Implementation of the American Rescue Plan Grant Management
Scope of Work and Request for Quotation

Purpose

The Department of Human Services, Division of Family Development (DHS/DFD) received approximately $426 million in American Rescue Plan (ARP) child care stabilization grant funding, of which ninety percent or $400 million is for provider grants, to provide a stronger child care system that supports the developmental and learning needs of children and meets parents' needs and preferences with equal access to high quality child care. The goal of the child care stabilization grant funding is to provide financial relief to child care providers to help defray unexpected business costs associated with the pandemic, and to help stabilize their operations so that they may continue to provide care. Child care providers may use sub-grants to cover a range of expenses such as personnel costs; rent or mortgage payments; insurance; facility maintenance and improvements; personal protective equipment (PPE) and COVID-related supplies; training and professional development related to health and safety practices; goods and services needed to resume providing care; mental health supports for children and early educators; and reimbursement of costs associated with the current public health emergency.

With approximately $240 million remaining in grant funds that must be distributed to child care providers before September 2023, DHS is seeking immediate, continued administration of these grant funds to enable child care businesses to provide uninterrupted essential child care services.

Background

DHS/DFD obtained a technology solution to support and manage the ARP child care stabilization grant application and payment process, which launched December 2021. The current contract for these services is set to expire on November 30, 2022. The technology solution must allow for submission of online application and payment disbursement as well as:

1. Initial Application components and testing to support change of sponsors throughout the grant period through August 31, 2023;
2. Launching of Recertification application, including feeding of data from initial application and testing, no later than November 30, 2022 to allow for verification and review of continued eligibility and issuance of grant payment balance;
3. System components and interfaces;
4. Public-facing provider platform to access online grant application forms;
5. Platform and forms based on business requirements to be provided by DHS/DFD, to include business logic to calculate grant amounts, eligibility determination, and award decision;
6. Email and text correspondence functionality (assured delivery) to applicants with ability to create custom templates and track un-deliverable or bounced messages;
7. Interface with DHS/DFD Child Care Licensing System (NJCCIS), which is the system of record for statewide child care provider data;
8. Application Programming Interface (API) through the state's API management gateway along with credentials;
9. Internal grant management system for grant review/approval process for DHS/DFD staff and approved users;
10. Screens for state staff to use to review and process applications, provider Tax Identification Numbers (TINs) and name information to be able to create a 1099 file and communicate with applicants;
11. Payment processing module;

12. Upload and/or verify identity and bank account verification functionality;
13. On-line Recertification Applications that are not overly burdensome and only require providers to submit the information necessary to determine eligibility and meet federal reporting requirements detailed below; and
14. Applications in multiple languages and written in plain language.

Scope of Work

The Contractor must provide a technology solution that supports (1) the administration of approximately $200 million in Stabilization Grants to an estimated 5,300 CCDF eligible providers (centers, before/after care programs, and family child care providers) aimed at supporting operational expenses of child care facilities with reoccurring payments over multi year period and (2) approximately $20 million in Workforce Recruitment and Retention Grants to an estimated 5,300 CCDF eligible provider and 69,000 eligible workforce members aimed to help providers incentivize new staff and retain existing skilled workers. The technology must allow providers to easily apply for and access grant funds. The Contractor shall cooperate with the incumbent contractor to ensure the services are successfully transitioned as necessary.

Providers shall be responsible for:

1. Providing a technology solution that contains:
    a. Web-based Platform/Portal for easy access to information and program communication
    b. Online application that is easy to navigate in English and Spanish
    c. Upload Documentation functionality
    d. Prepopulated data
    e. Interface/Compatible with existing DHS/DFD systems
    f. Licensing data and information
    g. Workforce data and information
2. Managing all administration of the grants including:
    a. Application review
    b. Document review
    c. Eligibility Determination
    d. Approval Notification
    e. Reporting
    f. Technical Assistance
    g. Customer Service
    h. Training
    i. Staff management of eligibility process tasks
3. Managing all payment/disbursement and post-payment processes including:
    a. Disbursement of payments to recipients (ACH payments preferred)
    b. Collection of banking and IRS tax information
    c. Prioritization of emergency payments
    d. Resolution of payment disputes
    e. Weekly accounting of all payments and financial reporting
    f. Payment and spending monitoring
    g. Reconcile and Recoupment efforts
    h. Third-party audits
    i. Reconciliation and close-out activities
    j. Fiscal reports

4. Providing Customer Service and Technical Assistance with:
    a. Support available weekdays via phone and email to address issues
    b. Data analysts available to ensure access to data and reports necessary to monitor grants throughout the state
    c. Support for statewide and local quality improvement efforts
    d. Grant Management software technical assistance for DFD staff
    e. System Training
    f. Technical assistance to potential grant applicants
    g. Training documents and videos for potential applicants on both the software being used
5. Meeting Daily Reporting requirements:
    a. Use of state and federal resources
    b. Number of grant applications received
    c. Number of grants awarded
    d. Amount of grants awarded
    e. Number of Providers receiving grants, broken down by licensing status and Provider type
    f. County and Zip code of the Provider
    g. Race and ethnicity of the center director or family child care owner
    h. Gender of center director of family child care owner
    i. How Providers used grant funds
6. Providing hosting services that meet the specifications set by DHS/DFD;
7. Collaborating with DFD and designees to develop an implementation approach and timeline as well as to triage and resolve issues;
8. Complying with all ACF and CCDF requirements, including but not limited to application specifications (see attached for example) and Information Memorandum ACF-IM-2021-02;
9. Utilizing existing Workforce Registry platform;
10. Launching the proposed recertification application and manage the deployed application, including all cloud based components, to comply fully with or exceed the required security guidelines of the Executive Branch of New Jersey State Government Statewide Information Security Manual as well as any other requirements provided by DHS/DFD including but not limited to network, data transmission, encryption of personally identifying information (PII) and user roles/functionality;
11. Following a secure System Development Lifecycle Process that includes all system environments (development, unit and system testing, user acceptance testing and production);
12. Ensuring Service level agreement at 99% server and application availability;
13. Encrypting all confidential data in transit;
14. Complying with the State's Accessibility Statement that adopted Section 508 of the federal Rehabilitation Act and W3C Web Accessibility Initiative standards and guidelines to make application web content more accessible to people with disabilities;
15. Translating application and subsequent email communications into English and Spanish;
16. Deploying system to production no later than November 30, 2022;
17. Completing end-to-end testing with DHS/DFD sign-off prior to implementation, on a schedule to be agreed on by the vendor, ITS, and DHS/DFD;
18. Providing a minimum 2-week period for end-to-end testing; and
19. Including timeframes for System Integration testing, Quality Assurance testing, and User Acceptance testing to provide accurate system function.

Requirements

Providers should demonstrate that they have the capacity to perform the tasks in the Scope of Work. Providers should be available to begin work immediately.

To be eligible for consideration, providers must satisfy the following requirements:

- The provider may be a non-profit or for-profit entity or governmental entity;
- The provider must be in good standing with DHS if it has an existing grant or contract in place. If applicable, the Provider must have all outstanding Plans of Correction for deficiencies submitted to DHS for approval prior to submission.
- The provider must be fiscally viable based upon an assessment of the provider's audited financial statements. If a provider is determined, in DHS' sole discretion, to be insolvent or to present insolvency within the twelve (12) months after bid submission, DHS will deem the proposal ineligible for contract award.
- The provider must not appear on the State of New Jersey Consolidated Debarment Report at http://www.state.nj.us/treasury/revenue/debarment/debarsearch.shtml or be suspended or debarred by any other State or Federal entity from receiving funds; and
- The provider shall not employ a member of its Board of Directors in a consultant capacity.

The administration of this project is subject to:

- Statutory requirements of the American Rescue Plan (ARP) Act of 2021: PUBL002.PS (congress.gov)
- Child Care and Development Block Grant (CCDBG) Act at 42 U.S.C. §9857 et seq.: 42 USC CHAPTER 105, SUBCHAPTER II-B: CHILD CARE AND DEVELOPMENT BLOCK GRANT (house.gov)
- Implementing regulations at 45 CFR Part 98: eCFR :: 45 CFR Part 98 -- Child Care and Development Fund
- Implementation regulations at 45 CFR Part 99: eCFR :: 45 CFR Part 99 -- Procedure for Hearings for the Child Care and Development Fund
- Provisions of the current approved CCDF State, Territory, or Tribal plan, as applicable, including all approved amendments or revisions.

General Contracting Information and Appendices

- Providers must comply with the State's terms and conditions as set forth in the State of New Jersey Standard Terms and Conditions and the Waivered Contracts Supplement. These documents are available on the Department of the Treasury website at: https://www.state.nj.us/treasury/purchase/forms.shtml (Vendor DPA and Waiver Forms)
- All contract awards will be contingent on successful Providers signing the documents referenced above.
- Providers are required to comply with the Affirmative Action Requirements of Public Law 1975, c. 124 (N.J.A.C. 17:27) and the requirements of the Americans with Disabilities Act of 1991 (P.L. 101-336).

- All providers will be notified in writing of DHS' intent to award contract(s).

- All providers should be aware of the requirements for posting of winning proposals and contract documents set forth in Executive Order 166 as detailed in Attachment F.

- Successful providers shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

- Should service provision be delayed through no fault of the successful provider, funding continuation will be considered on a case-by-case basis. Should services not be rendered, any funds that have been provided pursuant to this request shall be returned to DHS.

- All Providers are advised that the contract award is subject to availability of funds and acceptance of final terms and conditions by DHS/DFD.

- DHS/DFD may waive minor irregularities or omissions in a proposal. DHS/DFD reserves the right to waive a requirement provided that the requirement does not materially affect the solicitation or the State's interests associated with the solicitation.

The contractor agrees to obtain prior written permission of DHS/DFD and approval for each and every subcontract in excess of $500,000. The contractor must identify any known subcontractors in its proposal. Subcontractors shall have a valid business registration certificate prior to performing work under this contract.

Neither New Jersey nor DHS/DFD shall be liable for any costs incurred in the preparation and production of a proposal for subcontracted services. Neither New Jersey nor DHS/DFD shall be liable for any costs incurred for work performed under the contract before the approval of an executed contract or future task order by DHS/DFD.

All parties are required to comply with all applicable state and federal laws, rules, and regulations and satisfy all of the requirements stated in this SOW.

Confidential, trade secret or proprietary materials as defined by the laws of the State of New Jersey must be clearly marked and identified and communicated prior to entering into an agreement.

All proposals and accompanying documentation submitted in response to this project will become the property of the State of New Jersey and will be made part of the contract.

Proposal Submission Requirements

The following items must be included with the provider's proposal submission. **Please note that if items 7-10 are not submitted, the submission will not be considered**. Item 9 below is required regardless of whether providers have been the previous recipient of a grant or contract.

1. A description of all pending and in-process audits identifying the requestor, the firm's name and telephone number, and the type and scope of the audit, if applicable;
2. List of the board of directors, officers and terms;
3. Copy of documentation of the provider's charitable registration status if applicable;

4. Disclosure of Investment in Iran (https://www.nj.gov/treasury/purchase/forms/DisclosureofInvestmentActivitiesinIran.pdf);
5. Certification of Non-Involvement in Prohibited Activities in Russia or Belarus; (https://www.nj.gov/treasury/administration/pdf/DisclosureofProhibitedActivitesinRussiaBelarus.pdf)
6. Current State of New Jersey Business Registration. Bidders can obtain a copy at https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp; for an entity doing business with the State for the first time, it may register at http://www.nj.gov/treasury/revenue;
7. Department of Human Services Statement of Assurances (Attachment D);
8. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions (Attachment E);
9. Statement of Bidder/Vendor Ownership Disclosure (www.nj.gov/treasury/purchase/forms.shtml)
10. Most recent single audit report (A133) or certified financial statements prepared by a certified independent accountant.
11. Any other audits performed in the last two (2) years (submit only two [2] copies).

