Material Transfer Charge" of the 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 07/27/07 located on the Advertised Solicitation, Current Bid Opportunities webpage:

<http://www.state.nj.us/treasury/purchase/bid/summary/09x20302.shtml>.

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

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

5.2 CONTRACT TERM AND EXTENSION OPTION

The term of the contract shall be for a period of one (1) year.. The anticipated "Contract Effective Date" is provided on the signatory page of this RFP: <http://www.state.nj.us/treasury/purchase/bid/summary/09x20302.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 **two (1)** 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 **90** days beyond the expiration date of the contract.

5.4 CONTRACT AMENDMENT

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

5.5 CONTRACTOR'S WARRANTY

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

5.6 ITEMS ORDERED AND DELIVERED

The **Using Agencies are** 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 REQUIREMENTS

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

5.9 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.

5.10 CONTRACT ACTIVITY REPORT

In conjunction with the standard record keeping requirements of this contract, as required by in paragraph 3.19 of the NJ Standard Terms and Conditions version 07/27/07, located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/09x20302.shtml>, contractor(s) must provide, on a calendar quarter basis, to the Purchase Bureau buyer assigned, a record of all purchases made under their contract award resulting for this Request for Proposal. This includes purchases made by all using agencies including the State and political sub-divisions thereof. This reporting requirement includes sales to State using agencies and, if permitted under the terms of the contract, sales to counties, municipalities, school districts, volunteer fire departments, first aid squads and rescue squads, and independent institutions of higher education. The requirement also includes sales to State and County Colleges and Quasi-State Agencies. Quasi-State Agencies include any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

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

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

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

Contractors are strongly encouraged to submit the required information in electronic spreadsheet format. The Purchase Bureau uses Microsoft Excel.

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

5.11 PUBLIC WORKS CONTRACT-ADDITIONAL AFFIRMATIVE ACTION REQUIREMENT

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

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

a) The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

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

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

5.12 DISCLOSURE OF PRODUCT COMPOSITION

If requested by the State during the term of the contract, the contractor must furnish MSDS or manufacturer's equivalent information sheets on the products and/or chemicals used in performing the services specified in the contract to the Using Agency. These sheets must list complete chemical ingredients including the percentage composition of each ingredient in the mixture down to 0.1%, and the chemical abstract services numbers for those substances listing any potentially hazardous products, which may produce gas during or following application.

6.0 PROPOSAL EVALUATION

6.1 EVALUATION CRITERIA

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

6.1.1 Price

6.1.2 Experience of the bidder

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

6.1.4 Delivery time.

6.2 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL

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

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

The purpose of such communication with the bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid proposal. Original bid proposals submitted, however, cannot be supplemented, changed, or corrected in any way. No comments regarding other bid proposals are permitted. Bidders may not attend presentations made by their competitors.

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

6.3 BID DISCREPANCIES

In evaluating bids:

- Discrepancies between words and figures will be resolved in favor of words.
- Discrepancies between unit prices and totals of unit prices will be resolved in favor of unit prices.
- Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices.
- Discrepancies between the indicated total of multiplied unit prices and units of work and the actual total will be resolved in favor of the actual total.
- Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the corrected sum of the column of figures.

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 of holder of the public office of Governor, or to any State or county party committee; (v)engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation; (vi)fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii)engage in any exchange of contributions to circumvent the intent of the Legislation; or (viii)directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

7.1.1.3 CERTIFICATION AND DISCLOSURE REQUIREMENTS

a) The State shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor, or 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

Line item 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

Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

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 and/or the Public Works Contractor Registration Acts; the bidder's signature on the proposal is also his guarantee that he and any subcontractors he might employ to perform the work covered by this proposal will comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.
- 1.3(a) PUBLIC WORKS CONTRACTOR REGISTRATION ACT** - The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractors who bid on or engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464 or <http://www.nj.gov/labor/lss/lspubcon.html>.
- 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.

State of New Jersey Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

- 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.
- 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

State of New Jersey

Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

\$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.

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

State of New Jersey

Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

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.