Funding

Providers will receive monthly payments based on the number of non-duplicate program applications completed through the eligibility process during the preceding month.

Interested providers must submit the following:

Funding Proposal Cover Sheet (Attachment A). All interested providers must submit a written response that includes an overview of the organization's work, programs, and initiatives; profile of experience with similar eligibility based programs; short narrative; and capacity to implement this program in no more than 5-6 pages.

Specific Proposal Requirements – note this may be submitted in narrative or outline format. Proposals will be evaluated based on price and other factors, using the point values noted below.

- Program Implementation Experience (35 points)
    - Overview of social service programs that the organization has implemented previously, including size of these programs, number of applicants served, type of benefits provided, and target community noting any experience serving vulnerable communities.

- Capacity and Staffing (35 points)
    - Demonstrate capacity to review applications and supporting documents, noting an estimate number of applications the organization can complete in the time allocated with the resources available.
    - Providers must outline how they will be able to assist potential applicants who lack digital access and need language support.
    - Number of staff that will be dedicated to this contract and any other additional resources that the provider has available for this contract.
    - Outline the number of full-time and part-time staff that will be dedicated to this contract and any other additional resources that the provider has available for this contract.
    - Summary of resource capacity, including clinical and medical equipment, technological capacity, transportation capacity, and other resources available to accomplish the Scope of Work.

- Costs (40 points)
    - Using template provided, submit proposed fees expressed as total operating costs to operate the Child Care Stabilization Grant Funding, which includes all clinical staffing, administrative costs, equipment and supplies, other staffing, support, and service provision costs associated with this contract.

Allowable Costs

The administration of this project is subject to:

- Statutory requirements of the American Rescue Plan (ARP) Act of 2021: PUBL002.PS (congress.gov) Child Care and Development Block Grant (CCDBG) Act at 42 U.S.C. §9857 et seq.: 42 USC CHAPTER 105, SUBCHAPTER II-B: CHILD CARE AND DEVELOPMENT BLOCK GRANT (house.gov)

- Implementing regulations at 45 CFR Part 98 at eCFR :: 45 CFR Part 98 -- Child Care and Development Fund and 99 at eCFR :: 45 CFR Part 99 -- Procedure for Hearings for the Child Care and Development Fund

- Provisions of the current approved CCDF State, Territory, or Tribal plan, as applicable, including all approved amendments or revisions.

Submission Requirements

ATTACHMENT B includes an application form that is also available as a Word document. All submissions must include the following combined as a single PDF:

a. Completed Application Form; and
b. All materials contained in the list of Appendices in this RFQ.

The completed application form using the Appendices outlined in this RFQ should be combined into a single PDF document. Providers should email the combined single PDF document to DFD.RFP@dhs.nj.gov no later than **4:00pm EST on Friday, December 9, 2022.**

Attachment A – Proposal Cover Sheet

STATE OF NEW JEREY
DEPARTMENT OF HUMAN SERVICES
Proposal Cover Sheet

Name of RFQ: _____

Incorporated Name of Bidder: _____

Eligibility Type (check to confirm eligibility):

Public _____ **Profit** _____ **Non-Profit**_____ **Hospital-Based** ___

Federal ID Number:_____**Charities Reg. Number (if applicable)** _____

DUNS Number: _____

Address of Bidder: _____

_____

Website of Bidder:
_____

Bidder Organization Profile - State mission and briefly describe areas of expertise and focus:

_____

_____

Chief Executive Officer Name and Title: _____

Phone No.:_____ **Email Address:** _____

Contact Person Name and Title: _____

Phone No.:_____ **Email Address:** _____

Authorization: Chief Executive Officer (printed name):

_____

Signature:_____**Date:** _____

Attachment B – Application Template

STATE OF NEW JERSEY DEPARTMENT OF HUMAN SERVICES

Application Template

All providers must submit a written response that addresses the following topics, adheres to all instructions, and includes supporting documentation as noted below:

INTRODUCTION AND CONTEXT

Please provide a brief summary description your organizations' potential role in the implementation of the ARP Grants. Include overview of organizational work, programs, and initiatives. *(1-2 paragraphs).*

PROPOSAL NARRATIVE *(1-2 pages)*

Address the following questions:

1. What is your experience working with the communities that may benefit from the ARP Grants?
2. Have you implemented this type of program? If so, how many clients were served.
3. Have you provided accurate information to ethnically diverse communities on public programs or initiatives? If so, how many people were reached by your efforts.
4. How is your organization prepared to take on this project and scale up as needed for a short period of time? Please note any specific structural capacity that exists to take on this initiative, including resources for applicant support.

STAFFING PLAN *(2-3 paragraphs)*

1. Briefly describe staffing capacity and plan to meet the needs of this project in a short period of time.
Outline the number of full-time and part-time staff that will be dedicated to this contract and any other additional resources available for this contract.
2. Summary of resource capacity, including technological capacity and other resources available to accomplish the Scope of Work.
3. Outline of language accessibility resources, including translation and interpretation capacity in person or telephonic and any multi-lingual staff that would be assigned to the project.

Attachment C – Addendum to RFQ for Social Service and Training Contracts

STATE OF NEW JERSEY DEPARTMENT OF HUMAN SERVICES
ADDENDUM TO REQUEST FOR PROPOSAL FOR SOCIAL SERVICE AND TRAINING CONTRACTS

Executive Order No. 189 establishes the expected standard of responsibility for all parties that enter into a contract with the State of New Jersey. All such parties must meet a standard of responsibility that assures the State and its citizens that such parties will compete and perform honestly in their dealings with the State and avoid conflicts of interest.

As used in this document, "successful bidder" means any person, firm, corporation, or other entity or representative or employee thereof that offers or proposes to provide goods or services to or performs any contract for the Department of Human Services.

In compliance with Paragraph 3 of Executive Order No. 189, no successful bidder shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any 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 successful bidder 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 any 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.

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 successful bidder shall be reported in writing forthwith by the provider agency to the Attorney General and the Executive Commission on Ethical Standards.

No successful bidder may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such successful bidder to, any 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. 52:13D-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.

No successful bidder 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.

No successful bidder 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 successful bidder or any other person.

The provisions cited above shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with successful bidders 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.

Attachment D – Statement of Assurances

Department of Human Services
Statement of Assurances

As the duly authorized Chief Executive Officer/Administrator, I am aware that submission to the Department of Human Services of the accompanying application constitutes the creation of a public document that may be made available upon request at the completion of the RFP process. This may include the application and list of applicants (bidder's list). In addition, I certify that the applicant:

- Has legal authority to apply for the funds made available under the requirements of the RFP, and has the institutional, managerial and financial capacity (including funds sufficient to pay the non-Federal/State share of project costs, as appropriate) to ensure proper planning, management and completion of the project described in this application.

- Will give the New Jersey Department of Human Services, or its authorized representatives, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with Generally Accepted Accounting Principles (GAAP). Will give proper notice to the independent auditor that DHS will rely upon the fiscal year end audit report to demonstrate compliance with the terms of the contract.

- Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. This means that the applicant did not have any involvement in the preparation of the RFP, including development of specifications, requirements, statement of works, or the evaluation of the RFP applications/bids.

- Will comply with all federal and State statutes and regulations relating to non-discrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (P.L. 88- 352;34 CFR Part 100) which prohibits discrimination based on race, color or national origin; 2) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794; 34 CFR Part 104), which prohibits discrimination based on handicaps and the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq.; 3) Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et. seq.; 45 CFR part 90), which prohibits discrimination on the basis of age; 4) P.L. 2975, Chapter 127, of the State of New Jersey (N.J.S.A. 10:5-31 et. seq.) and associated executive orders pertaining to affirmative action and non-discrimination on public contracts; 5) federal Equal Employment Opportunities Act; and 6) Affirmative Action Requirements of PL 1975 c. 127 (NJAC 17:27).

- Will comply with all applicable federal and State laws and regulations.

- Will comply with the Davis-Bacon Act, 40 U.S.C. 276a-276a-5 (29 CFR 5.5) and the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.27 et seq. and all regulations pertaining thereto.

- Is in compliance, for all contracts in excess of $100,000, with the Byrd Anti-Lobbying amendment, incorporated at Title 31 U.S.C. 1352. This certification extends to all lower tier subcontracts as well.

- Has included a statement of explanation regarding any and all involvement in any litigation, criminal or civil.

- Has signed the certification in compliance with federal Executive Orders 12549 and 12689 and State Executive Order 34 and is not presently debarred, proposed for debarment, declared ineligible, or voluntarily excluded. The applicant will have signed certifications on file for all subcontracted funds.

- Understands that this successful bidder is an independent, private employer with all the rights and obligations of such, and is not a political subdivision of the Department of Human Services.

- Understands that unresolved monies owed the Department and/or the State of New Jersey may preclude the receipt of this award.

_____	_____
Applicant Organization	Signature: CEO or equivalent
_____	_____
Date	Typed Name and Title

Attachment E – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

READ THE ATTACHED INSTRUCTIONS BEFORE SIGNING THIS CERTIFICATION. THE INSTRUCTIONS ARE AN INTEGRAL PART OF THE CERTIFICATION.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by a Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____

Name and Title of Authorized Representative

_____ _____

Signature Date

This certification is required by the regulations implementing Executive order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions - Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of facts upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-Procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Attachment F – Notice of Executive Order 166 Requirement for Posting of Winning Proposal

Principal State departments, agencies and independent State authorities must include the following notice in any solicitation:

Pursuant to Executive Order No. 166, signed by Governor Murphy on July 17, 2020, the Office of the State Comptroller ("OSC") is required to make all approved State contracts for the allocation and expenditure of COVID-19 Recovery Funds available to the public by posting such contracts on an appropriate State website. Such contracts will be posted on the New Jersey transparency website developed by the Governor's Disaster Recovery Office (GDRO Transparency Website).

The contract resulting from this RFP is subject to the requirements of Executive Order No. 166. Accordingly, the OSC will post a copy of the contract, including the RFP, the winning bidder's proposal and other related contract documents for the above contract on the GDRO Transparency website.

In submitting its proposal, a bidder/proposer may designate specific information as not subject to disclosure. However, such bidder must have a good faith legal or factual basis to assert that such designated portions of its proposal: (i) are proprietary and confidential financial or commercial information or trade secrets; or (ii) must not be disclosed to protect the personal privacy of an identified individual. The location in the proposal of any such designation should be clearly stated in a cover letter, and a redacted copy of the proposal should be provided. A Bidder's/Proposer's failure to designate such information as confidential in submitting a bid/proposal shall result in waiver of such claim.

The State deserves the right to make the determination regarding what is proprietary or confidential and will advise the winning bidder/proposer accordingly. The State will not honor any attempt by a winning bidder/proposer to designate its entire proposal as proprietary or confidential and will not honor a claim of copyright protection for an entire proposal. In the event of any challenge to the winning bidder's/proposer's assertion of confidentiality with which the State does not concur, the bidder /proposer shall be solely responsible for defending its designation.

Attachment G

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)
N.J.A.C. 17:27
GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

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

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 ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The 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.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. l7:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.
In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:
Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

TCC
1022 East 52nd St., Indianapolis, IN 46205
Mike Boyle | [redacted]
317-625-2547 | e-tcc.com

Prepared for:

New Jersey Department of Human Services, Division of Family Development (DHS/DFD)

Implementation of the American Rescue Plan Grant Management

Request for Quotation

Due: December 9, 2022

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Attachment A – Proposal Cover Sheet

STATE OF NEW JEREY
DEPARTMENT OF HUMAN SERVICES
Proposal Cover Sheet

Name of RFQ: Implementation of the American Rescue Plan Grant Management

Incorporated Name of Bidder: The Consultants Consortium, Inc. (TCC)

Eligibility Type (check to confirm eligibility):

Public _____ Profit __X__ Non-Profit_____ Hospital-Based __

Federal ID Number: [redacted] **Charities Reg. Number (if applicable)** N/A

DUNS Number: [redacted]

Address of Bidder: 1022 East 52nd Street, Indianapolis, IN 46205

Website of Bidder: www.e-tcc.com

Bidder Organization Profile - State mission and briefly describe areas of expertise and focus:

As an organization, TCC's roots are grounded in providing solutions to state early childhood agencies. Our work began in 1999 when we developed a childcare licensing management system for the State of Indiana. Over a 20-year period, our work in early childhood has expanded across the country and includes development of additional early childhood data systems including: **multiple types of online grant and management, including ARP grants management;** child care provider management; mobile childcare inspection software solution; childcare subsidy management; state and local pre-k management; professional development registry; and QRIS management.

Chief Executive Officer Name and Title: Andrew Hwang, Chief Executive Officer

Phone No.: [redacted] **Email Address:** [redacted]

Contact Person Name and Title: Mike Boyle, VP of Sales

Phone No.: [redacted] **Email Address:** [redacted]

Authorization: Chief Executive Officer (printed name):

Andrew Hwang

Signature: **Date:** 12/2/2022

Attachment B – Application Template

STATE OF NEW JERSEY DEPARTMENT OF HUMAN SERVICES

Application Template

All providers must submit a written response that addresses the following topics, adheres to all instructions, and includes supporting documentation as noted below:

INTRODUCTION AND CONTEXT

Please provide a brief summary description of your organizations' potential role in the implementation of the ARP Grants. Include overview of organizational work, programs, and initiatives. *(1-2 paragraphs)*.

TCC has partnered with New Jersey since May 2017 when TCC was awarded a prime contract (KU21002) as the result of a competitive procurement to provide the state with a robust early childhood professional registry system. This system, NJCCIS, includes child care licensing, registry, quality improvements, and grant administration. When the ARP Stabilization Act passed in 2021, TCC worked with our subcontractors, PCG and MTX, to quickly build and administer grant applications for the Hiring and Retention Bonus Grants (HRBG) phases 1 and 2 and the ARP Stabilization grants, rounds 1 and 2.

- Providers can easily access user-friendly grant applications through the established NJCCIS system
- NJCCIS prepopulated much of the ARP grant applications to make the process as easy as possible for providers, while also ensuring key provider eligibility criteria was met
- TCC subcontractors PCG and MTX, reviewed the grant applications and made payments to eligible applications, utilizing NJCCIS to communicate with providers, ensure the accuracy of awards and payments, and house the required data for all state and federal reporting
- TCC and our subcontracted partners designed, developed, and launched four (4) rounds of COVID relief grants. For example, our teams:
  - Processed nearly 9,000 HRBG and ARP Stabilization grant applications
  - Issued approximately $189M in critical pandemic recovery funds (to date)

TCC proposes to leverage the existing grant applications, workflows, and reporting functionality within NJCCIS for the third phase of HRBG phase III and the ARP stabilization grant recertification. Providers can apply in the same way as the previous rounds, using the same system that they already use daily. Grant administration will continue using our proven approach, and payments will continue without interruption so that providers receive the critical funding needed to stabilize the workforce from the devastating impacts of the pandemic.

Leveraging our established solution and infrastructure ensures that the next rounds of ARP grants will be seamlessly administered.

This proposed approach greatly minimizes State impact, effort, time, and cost.

As in previous rounds of the ARP grants:

- TCC will maintain the role of prime contractor with overall responsibility for the project management including technical, fiscal, reporting, and help desk/call center services
- MTX will continue to process applications and make payments for ARP Stabilization recertification, as well as provide direct support to providers who have payment questions/issues and assist with Salesforce end-user technical support
- PCG will continue to process and make HRBG phase III payments and provide direct assistance to providers and the workforce who have any issues or questions related to the grant eligibility process

PROPOSAL NARRATIVE

Address the following questions:

1. What is your experience working with the communities that may benefit from the ARP Grants?

The ARP grants are designed to provide immediate pandemic relief to child care providers who were significantly impacted by COVID-19. This field has always experienced workforce shortages and challenges that were exacerbated by the pandemic. Many child care providers experienced a significant loss of income during the shutdowns, and those that remained open saw a significant increase in expenses related to cleaning, personal protective equipment, and COVID testing.

Over the past five years TCC designed, developed, and administered the New Jersey Child Care Information System (NJCCIS). Child care providers and the early childhood workforce utilize this system daily for a number of critical business supports including to apply, modify or reapply for their child care licenses, manage their staff including ensuring staff have completed required trainings, apply for, and participate in quality improvement initiatives and apply for scholarships and grants.

Over the last several years, TCC has administered a portfolio of NJ child care provider grants, including the ARP grants. Below is a listing of the grants TCC and our subcontracted partners have managed for NJ DHS/DFD since Federal Fiscal Year (FFY) 2020.

Grant Type and Federal Fiscal Year	Payments Total	Grants Paid
COVID Small Grants – FFY 2020	$994, 695	323
CARES Action Small Grants – FFY 2020	$7,506,754	1886
COVID-19 ARP Stabilization Grants – FFY 2021	$21,292,310	2098
Youth Camp Grants – FFY 2021	$1,651,000	178
Youth Camp Grants – FFY 2022	$2,210,000	174
COVID-19 ARP Stabilization Grants – FY 2022	$151,608,667	3842
Hiring and Retention Bonus Grants - FFY 2021 and 2022 (Phases I and II)	37,183,000	5459

TCC has a successful track record of directly supporting New Jersey providers and the workforce. The TCC Call Center provided direct support to 18,000 callers during FY22. The TCC Call Center is staffed with bilingual (English and Spanish) speaking representatives. TCC also launched and updates NJCCIS end user support and training materials (in English and Spanish) to assist providers and the early childhood workforce who utilize NJCCIS.

In addition to the TCC Call Center, our subcontracted partners have an infrastructure to directly assist providers and the workforce with other aspects of grant management, including grant policy, eligibility, and grant payments.

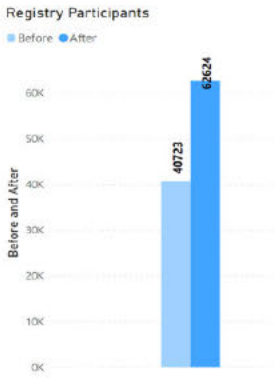
In the table below, we outline the experience that TCC and our partners have working directly with the providers and workforce that benefit directly from ARP (and other grants).

TCC and Partner Experience: direct services to NJ child care providers and workforce

Service	Purpose/Scope	Managing Partner	Languages
NJCCIS Call Center	Assist providers and workforce who have NJCCIS user issues or questions while applying for grants or managing their licensing and personnel information. **Avg Monthly Calls (FFY 2022) -** 1,500 **Avg Monthly Emails (FFY 2022)** - 700	TCC	English, Spanish
ARP Call Center	Assist providers who have ARP Stabilization grant payment questions or Salesforce technical user issues. **Avg Monthly Calls (FFY 2022)-** 252 **Avg Monthly Emails (FY 2022)** - 43	MTX	English, Spanish, Other as needed
NJ Workforce Registry Help Desk	Assist providers and the workforce who have questions about the grants. Also provide assistance to providers and workforce who are seeking professional development opportunities. **Avg Monthly Calls (FFY 2022)** – 1,600 **Avg Monthly Emails (FFY 2022) –** 1,000	PCG	English, Spanish

Because of our experience managing the technical, operations and fiscal components of the NJ ARP grants, TCC understands that time is of the essence to get this critical financial support into the hands of eligible child care programs to stabilize a child care market that has been incredibly strained by the COVID-19 pandemic. Working families must have access to stable, high-quality child care programs. The child care programs that families count on must be staffed by qualified early childhood professionals. Like many employers, child care programs are facing challenges in recruiting and retaining the necessary qualified staff. These grants will continue to stabilize this essential service and provide the child care workforce with bonuses to enter and remain in the field of early childhood.

Our experience tells us that immediate and robust outreach and support to child care programs will be critical to the ongoing success of these grants, both to increase child care program awareness and participation, as well as to encourage and support the workforce to continue to make the necessary updates to the NJ Professional Development Registry. The first two phases of the Hiring and Retention Bonus Grants (HRBG) grants were successful in encouraging workforce members to create and update their NJCCIS profiles. The number of registry members increased 52% in the timeframe of the first two phases of HRBG. The HRBG grants require that workforce members be in compliance with federal Health and Safety training requirements. This will incentivize the workforce to enter their training documentation into the registry. This will provide the State with increased opportunity to demonstrate compliance with the CCDBG training requirements. TCC will continue to subcontract with PCG to build upon their current provider outreach efforts to ensure that child care programs and all their staff are aware of the available funding and have the necessary training and support to update their registry profiles, upload their training documentation, and complete their applications.



The Registry realized a 52% increase in membership after the Hiring and Retention Bonus Grant Round 1.

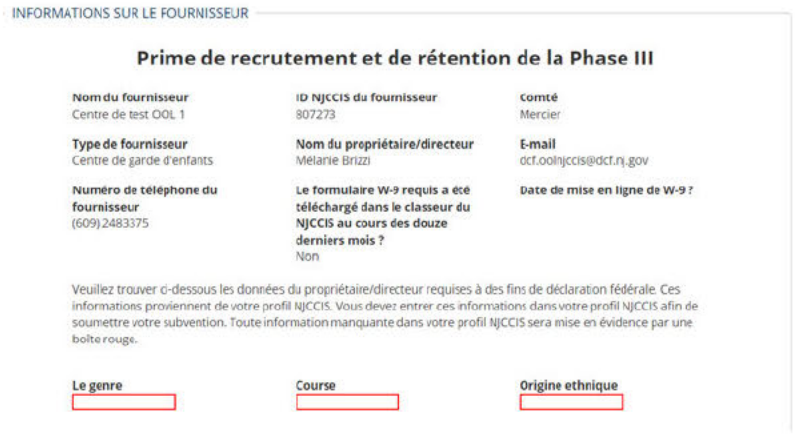
2. Have you provided accurate information to ethnically diverse communities on public programs or initiatives? If so, how many people were reached by your efforts.

NJ's child care provider workforce is diverse and needs to fully understand the important grant initiatives offered by the State and supported in NJCCIS. TCC and our subcontractors have extensive experience working directly with NJ diverse communities and implementing resources to support these communities.