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

State of New Jersey

Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

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 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.

State of New Jersey

Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

- 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.

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.

State of New Jersey

Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

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.

State of New Jersey Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

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.

State of New Jersey

Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

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.

State of New Jersey
Standard Terms and Conditions

Applicable to all advertised DPP Procurements unless otherwise indicated

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.



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PURCHASE BUREAU
P.O. BOX 230
TRENTON, NEW JERSEY 08625-0230

JON S. CORZINE
Governor

R. DAVID ROUSSEAU
State Treasurer

July 29, 2008

To: All Interested Bidders

Re: RFP # 09-X-20302
ICE AND SNOW REMOVAL LIQUIDS/CHEMICALS FOR DOT AND THE AUTHORITIES

Bid Due Date : **August 15, 2008** (2:00 p.m.)

ADDENDUM #1

The following constitutes Addendum #1 to the above referenced solicitation.

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.

**ICE AND SNOW REMOVAL LIQUIDS/CHEMICALS FOR DOT AND THE AUTHORITIES
Bid Number 09-X-20302**

Additions, Deletions, Clarifications and Modifications to the RFP

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 Reference	Additions, Deletions, Clarifications and Modifications
1		Front Page	Please note that the correct title for this RFP should read “Ice and Snow Removal Liquids/Chemicals for DOT and the Authorities.”
2	4	1.1, Paragraph 1	Added: “to solicit bid proposals for the following Ice and Snow Removal Liquids/chemicals: Calcium Chloride Solution, Potassium Acetate Solution and a new product titled, Natural Agricultural Based Deicing Liquid.
3	9	Section 2 (Abbreviation)	Added: PNS – Pacific Northwest Snowfighters
4	11	Section 4 (Inquiries Regarding Project)	Change “Supervisor of Materials” to read “Buyer, Operations Division”
5	11	Section 104 (Scope of Work)	Changed to read as follows: “The intent of this RFP is to obtain timely quantities of calcium chloride solution, potassium acetate solution and natural based deicing solution delivered to the specific locations listed on the pricing pages of this RFP”.
6	12	Section 106 (Control of Materials) – Paragraph 3	The following words are deleted “The Calcium Chloride Solution” and replaced with “All Materials shall be handled properly to insure that, material stockpiled or material in delivery trucks is an uniformly homogeneous mixed material”.
7	13	Section 106 (Control of Materials) Paragraph 1	The following words are deleted “containing calcium chloride solution material”
8	13	Section 10 (Materials, Inspections, Tests & Samples)	Change the word “Chief” to read “Manager”. Correct telephone number is (609) 530-2307.
9	14	Section 10 (Materials, Inspections, Tests & Samples) – 1 st Paragraph	“When the sampled material is tested in accordance with established tests and procedures, the calcium chloride solution shall contain a thirty-two (32) percent, plus or minus one (1) percent, concentration of calcium chloride”., deleted in its entirety. Replaced to read “The materials shall be tested to validate conformance to the specifications described for each product”.
10	17	Section 3 (Natural Deicing Liquid)	The correct numbering for this section is 17 and not 3.
11			The bid opening date of August 15, 2008 remains unchanged.



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PURCHASE BUREAU
P.O. BOX 230
TRENTON, NEW JERSEY 08625-0230

JON S. CORZINE
Governor

R. DAVID ROUSSEAU
State Treasurer

August 5, 2008

To: All Interested Bidders

Re: RFP # 09-X-20302
ICE AND SNOW REMOVAL CHEMICALS DOT AND THE AUTHORITIES

Bid Due Date: **August 15, 2008** (2:00 p.m.)

ADDENDUM #2

The following constitutes Addendum #2 to the above referenced solicitation.

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.

**ICE AND SNOW REMOVAL CHEMICALS DOT AND THE AUTHORITIES
Bid Number 09-X-20302**

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 Reference	Question	Answer
1			How is product expected to be shipped – 55 gal drums/5 gal pails/truck load tankers?	All minimum quantity deliveries will be shipped via appropriate tankers.