TCC developed NJCCIS to ensure that diverse, and non-English speaking participants can use the system to easily apply and receive updates about their grant applications and payments. As soon as a user lands on the NJCCIS homepage, even prior to logging in, they may select from 133 languages available through Google translate. This shows the content of all NJCCIS webpages in the user's language of choice, including grant applications.

NJCCIS Screenshot example: Users may select language

NJCCIS Screenshot example: HRBG grant application in French.



INFORMATIONS SUR LE FOURNISSEUR

Prime de recrutement et de rétention de la Phase III

Nom du fournisseur Centre de test OOL 1	**ID NJCCIS du fournisseur** 807273	**Comté** Mercier
Type de fournisseur Centre de garde d'enfants	**Nom du propriétaire/directeur** Mélanie Brizzi	**E-mail** dcf.oolnjccis@dcf.nj.gov
Numéro de téléphone du fournisseur (609) 2483375	**Le formulaire W-9 requis a été téléchargé dans le classeur du NJCCIS au cours des douze derniers mois ?** Non	**Date de mise en ligne de W-9 ?**

Veuillez trouver ci-dessous les données du propriétaire/directeur requises à des fins de déclaration fédérale. Ces informations proviennent de votre profil NJCCIS. Vous devez entrer ces informations dans votre profil NJCCIS afin de soumettre votre subvention. Toute information manquante dans votre profil NJCCIS sera mise en évidence par une boîte rouge.

Le genre	**Course**	**Origine ethnique**

Below, we highlight other activities and resources that TCC and our partners have experience with in communicating with diverse populations:

- TCC posts important grants communication in English and Spanish (as approved by NJ DFD) on the NJCCIS Home page
- TCC sends informational emails in English and Spanish to all child care providers and the workforce through NJCCIS (as approved by NJ DFD)
- NJCCIS is designed to be mobile responsive
- NJCCIS training and end user support materials (written documents and videos) are available in English and Spanish through the NJCCIS Help page
- NJCCIS allows users to select their preferred written and spoken language in their NJCCIS user profile
- TCC, MTX, and PCG provide in person, technical assistance in English and Spanish and can work with language lines to provide translation or interpreter services if needed for providers who speak other languages:
  - Each Call Center employs bi-lingual (English and Spanish) staff
  - Call Center IVRs have an option for Spanish and if selected, the caller is immediately directed to a Spanish speaking Representative
  - In 2022, the NJ Workforce Registry Help Desk served approximately 4,370 Spanish speaking members over the phone and responded to about 530 Spanish emails

3. How is your organization prepared to take on this project and scale up as needed for a short period of time? Please note any specific structural capacity that exists to take on this initiative, including resources for applicant support.

TCC is the incumbent vendor that has been delivering ARP grant application and payment management services since the fall of 2021. TCC and our subcontracted partners, PCG and MTX have qualified, trained staff who are already in place to accommodate the services requested in this SOW. Our staffing plan is listed in the next section. Our proven technical solutions are also already in place and ready to be enhanced (if needed) for the next round of ARP grants.

STAFFING PLAN

1. Briefly describe staffing capacity and plan to meet the needs of this project in a short period of time. Outline the number of full-time and part-time staff that will be dedicated to this contract and any other additional resources available for this contract.

Below is a listing of necessary staffing for TCC and our partners, MTX and PCG, to continue our successful implementation of the ARP grants on behalf of NJ DFD. Over the past year this level of staffing has proven to be right sized to meet New Jersey's needs most efficiently and effectively.

TCC Staffing

TCC staffing includes the Emergency Team and the Waiver/Grant Team. These teams are responsible for all the NJCCIS technical work, provider and workforce assistance, project and fiscal management needed to support the ARP grants.

TCC Staffing		
TCC Emergency Team Staff		
Project Director		PT
Business Analyst		FT
Technical Lead		FT
Developer		FT
Developer		PT
NOG Labor		PT
Tester		1.5 FT
TCC Waiver/Grant Team Staff		
Project Manager		FT
Project Coordinator		FT
Business Analyst		1.5 FT
Developer		PT
Tester		1.5 FT
Help Desk		1.5 FT
Trainer		FT

TCC Staffing		
SSRS Reports Writer		FT
Fiscal Manager		FT
Grant Monitor		FT
Accounting Admin		FT
Reconciliation Specialist		FT
Data Integrity Specialist		FT
Developer		1.5 FT
Call Center Rep		PT
Compliance Manager		PT
Cloud Engineer		FT
NOG Labor		PT
Security Labor		FT

MTX Staffing

MTX requires the staffing levels below to continue to successfully support the ARP grants. The staffing is a combination of technical, project management, help desk and fiscal administration functions.

MTX Staffing		
ARP - Help Desk and Grant Reviewers Management		
Support Desk Supervisor		PT
Support Desk Operations Manager		PT
Director		PT
ARP - Help Desk and Grant Reviewers Staff		
Grant Analyst/Support Consultant		7 FT
ARP - Reporting and Fund Distribution		
Project Manager		PT
Business Analyst (2)		2 PT
ARP - Managed Support Services includes breakout of the Build of Recertification		
Project Manager		PT
Business Analyst (2)		2 PT
Tech Lead		PT
Developer		PT
QA/Tester		PT
Implementation of ARP Recertification		
Project Manager		PT
Technical Lead		PT
Business Analyst		PT
Business Analyst		PT
Developer		PT
Developer		PT
QA lead		PT
QA Tester		PT

MTX Staffing		
UX/UI Consultant		PT
Trainer/Media Production Specialist		PT
Trainer/Instructional Designer		PT

PCG Staffing

Below is the staffing required for PCG to continue to support the ARP Hiring and Retention Bonus grant program. Staffing includes project management, fiscal services, and direct work with the providers and workforce who benefit directly from these grants.

PCG Staffing		
ARP Recruitment & Retention		
Project Management		PT
Fiscal Management		PT
Grants Manager		PT
Grants Lead/ Data Manager		PT
Grants Specialists		3 FT

Other Costs

A listing of non-staffing (Other) cost types is provided below. Please see Cost Proposal for the pricing details for each item.

TCC Other Costs

- Audit fees

MTX Other Costs

- Zenworks (Cloud based API service / TIN verification)
- Grant Thornton - Audit biweekly disbursements PLUS Annual Audit
- Lyons - Verify bank information for providers
- AST - Distribute disbursements

PCG Other Costs

- Call Center Support Services
- Computer, Headset, Keyboard
- Processing 1099s
- Audit Fees
- Technology Required Supports (API Changes /MFA)

2. Outline of language accessibility resources, including translation and interpretation capacity in person or telephonic and any multi-lingual staff that would be assigned to the project.

As mentioned above, TCC and our subcontracted partners have multi-lingual staff who can interact verbally (telephone) and in writing (emails, chats, and letters)

Additionally, NJCCIS is integrated with Google translate, so that providers and workforce can choose their preferred language when applying for and managing their grants. Training materials and videos are provided in both English and Spanish.

TCC has relationships with translation and interpreter servicers. Additionally, should NJ wish to explore translation and interpreter services for languages other than English and Spanish, TCC can investigate the cost of services such as LanguageLine.

Proposal Submission Requirements

Pending and In-Process Audits

TCC does not currently have any pending or in-process audits.

Board of Directors, Officers, and Terms

TCC Board of Directors

- Chief Executive Officer, Andrew Hwang, is the sole member of TCC's Board of Directors

TCC Officers

- Chief Executive Officer: Andrew Hwang
- Chief Financial Officer: Breht Feigh
- Chief Information Officer: Chad Hughes
- Chief Operations Officer: Melanie Brizzi
- Chief Technology Officer: Megan Ornellas

Terms

- TCC is a privately held company and does not have a term limit for our Board of Directors or Officers

Documentation of Charitable Registration

Not applicable.

This section is an internal document that is not a public record pursuant to N.J.S.A. 47:1a-1.1 as it constitutes intra-agency advisory, consultative, or deliberative material.

Attachment D – Statement of Assurances

Department of Human Services

Statement of Assurances

As the duly authorized Chief Executive Officer/Administrator, I am aware that submission to the Department of Human Services of the accompanying application constitutes the creation of a public document that may be made available upon request at the completion of the RFP process. This may include the application and list of applicants (bidder's list). In addition, I certify that the applicant:

- Has legal authority to apply for the funds made available under the requirements of the RFP, and has the institutional, managerial and financial capacity (including funds sufficient to pay the non-Federal/State share of project costs, as appropriate) to ensure proper planning, management and completion of the project described in this application.

- Will give the New Jersey Department of Human Services, or its authorized representatives, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with Generally Accepted Accounting Principles (GAAP). Will give proper notice to the independent auditor that DHS will rely upon the fiscal year end audit report to demonstrate compliance with the terms of the contract.

- Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. This means that the applicant did not have any involvement in the preparation of the RFP, including development of specifications, requirements, statement of works, or the evaluation of the RFP applications/bids.

- Will comply with all federal and State statutes and regulations relating to non-discrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (P.L. 88- 352;34 CFR Part 100) which prohibits discrimination based on race, color or national origin; 2) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794; 34 CFR Part 104), which prohibits discrimination based on handicaps and the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq.; 3) Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et. seq.; 45 CFR part 90), which prohibits discrimination on the basis of age; 4) P.L. 2975, Chapter 127, of the State of New Jersey (N.J.S.A. 10:5-31 et. seq.) and associated executive orders pertaining to affirmative action and non-discrimination on public contracts; 5) federal Equal Employment Opportunities Act; and 6) Affirmative Action Requirements of PL 1975 c. 127 (NJAC 17:27).

- Will comply with all applicable federal and State laws and regulations.

- Will comply with the Davis-Bacon Act, 40 U.S.C. 276a-276a-5 (29 CFR 5.5) and the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.27 et seq. and all regulations pertaining thereto.

- Is in compliance, for all contracts in excess of $100,000, with the Byrd Anti-Lobbying amendment, incorporated at Title 31 U.S.C. 1352. This certification extends to all lower tier subcontracts as well.

- Has included a statement of explanation regarding any and all involvement in any litigation, criminal or civil.

- Has signed the certification in compliance with federal Executive Orders 12549 and 12689 and State Executive Order 34 and is not presently debarred, proposed for debarment, declared ineligible, or voluntarily excluded. The applicant will have signed certifications on file for all subcontracted funds.
- Understands that this successful bidder is an independent, private employer with all the rights and obligations of such and is not a political subdivision of the Department of Human Services.
- Understands that unresolved monies owed the Department and/or the State of New Jersey may preclude the receipt of this award.

The Consultants Consortium, Inc.
Applicant Organization

Signature: CEO or equivalent

12/2/2022
Date

Andrew Hwang, Chief Executive Officer
Typed Name and Title

Attachment E – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction

READ THE ATTACHED INSTRUCTIONS BEFORE SIGNING THIS CERTIFICATION. THE INSTRUCTIONS ARE AN INTEGRAL PART OF THE CERTIFICATION.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by a Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Andrew Hwang, Chief Executive Officer

Name and Title of Authorized Representative

Signature

12/2/2022

Date

This certification is required by the regulations implementing Executive order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510.

Most Recent Certified Financial Statements Prepared by a Certified Accountant

The following pages contain TCC's most recent audited financial statements for fiscal years 2020 and 2019 prepared by our certified accountant, Brixey & Meyer Strategic Accountants & Business Advisors.

This section is an internal document that is not a public record pursuant to N.J.S.A. 47:1a-1.1 as it constitutes intra-agency advisory, consultative, or deliberative material.

Other Audits Performed in Last Two (2) Year

TCC's Audited Financial Statements from 2020 and 2019 provided above were the only audits performed in the last two years.

Proposed Cost

Using template provided, submit proposed fees expressed as total operating costs to operate the Child Care Stabilization Grant Funding, which includes all clinical staffing, administrative costs, equipment and supplies, other staffing, support, and service provision costs associated with this contract.

TCC has submitted the proposed cost in the template provided as requested.

PROVIDER: The Consultants Consortium (TCC **DATE:** 9/9/2

FEDERAL ID NUMBER: [redacted]

SECTION I: RATE

Program/Service	UNIT OF SERVICE	MAXIMUM Hours Per Year	Rate Per Unit	MAXIMUM BILLABLE AMOUNT	EFFECTIVE PERIO FROM	TO
TCC Emergency Team - Labor Costs (Collapse	Year	1070	$ 103.6	$ 1,109,450.0	10/1/202	9/30/202
TCC Waiver/Grant Team - Labor Costs (Collapse	Year	2624	$ 111.5	$ 2,926,000.0	10/1/202	9/30/202
PCG Retention and Recruitment Labor Co	Year	831	$ 83.4	$ 693,819.5	10/1/202	9/30/202
MTX ARP - Help Desk and Grant Reviewers Management (Collaps	Year	162	$ 105.0	$ 170,132.4	10/1/202	9/30/202
MTX ARP - Help Desk and Grant Reviewers Staff (Collaps	Year	1456	$ 52.9	$ 771,388.8	10/1/202	9/30/202
MTX ARP - Reporting and Fund Distribution (Collapse	Year	4157	$ 190.9	$ 793,571.3	10/1/202	9/30/202
MTX ARP - Managed Support Services includes breakout of the Buil Recertification (Collapsed)	Year	3190	$ 190.90	$ 609,036.67	10/1/2022	9/30/2023
MTX Implementation of Recertification (Collapse	Year	187	$ 182.7	$ 341,722.5	10/1/202	9/30/202
Total Labor Costs		**7065**		**$ 7,415,121.2**		
Other Costs						
TCC	Fixed			$ 20,000.0	10/1/202	9/30/202
PCG	Fixed			$ 62,389.8	10/1/202	9/30/202
MTX	Fixed			$ 252,494.0	10/1/202	9/30/202
Total Other Costs				**$ 334,883.8**		
Total Cost 10/1/2022 9/30/20				**7,750,00**		

* THESE RATES ARE SUBJECT TO THE CONDITIONS IN SECTIONS II AND

SECTION II: CONTRACT STIPULATION

A. The service capacity of the Provider Agency is _____ for the term of this contract. (Check here if not applica

B. The Provider Agency shall submit to the Department a ( ) monthly, ( ) quarterly, ( ) semi-annual, ( ) annua certifying to the actual program expenditures consistant with the Provider's approved budget set fort Contract Budget. This report is due ____ days after the end of the reporting period. (Check here if p expenditure reporting is not applicable:_)

C. The Provider Agency shall submit to the Department a ( ) monthly, (X) quarterly, ( ) semi-annual, ( ) annua certifying to the actual units of service delivered during the reporting period. This report is due _10_ da the end of the reporting period. (Check here if periodic units of service reporting is not applicab

D. Other: (Specify reporting requirements if B and C above are not applica

SECTION III: GENERA

A. Limitations: Use of the rate(s) contained in this Annex is subject to any statutory or administrative lim
Acceptance of the rate(s) agreed to herein is predicated on the condition that no information furnishe
Provider Agency and used in the establishment of the rate(s) is subsequently found to be materially inc
or inaccurate. In addition, if the rate(s) agreed to herein was/were calculated based on costs containe
Contract Budget (Annex B), acceptance of the rate(s) is predicated on the conditions that: (1) no cos
than Provider Agency costs were included in the Annex B as finally accepted; (2) all costs reflecte
Contract's Reimbursable Ceiling are allowable under the governing costs principles; and (3) similar types of
were accorded consistent accounting treatm

B. Types of rate
1. Provisional: A provisional rate is a temporary or interim rate and is subject to adjustment on th
of a final rate calculated when actual costs are rep
2. Fixed: A fixed rate is a permanent rate, not subject to adjustment, which is agreed
specific future period, usually one

C. Notification of State agencies: Copies of this document may be furnished to other State agencie
means of notifying them of the information it c

D. Other

State of New Jersey Standard Terms and Conditions

(Revised September 1, 2022)

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

1.0 STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT

The following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. The State's terms and conditions shall prevail over any conflicts set forth in a Contractor's Quote or Proposal.

2.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

The statutes, laws, regulations or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the Contractor and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services. A subcontractor named in a bid or other proposal shall provide a copy of its business registration to the Contractor who shall provide it to the State.

The contractor shall maintain and submit to the State a list of subcontractors and their addresses that may be updated from time to time with the prior written consent of the Director during the course of contract performance. The contractor shall submit to the State a complete and accurate list of all subcontractors used and their addresses before final payment is made under the contract.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration, or that provides false business registration information, shall be liable for a penalty of $25 for each day of violation, not to exceed $50,000 for each business registration copy not properly provided under a contract with a contracting agency.

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 sales of tangible personal property delivered into the State. 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 https://www.state.nj.us/treasury/revenue/busregcert.shtml.

2.2 OWNERSHIP DISCLOSURE

Pursuant to N.J.S.A. 52:25-24.2, in the event the Contractor is a corporation, partnership or limited liability company, the Contractor must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Contractor's failure to submit the completed and signed form prior to or with its Quote will result in the Contractor being ineligible for a Contract award, unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In the alternative, a Contractor with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

2.3 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

Pursuant to N.J.S.A. 52:32-58, the Contractor must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Contractor, nor one (1) of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Contractor, nor one (1) of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Contractor is unable to so certify, the Contractor shall provide a detailed and precise description of such activities as directed on the form. A Contractor's failure to submit the completed and signed form will preclude the award of a Contract to said Contractor.

2.4 ANTI-DISCRIMINATION

All parties to any contract with the State 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 thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Constructions

Contracts (Exhibit B and Exhibit C - Executive Order 151 Requirements) as appropriate.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

2.5 AFFIRMATIVE ACTION

In accordance with N.J.A.C. 17:27-1.1, prior to award, the Contractor and subcontractor must submit a copy of a New Jersey Certificate of Employee Information Report, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Contractors or subcontractors not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at https://www.state.nj.us/treasury/contract_compliance/.

2.6 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.

2.7 MACBRIDE PRINCIPLES

The Contractor must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.8 PAY TO PLAY PROHIBITIONS

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), The State shall not enter into a Contract to procure services or any material, supplies or equipment, or to acquire, sell, or lease any land or building from any Business Entity, where the value of the transaction exceeds $17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, to any State, county, municipal political party committee, or to any legislative leadership committee during certain specified time periods. It shall be a breach of the terms of the contract for the business entity to:

A. Make or solicit a contribution in violation of the statute;
B. Knowingly conceal or misrepresent a contribution given or received;
C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
D. 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 Lieutenant Governor, or to any State or county party committee;
E. 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;
F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or
H. 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.

Prior to awarding any Contract or agreement to any Business Entity, the Business Entity proposed as the intended Contractor of the Contract shall submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form, certifying that no contributions prohibited by either Chapter 51 or Executive Order No. 117 have been made by the Business Entity and reporting all qualifying contributions made by the Business Entity or any person or entity whose contributions are attributable to the Business Entity. The required form and instructions, available for review on the Division's website at https://www.state.nj.us/treasury/purchase/forms.shtml, shall be provided to the intended Contractor for completion and submission to the Division with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended Contractor shall submit to the Division, in care of the Division Procurement Specialist, the Certification and Disclosure(s) within five (5) business days of the State's request. The Certification and Disclosure(s) may be executed electronically by typing the name of the authorized signatory in the "Signature" block as an alternative to downloading, physically signing the form, scanning the form, and uploading the form. Failure to submit the required forms will preclude award of a Contract under this Bid Solicitation, as well as future Contract opportunities; and

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 Division's website at https://www.state.nj.us/treasury/purchase/forms.shtml, shall be provided to the intended Contractor with the Notice of Intent to Award.

2.9 POLITICAL CONTRIBUTION DISCLOSURE

The 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 N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, §3 as amended) if in a calendar year the contractor receives one (1) or more contracts valued at $50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file

can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at http://www.elec.state.nj.us/.

2.10 STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on contractor 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 Departmentof 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 New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards, now known as the State Ethics Commission;

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 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/she is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, now known as the State Ethics Commission, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;

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/her 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/her official position to secure unwarranted privileges or advantages for the vendor or any other person; and

F. The provisions cited above in paragraphs 2.8A through 2.8E 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, now known as the State Ethics Commission may promulgate under paragraph 3c of Executive Order No. 189.

2.11 NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION

The Treasurer has established a business ethics guide to be followed by a Contractor in dealings with the State. The guide can be found at: https://www.nj.gov/treasury/purchase/pdf/BusinessEthicsGuide.pdf.

2.12 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE

Pursuant to N.J.S.A. 54:49-19, 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.

2.13 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.

2.14 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.

2.15 WARRANTY OF NO SOLICITATION ON COMMISSION OR CONTINGENT FEE BASIS

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

2.16 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS

The Contractor should submit the Disclosure of Investigations and Other Actions Form which provides a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years, including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. If a Contractor does not submit the form with the Quote, the Contractor must comply within seven (7) business days of the State's request or the State may deem the Quote non-responsive.

2.17 DISCLOSURE OF PROHIBITED ACTIVITINS WITH RUSSIA OR BELARUS

Pursuant to P.L. 2022, c. 3, a person or entity seeking to enter into, renew, amend or extend a contract for the provision of goods or services shall certify that it is not identified on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Activities in Russia or Belarus. If the Contractor is unable to so certify because the person or entity, its parents, subsidiaries, or affiliates has engaged in prohibited activities, the Contractor shall provide a detailed and precise description of such activities. A Contractor's failure to submit a certification will preclude the award, renewal, amendment or extension of a Contract to said Contractor.

3.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY CONTRACTORS UNDER CIRCUMSTANCES SET FORTH IN LAW OR BASED ON THE TYPE OF CONTRACT

3.1 COMPLIANCE - CODES

The contractor must comply with New Jersey Uniform Construction Code and the latest National Electrical Code 70®, B.O.C.A. Basic Building code, Occupational Safety and Health Administration and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.

3.2 PREVAILING WAGE ACT

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 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 Contractor 's signature on [the proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [the proposal] has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the Contractor's signature on the proposal is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by [the proposal] shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

3.3 PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who 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 pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance.

3.4 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS

N.J.S.A. 10:2-1 requires that during the performance of this contract, the contractor must agree as follows:

A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

B. No contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged inthe performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of $50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the contractor must agree 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 it 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, N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:

   1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;
   2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;
   3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions; and
   4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

3.5 BUILDING SERVICE

Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.

3.6 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 statute.

3.7 SERVICE PERFORMANCE WITHIN U.S.

Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 5.7(b) (1) of the Standard Terms and Conditions, unless previously approved by the Director and the Treasurer.

3.8 BUY AMERICAN

Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract to be used in a public work, they shall be manufactured or produced in the United States, whenever available, and the contractor shall be required to so certify.

3.9 DOMESTIC MATERIALS

Pursuant to N.J.S.A. 52:33-2 et seq., if the contract is for the construction, alteration or repair of any public work, the contractor and all subcontractors shall use only domestic materials in the performance of the work unless otherwise noted in the specifications.

3.10 DIANE B. ALLEN EQUAL PAY ACT

Pursuant to N.J.S.A. 34:11-56.14 and N.J.A.C. 12:10-1.1 et seq., a contractor performing "qualifying services" or "public work" to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see https://nj.gov/labor/equalpay/equalpay.html.

3.11 EMPLOYEE MISCLASSIFICATION

In accordance with Governor Murphy's Executive Order #25 and the Task Force's July 2019 Report, employers are required to properly classify their employees. Workers are presumed to be employees and not independent contractors, unless the employer can demonstrate all three factors of the "ABC Test" below:

A. Such individual has been and will continue to be free from control or direction of the performance of such service, but under his or her contract of service and in fact; and
B. Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all places of business of the enterprise for which such service is performed; and
C. Such individual is customarily engaged in an independently established trade, occupation, profession or business.

This test has been adopted by New Jersey under its Wage & Hour, Wage Payment and Unemployment Insurance Laws to determine whether a worker is properly classified. Under N.J.S.A. 34:1A-1.17-1.19, the Department of Labor and Workforce Development has the authority to investigate potential violations of these laws and issue penalties and stop work order to employers found to be in violation of the laws.

4.0 INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION

The contractor's liability to the State and its employees in third party suits shall be as follows:

A. Indemnification for Third Party Claims - 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 which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract;
B. The contractor's indemnification and liability under subsection (A) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions; and
C. In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

4.2 INSURANCE

The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the State of New Jersey at the address shown below. If the contractor's insurer cannot provide 30 days written notice, then it will become the obligation of the contractor to provide the same. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The contractor shall not begin to provide services orgoods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order number and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, P.O. Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancelation shall be emailed to the State at: ccau.certificate@treas.nj.gov

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

A. Occurrence Form Commercial 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 Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial 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 $1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property;
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. $1,000,000 BODILY INJURY, EACH OCCURRENCE;
2. $1,000,000 DISEASE EACH EMPLOYEE; and
3. $1,000,000 DISEASE AGGREGATE LIMIT.

This $1,000,000 amount may be raised when deemed necessary by the Director;

In the case of a contract entered into pursuant to N.J.S.A. 52:32-17 et seq., (small business set asides) the minimum amount of insurance coverage in subsections A, B, and B. above may be amended for certain commodities when deemed in the best interests of the State by the Director.

5.0 TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR

The contractor's status shall be that of any independent contractor and not as an employee of the State.

5.2 RESERVED

5.3 CONTRACT TERM AND EXTENSION OPTION

If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall 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 term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions of the original contract shall apply unless more favorable terms for the State have been negotiated.

5.4 STATE'S OPTION TO REDUCE SCOPE OF WORK

The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under this contract. In such an event, the Director shall provide to the contractor advance written notice of the change in scope of work and what the Director believes should be the corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

A. If the contractor does not agree with the Director's proposed adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price; and
B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

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

5.5 CHANGE IN LAW

If, after award, a change in applicable law or regulation occurs which affects the Contract, the parties may amend the Contract, including pricing, in order to provide equitable relief for the party disadvantaged by the change in law. The parties shall negotiate in good faith, however if agreement is not possible after reasonable efforts, the Director shall make a prompt decision as to an equitable adjustment, taking all relevant information into account, and shall notify the Contractor of the final adjusted contract price.

5.6 SUSPENSION OF WORK

The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance. The Director shall make an equitable adjustment, if any is required, to the contract price. The contractor shall provide whatever information that Director may require related to the equitable adjustment.

5.7 TERMINATION OF CONTRACT

A. For Convenience:
   Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, 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 or a portion thereof, 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, in whole or in part, upon ten (10) days' notice to the contractor

with an opportunity to respond; and

2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (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; and
D. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

5.8 SUBCONTRACTING

The Contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws. Nothing contained in any of the contract documents, shall be construed as creating any contractual relationship between any subcontractor and the State.

5.9 RESERVED

5.10 MERGERS, ACQUISITIONS AND ASSIGNMENTS

If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the Director as soon as practicable and in no event longer than 30 days after said merger or acquisition. The contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the contract for cause.

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity 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 shall be made until all parties to the dissolved business entity submit the required documents to the Director.

The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR

The contractor 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 contract from time of written acceptance by the State. The contractor shall render prompt service without charge, regardless of geographic location;
D. Sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters;
E. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice;
F. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract; and
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.

5.12 DELIVERY REQUIREMENTS

A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract;
B. 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;
C. Items delivered must be strictly in accordance with the contract; and
D. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

5.13 APPLICABLE LAW AND JURISDICTION

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 and shall be filed in the appropriate Division of the New Jersey Superior Court.

5.14 CONTRACT AMENDMENT

Except as provided herein, the contract may only be amended by written agreement of the State and the contractor.

5.15 MAINTENANCE OF RECORDS

Pursuant to N.J.A.C. 17:44-2.2, the contractor shall maintain all documentation related to products, transactions or services under this contract for a period of five (5) years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

5.16 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 behalfof 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 shall take no action that will in any way diminish the value of the rights conveyed or assigned hereunder;
B. It shall advise the Attorney General of New Jersey:
    1. In advance of its intention to commence any action on its own behalf regarding anysuch claim or cause(s) of action; and
    2. Immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
C. It shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the 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 shall be sent to the Attorney General of New Jersey; and
D. It is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

5.17 NEWS RELEASES

The Contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this Contract without the prior written consent of the Director.

5.18 ADVERTISING

The Contractor shall not use the State's name, logos, images, or any data or results arising from this Contract as a part of any commercial advertising without first obtaining the prior written consent of the Director.

5.19 ORGAN DONATION

As required by N.J.S.A. 52:32-33.1, the State encourages the contractor to disseminate information relative to organ donation and to notify its employees, through information and materials or through an organ and tissue awareness program, of organ donation options. The information provided to employees should be prepared in collaboration with the organ procurement organizations designated pursuant to 42 U.S.C. 1320b-8 to serve in this State.

5.20 LICENSES AND PERMITS

The Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this Contract. Notwithstanding the requirements of the Bid Solicitation, the Contractor shall supply the State Contract Manager with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to this Contract award. All costs associated with any such licenses, permits, and authorizations must be considered by the Contractor in its Quote.

5.21 CLAIMS AND REMEDIES

A. 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, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.
B. Nothing in this Contract shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.
C. In the event that the Contractor fails to comply with any material Contract requirements, the Director may take steps to terminate this Contract in accordance with the SSTC, 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, as provided for in the State administrative code, or take any other action or seek any other remedies

available at law or in equity.

5.22 ACCESSIBILITY COMPLIANCE

The Contractor acknowledges that the State may be required to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. The Contractor agrees that any information that it provides to the State in the form of a Voluntary Product Accessibility Template (VPAT) about the accessibility of the Software is accurate to a commercially reasonable standard and the Contractor agrees to provide the State with technical information available to support such VPAT documentation in the event that the State relied on any of Contractor's VPAT information to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. In addition, Contractor shall defend any claims against the State that the Software does not meet the accessibility standards set forth in the VPAT provided by Provider in order to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794 and will indemnify the State with regard to any claim made against the State with regard to any judgment or settlement resulting from those claims to the extent the Provider's Software provided under this Contract was not accessible in the same manner as or to the degree set forth in the Contractor's statements or information about accessibility as set forth in the then-current version of an applicable VPAT.

5.23 CONFIDENTIALITY

A. The obligations of the State under this provision are subject to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., the New Jersey common law right to know, and any other lawful document request or subpoena;

B. By virtue of this Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose to each other only information that is required for the performance of their obligations under this Contract. Contractor's Confidential Information, to the extent not expressly prohibited by law, shall consist of all information clearly identified as confidential at the time of disclosure Vendor Intellectual Property ("Contractor Confidential Information"). Notwithstanding the previous sentence, the terms and pricing of this Contract are subject to disclosure under OPRA, the common law right to know, and any other lawful document request or subpoena;

C. The State's Confidential Information shall consist of all information or data contained in documents supplied by the State, any information or data gathered by the Contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not);

D. A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party, except that if the information is personally identifying to a person or entity regardless of whether it has become part of the public domain through other means, the other party must maintain full efforts under the Contract to keep it confidential; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party;

E. The State agrees to hold Contractor's Confidential Information in confidence, using at least the same degree of care used to protect its own Confidential Information;

F. In the event that the State receives a request for Contractor Confidential Information related to this Contract pursuant to a court order, subpoena, or other operation of law, the State agrees, if permitted by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such order of law. Contractor shall take any action it deems appropriate to protect its documents and/or information;

G. In addition, in the event Contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, Contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such order of law. The State shall take any action it deems appropriate to protect its documents and/or information; and

H. Notwithstanding the requirements of nondisclosure described in this Section, either party may release the other party's Confidential Information:
   (i) if directed to do so by a court or arbitrator of competent jurisdiction; or
   (ii) pursuant to a lawfully issued subpoena or other lawful document request:
      (a) in the case of the State, if the State determines the documents or information are subject to disclosure and Contractor does not exercise its rights as described in Section 5.23(F), or if Contractor is unsuccessful in defending its rights as described in Section 5.23(F); or
      (b) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the State does not exercise its rights described in Section 5.23(G), or if the State is unsuccessful in defending its rights as described in Section 5.23(G).

6.0 TERMS RELATING TO PRICE AND PAYMENT

6.1 PRICE FLUCTUATION DURING CONTRACT

Unless otherwise agreed to in writing 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 must be notified, in writing, of any price reduction within five (5) days of the effective date. Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

In an exceptional situation the State may consider a price adjustment. Requests for price adjustments must include justification and

documentation.

6.2 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.

6.3 PAYMENT TO VENDORS

A. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have 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 not 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;

B. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the Bill of Lading, and/or other documentation to confirm shipment and receipt of contracted goods must be received by the using agency prior to payment. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work and must be in strict accordance with the firm, fixed prices submitted for each task or subtask. When applicable, invoices should reference the appropriate task or subtask or price line number from the contractor's proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized;

C. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and

D. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Office of Diversity and Inclusion.

E. The Contractor shall have sole responsibility for all payments due any Subcontractor

6.4 OPTIONAL PAYMENT METHOD: P-CARD

The State offers 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 are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) 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 the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 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 60 days of the agency's receipt of a properly executed State Payment Voucher or within 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 shall 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.

6.6 AVAILABILITY OF FUNDS

The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenue.

7.0 TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Section of the Standard Terms and Conditions apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

7.1 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

Pursuant to 2 CFR 200.321, the State must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Accordingly, if subawards are to be made the Contractor shall:

(1) Include qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

7.2 DOMESTIC PREFERENCE FOR PROCUREMENTS

Pursuant to 2 CFR 200.322, where appropriate, the State has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). If subawards are to be made the Contractor shall include a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
(2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

7.3 PROCUREMENT OF RECOVERED MATERIALS

Where applicable, in the performance of contract, pursuant to 2 CFR 200.323, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

To the extent that the scope of work or specifications in the contract requires the contractor to provide recovered materials the scope of work or specifications are modified to require that as follows.

i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
    1. Competitively within a timeframe providing for compliance with the contract performance schedule;
    2. Meeting contract performance requirements; or
    3. At a reasonable price.
ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.
iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

7.4 EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equalopportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." See, 2 CFR Part 200, Appendix II, para. C.

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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 setting forth the provisions of this nondiscrimination clause.
(2) The contractor 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 race, color, religion, sex, sexual orientation, gender identity, or national origin.
(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.5 DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of $ 2,000 shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.

7.6 COPELAND ANTI-KICK-BACK ACT

Where applicable, the Contractor must comply with Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

a. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the OGS centralized contract.

b. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

c. Breach. A breach of the clauses above may be grounds for termination of the OGS centralized contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

7.7 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of $ 100,000 that involve the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The unauthorized user shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7.8 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7.9 CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Where applicable, Contract and subgrants of amounts in excess of $150,000, must comply with the following:

Clean Air Act

7.9.1.1 The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

7.9.1.2 The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

7.9.1.3 The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

7.10 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the State or authorized user. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State or authorized user, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.11 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

7.12 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in *Public Law 115–232*, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

EXHIBIT A - GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)
N.J.A.C. 17:27 et seq.

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

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 ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The 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.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

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

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase an Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase an Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1 et seq.

EXHIBIT B - CONSTRUCTION CONTRACTS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)
N.J.S.A. 10:5-39 et seq. (P.L. 1983, c. 197)
N.J.A.C. 17:27-1.1 et seq.

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

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 ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up grading, 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 Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

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.

N.J.S.A. 10:5-39 et seq. requires contractors, subcontractors, and permitted assignees performing construction, alteration, or repair of any building or public work in excess of $250,000 toguarantee equal employment opportunity to veterans.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union 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.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
   (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non- discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
    (i) The contactor or subcontractor shall interview the referred minority or women worker.
    (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
    (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
    (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.
(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and/or off the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXHIBIT C - EXECUTIVE ORDER NO. 151 REQUIREMENTS

It is the policy of the Division of Purchase and Property that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Division of Purchase and Property to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the Division of Purchase and Property's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Division of Purchase and Property's contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at https://newjersey.usnlx.com/;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the Division of Purchase and Property with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the Division of Purchase and Property no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

This language is in addition to and does not replace good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B.

State of New Jersey Standard Terms and Conditions

(Revised September 1, 2022)

I HEREBY ACCEPT THE TERMS AND CONDITIONS OF THIS CONTRACT

Signature

12/26/22

Date

Andrew Hwang, Chief Executive Officer

Print Name and Title

The Consultants Consortium, Inc. (TCC)

Print Name of Contractor

WAIVERED CONTRACTS SUPPLEMENT TO THE STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS

(Revised January 11, 2022)

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

This Supplement to the State of New Jersey Standard Terms and Conditions ("Supplement") shall apply to all contracts or purchase agreements made with the State of New Jersey ("State") under N.J.S.A. 52:34-9 or -10 ("Waivered Contracts"). The terms in this Supplement are in addition to, or modify the State of New Jersey Standard Terms and Conditions (SSTCs) as applicable and noted below.

I. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL WAIVERED CONTRACTS

A. ORDER OF PRECEDENCE

The "Contract" shall consist of the following documents: (1) this Supplement; (2) the State of New Jersey Standard Terms and Conditions; (3) the agency's scope of work; and, (4) the Contractor's proposal including any attachments or documents incorporated by reference. In the event of a conflict in the terms and conditions among the documents comprising this Contract, the order of precedence, for purposes of interpretation thereof, listed from highest ranking to lowest ranking as noted above.

B. NO ARBITRATION

Notwithstanding anything to the contrary in Contractor's Standard Form Agreement ("SFA") or Scope of Work ("SOW"), the State does not agree to binding arbitration.

C. NO AUTO-RENEWAL

Notwithstanding anything to the contrary in Contractor's SFA or SOW, the State does not agree to auto-renewal of any services, standard software maintenance, technical support or service fees.

II. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR WAIVERED CONTRACTS, AS APPLICABLE

A. STATE'S RIGHT TO INSPECT CONTRACTOR'S FACILITIES

The State reserves the right to inspect the contractor's establishment before making an award, for the purposes of ascertaining whether the contractor has the necessary facilities for performing the Contract. The State may also consult with clients of the contractor to assist the State in making a contract award that is most advantageous to the State.

B. 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 contractor's financial capabilities to perform the Contract. Further, the Director reserves the right to request a contractor to explain, in detail, how the proposal price was determined.

C. DELIVERY TIME AND COSTS

Unless otherwise noted elsewhere in the scope of work, all delivery times are 30 calendar days after receipt of order (ARO) and prices for items in proposals shall be submitted Freight On Board (F.O.B.) Destination (30 calendar days ARO/F.O.B.). 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. Thirty calendar days ARO/F.O.B. does not cover "spotting" but does include delivery on the receiving platform of the Using 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 the contractor's convenience when a single shipment is ordered. The weights and measures of the State's Using Agency receiving the shipment shall govern.

D. COLLECT ON DELIVERY (C.O.D) TERMS

C.O.D. terms will not be accepted.

E. CASH DISCOUNTS

The contractor is encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts. Should the contractor choose to offer cash discounts the following shall apply:

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

F. PERFORMANCE SECURITY

If performance security is required, such security must be submitted with the bid in the amount listed in the scope of work. N.J.A.C. 17:12-2.5. Acceptable forms of performance security are as follows:

1. 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,

2. A certified or cashier's check drawn to the order of "Treasurer, State of New Jersey," or
3. An irrevocable letter of credit issued by a federally insured financial institution and naming "Treasurer, State of New Jersey," as beneficiary.

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

Although the performance bond is required for the full term of the Contract, the Director recognizes that the industry practice of sureties is to issue a one (1) year performance bond for goods and services contracts. Thus, the contractor is permitted to submit a one (1) year performance bond for the amount required under the Contract and, on each succeeding anniversary date of the Contract, provide a continuation or renewal certificate to evidence that the bond is in effect for the next year of the Contract. This procedure will remain in place for each year of the Contract thereafter until the termination of the Contract. Failure to provide such proof on the anniversary date of the Contract shall result in suspension of the Contract, and possibly, termination of the Contract.

For performance bonds based on a percentage of the total estimated Contract price. On each anniversary of the effective date of the Contract, the amount of the required performance bond, unless otherwise noted, is calculated by applying the established RFQ performance bond percentage to the outstanding balance of the estimated amount of the Contract price to be paid to the contractor.

In the event that the Contract price is increased by a Contract Amendment, the contractor may be required to provide, within 30 calendar days of the effective date of the Contract Amendment, performance bond coverage for the increase in Contract price. The required increase in the performance bond amount is calculated by applying the established bond percentage set forth above to the increase in Contract price. Failure to provide such proof to the Director of this required coverage may result in the suspension of payment to the contractor until such time the contractor complies with this requirement.

G. RETAINAGE

If retainage is required on the Contract as stated in the scope of work, the state and/or agency will retain the stated percentage or retainage from each invoice. Payment of retainage will be authorized after satisfactory completion and submission of all services, deliverables or work products by the contractor and acceptance by the agency of all services, deliverables or work products required by the Contract.

For ongoing contracts, the agency will retain the stated percentage of each invoice submitted. At the end of the three (3) month period after payment of each invoice, the agency will review the contractor's performance and if performance has been satisfactory, the agency will release the retainage for the preceding three (3) month period. Following the expiration of the Contract, retained fees will be released to the contractor after certification by the agency's project manager, if any, that all services have been satisfactorily performed.

H. AUDIT NOTICE AND DISPUTE RESOLUTION

To the extent the contractor's proposal or Standard Form Agreement permits the contractor to conduct periodic audits of the State's usage of the Contractor Intellectual Property provided thereunder, such provision is amended to include the following audit notice and dispute resolution process:

1. AUDIT NOTICE – Notwithstanding anything to the contrary in the contractor's proposal or Standard Form Agreement, in the event that the contractor seeks to exercise a right in its proposal or Standard Form Agreement to audit the State's use of Contractor Intellectual Property, the contractor shall deliver simultaneous written notice, no less than thirty days in advance of the audit start date (unless the contractor's notice provides a longer notice period), to the: Agency requesting the waiver contract.
2. The notice shall reference the specific audit provision(s) in the contractor's proposal or Standard Form Agreement being exercised and include copies of same, specify the means by which the contractor will conduct the audit, and shall require the audit to be conducted in accordance with generally accepted standards in the field of such audits.
3. AUDIT DISPUTE RESOLUTION -- If the State, in good faith, provides the contractor with written notice of an alleged error in the amount of underpaid fees due the contractor as a result of an audit (the "dispute"), then the parties will endeavor to resolve the dispute in accordance with this paragraph. Each party will appoint a Vice President, Assistant Director, or the equivalent (hereinafter referred to as "Representative") to discuss the dispute and no formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., may begin until either such Representative concludes, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely. In addition, the parties shall refrain from exercising any termination right related to the dispute being considered under this paragraph and shall continue to perform their respective obligations under the Contract while they endeavor to resolve the dispute under this paragraph.
4. STATE NOT LIABLE FOR AUDIT COSTS -- Notwithstanding anything to the contrary in the contractor's proposal or Standard Form Agreement, the State will not reimburse the contractor for any costs related to an audit.
5. NO AUDIT RIGHT CREATED -- In the event that the contractor's proposal or Standard Form Agreement does not permit audits of the State's usage of Contractor Intellectual Property, Section 5.19 of this Supplement shall not be interpreted to provide such an audit right.

III. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES CONTRACTS

A. INSURANCE FOR PROFESSIONAL SERVICES CONTRACTS

Section 4.2 Insurance of the SSTC is supplemented with the following:

Professional Liability Insurance

The Contractor shall carry Errors and Omissions, Professional Liability Insurance, and/or Professional Liability Malpractice Insurance sufficient to protect the Contractor from any liability arising out the professional obligations performed pursuant to the requirements of this Contract. The insurance shall be in the amount of not less than $1,000,000 and in such policy forms as shall be approved by the State. If the Contractor has claims-made coverage and subsequently changes carriers during the term of this Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance, and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

B. LIMITATION OF LIABILITY FOR PROFESSIONAL SERVICES CONTRACTS

Section 4.0 Indemnification and Insurance of the SSTC is supplemented with the following:

4.3 LIMITATION OF LIABILITY

The Contractor's liability to the State for actual, direct damages resulting from the Contractor's performance or non-performance of, or in any manner related to this Contract, for any and all claims, shall be limited in the aggregate to 200% of the total value of this Contract. This limitation of liability shall not apply to the following:

A. The Contractor's obligation to indemnify the State of New Jersey and its employees from and against any claim, demand, loss, damage, or expense relating to bodily injury or the death of any person or damage to real property or tangible personal property, incurred from the work or materials supplied by the Contractor under this Contract caused by negligence or willful misconduct of the Contractor;
B. The Contractor's breach of its obligations of confidentiality; and
C. The Contractor's liability with respect to copyright indemnification.

The Contractor's indemnification obligation is not limited by but is in addition to the insurance obligations.

The Contractor shall not be liable for special, consequential, or incidental damages.

IV. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL INFORMATION TECHNOLOGY CONTRACTS

A. DEFINITIONS

The following definitions shall apply to information technology contracts:

1. The term "Acceptance" means the written confirmation by an Agency that the contractor has completed a Deliverable according to the specified requirements.
2. As defined by N.J.S.A. 56:8-161, the term "Breach of Security" means unauthorized access to electronic files, media, or data containing Personal Data that compromises the security, confidentiality, or integrity of Personal Data when access to the Personal Data has not been secured by encryption or by any other method or technology that renders the Personal Data unreadable or unusable. Good faith acquisition of Personal Data by an employee or agent of the Provider for a legitimate business purpose is not a Breach of Security, provided that the Personal Data is not used for a purposes unrelated to the business or subject to further unauthorized disclosure.
3. The term "Contractor Intellectual Property" means any intellectual property that is owned by the contractor and contained in or necessary for the use of the Deliverables or which the contractor makes available for the State to use as part of the work under the Contract. Contractor Intellectual Property includes COTS or Customized Software owned by the contractor, the contractor's technical documentation, and derivative works and compilations of any Contractor Intellectual Property.
4. The term Commercial Off the Shelf Software ("COTS") means Software provided by the contractor that is intended for general use.
5. The term "Custom Software" means Software and Work Product that is developed by the contractor at the request of the Agency to meet the specific requirements of the Agency and is intended for its use.
6. The term "Customized Software" means COTS that is adapted by the contractor to meet specific requirements of the Agency that differ from the standard requirements of the base product.
7. The term "Deliverable" means the goods, products, Services and Work Product that the contractor is required to deliver to the State under the Contract;
8. The term "End User" means the user of the Provider's solution.
9. The terms "goods" and "products" shall be deemed to include, without limitation, Software and Hardware.
10. The term "Hardware" shall be deemed to include computer equipment and any Software provided with the Hardware that is necessary for the Hardware to operate.
11. The term "Information Technology Contract" shall mean, notwithstanding any definition in New Jersey Statutes, a Contract for one or more of the following: Hardware, Software, Services, telecommunication goods and services, and all related goods.
12. The term "Mobile Device" means any device used by Provider that can move or transmit data, including but not limited to laptops, hard drives, and flash drives.
13. The term "Non-Public Data" means data, other than Personal Data, that is not subject to distribution to the public as public information. Non-Public Data is data that is identified by the State as non-public information or otherwise deemed to be sensitive and confidential by

the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

14. The term "Personal Data" means:
    a. "Personal Information" as defined in N.J.S.A. 56:8-161, means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number, (2) driver's license number or State identification card number or (3) account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account. Dissociated data that, if linked would constitute Personal Information is Personal Information if the means to link the dissociated were accessed in connection with access to the dissociated data. Personal Information shall not include publicly available information that is lawfully made available to the general public from federal, state or local government records, or widely distributed media.
    b. data, either alone or in combination with other data, that includes information relating to an individual that identifies the person or entity by name, identifying number, mark or description that can be readily associated with a particular individual and which is not a public record, including but not limited to, Personally Identifiable Information (PII); government-issued identification numbers (e.g., Social Security, driver's license, passport); Protected Health Information (PHI) as that term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 and defined below; and Education Records, as that term is defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.
15. The term "Personally Identifiable Information" or "PII," as defined by the U.S. Department of Commerce, National Institute of Standards and Technology, means any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information,
16. The term "Protected Health Information" or "PHI," has the same meaning as the term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 means Individually Identifiable Health Information (as defined below) transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer. The term "Individually Identifiable Health Information" has the same meaning as the term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 and means information that is a subset of Protected Health Information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
17. The term "Recovery Time Objective" or "RTO," means the maximum tolerable length of time that the Provider's solution may be unavailable after a failure or disaster occurs.
18. The term "Security Incident" means the potential access by non-authorized person(s) to Personal Data or Non-Public Data that the Provider believes could reasonably result in the use, disclosure, or access or theft of State's unencrypted Personal Data or Non-Public Data within the possession or control of the Provider. A Security Incident may or may not turn into a Breach of Security.
19. The term "Service Level Agreement" or "SLA," means the document that is part of the Provider's SFA that typically includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.
20. The terms "Services" shall be deemed to include, without limitation (i) Information Technology ("IT") professional services; (ii) Software and Hardware-related services, including without limitation, installation, configuration, and training and (iii) Software and Hardware maintenance and support and/or Software and Hardware technical support services.
21. The term "Software" means, without limitation, computer programs, source codes, routines, or subroutines supplied by the contractor, including operating software, programming aids, application programs, application programming interfaces and software products, and includes COTS, Customized Software and Custom Software, unless the context indicates otherwise.
22. The term "State Data" means all data and metadata created or in any way originating with the State, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State's hardware, the Provider's hardware or exists in any system owned, maintained or otherwise controlled by the State or by the Provider. State Data includes Personal Data and Non-Public Data.
23. The term "State Intellectual Property" means any intellectual property that is owned by the State. State Intellectual Property includes any derivative works and compilations of any State Intellectual Property.
24. The term "Third Party Intellectual Property" means any intellectual property owned by parties other than the State or the contractor and contained in or necessary for the use of the Deliverables. Third Party Intellectual Property includes COTS owned by Third Parties, and derivative works and compilations of any Third Party Intellectual Property.
25. The term "Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, Software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by the

contractor or the contractor's subcontractors or a third party engaged by the contractor or its subcontractor pursuant to the Contract. Notwithstanding anything to the contrary in the preceding sentence, Work Product does not include State Intellectual Property, Contractor Intellectual Property or Third Party Intellectual Property.

B. INDEMNIFICATION FOR STANDARD TECHNOLOGY CONTRACTS

Section 4.1 Indemnification of the SSTC is deleted in its entirety and replaced with the following:

4.1 INDEMNIFICATION

The Contractor's liability to the State and its employees in third party suits shall be as follows:

A. The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State and its officers, agents, servants and employees, from and against any and all third party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
   1. For or 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 products supplied under this Contract or the order; and
   2. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of this Contract; and
   3. The Contractor's indemnification and liability under subsection (A) is not limited by, but is in addition to the insurance obligations.

B. In the event of a claim or suit involving third-party Intellectual Property Rights, the Contractor, at its option, may:
   1. procure for the State the legal right to continue the use of the product;
   2. replace or modify the product to provide a non-infringing product that is the functional equivalent; or
   3. in the event that the Contractor cannot do (1) or (2) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

C. The State will:
   1. promptly notify Contractor in writing of the claim or suit;
   2. give Contractor shall have control of the defense and settlement of any claim that is subject to Section 4.1(a); provided; however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the Contractor at its expense.

D. Notwithstanding the foregoing, Contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from:
   1. the State's unauthorized combination, operation, or use of a product supplied under this Contract with any product, device, or Software not supplied by Contractor;
   2. the State's unauthorized alteration or modification of any product supplied under this Contract;
   3. the Contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides Contractor with such designs, specifications, requests, or instructions, Contractor reviews same and advises that such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the Contractor to proceed with one (1) or more designs, specifications, requests or instructions that present potential issues of patent or copyright infringement; or
   4. the State's failure to promptly implement a required update or modification to the product provided by Contractor after the Contractor has given written notice to the State of a need for such an update or modification.

E. Contractor will be relieved of its responsibilities under Subsection 4.1(a)(i) and (ii) for any claims made by an unaffiliated third party that arise solely from the actions or omissions of the State, its officers, employees or agents.

F. Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Subsection 4.1(a)(i) and (ii) which results in an unaffiliated third party claim. This is Contractor's exclusive remedy for these claims;

G. This section states the entire obligation of Contractor and its suppliers, and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and Contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product; and

H. Furthermore, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey or any Authorized Purchaser, nor purport to act as legal representative of the State of New Jersey or any Authorized Purchaser, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of the Division of Purchase and Property. The State of New Jersey may, at its election and expense, assume its own defense and settlement; and

I. The State of New Jersey will not indemnify, defend, pay or reimburse for claims or take similar actions on behalf of the Contractor.

C. INSURANCE FOR STANDARD TECHNOLOGY CONTRACTS

Section 4.2 Insurance of the SSTC is supplemented with the following:

Professional Liability Insurance

The Contractor shall carry Errors and Omissions, Professional Liability Insurance, and/or Professional Liability Malpractice Insurance sufficient to protect the Contractor from any liability arising out the professional obligations performed pursuant to the requirements of this Contract. The insurance shall be in the amount of not less than $1,000,000 and in such policy forms as shall be approved by the State. If the Contractor has claims-made coverage and subsequently changes carriers during the term of this Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance, and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

D. LIMITATION OF LIABILITY FOR STANDARD TECHNOLOGY CONTRACTS

Section 4.0 Indemnification and Insurance of the SSTC is supplemented with the following:

4.3 LIMITATION OF LIABILITY

The Contractor's liability to the State for actual, direct damages resulting from the Contractor's performance or non-performance of, or in any manner related to this Contract, for any and all claims, shall be limited in the aggregate to 200% of the total value of this Contract. This limitation of liability shall not apply to the following:

A. The Contractor's obligation to indemnify the State of New Jersey and its employees from and against any claim, demand, loss, damage, or expense relating to bodily injury or the death of any person or damage to real property or tangible personal property, incurred from the work or materials supplied by the Contractor under this Contract caused by negligence or willful misconduct of the Contractor;

B. The Contractor's breach of its obligations of confidentiality; and

C. The Contractor's liability with respect to copyright indemnification.

The Contractor's indemnification obligation is not limited by but is in addition to the insurance obligations.

The Contractor shall not be liable for special, consequential, or incidental damages.

E. PERFORMANCE GUARANTEE OF THE CONTRACTOR

Section 5.11 Performance Guarantee of the Contractor of the SSTC is supplemented with the following:

1. COTS and Customized Software
   a. Unless the Contractor Standard Form Agreement provides greater coverage as determined by the State, in its sole discretion, the contractor warrants that COTS and Customized Software products licensed to the State shall operate in all material respects as described in the Solicitation and/or contractor technical documentation for ninety (90) days after Acceptance. The State shall notify the contractor of any COTS or Customized Software product deficiency within ninety (90) days after Acceptance. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.
   b. Except for the portion of the contractor's COTS or Customized Software product that intentionally contains one or more of the following for the purpose of anti-virus protection, the contractor warrants that, at the time of delivery and installation of the COTS or Customized Software provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the COTS or Customized Software, collect unlawful personally identifiable information on users, or prevent the COTS or Customized Software from performing as required under the Contract.
   c. In the event of any breach of this warranty, the contractor shall correct the product errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may end its usage and recover the fees paid to the contractor for the license and any unused, prepaid, technical support fees paid. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.
   d. The contractor does not warrant that COTS or Customized Software is error-free or that it will operate uninterrupted.
2. Custom Software
   a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that Custom Software Deliverables shall operate in all material respects as described in the applicable specification documentation for one hundred and eighty (180) days after Acceptance. The State shall notify the contractor of any Custom Software deficiency within one hundred and eighty (180) days after Acceptance of the Custom Software Deliverable (the "Notice Period"). Where the contractor is providing multiple Custom Software Deliverables over the term of the Contract, the Notice Period shall begin to run after the Acceptance of the final Custom Software Deliverable under the Contract. At that time, the State may assert defect claims relating to any and all of the Custom Software Deliverables provided under the Contract; however, the State may also assert claims earlier, in its discretion, without waiving the Notice Period.
   b. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized

Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.

c. The contractor warrants that, at the time of Acceptance of the Custom Software Deliverable provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Custom Software, collect unlawful personally identifiable information on users, or prevent the Custom Software from performing as required under the Contract. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.

d. In the event of any breach of this warranty, the contractor shall correct the Custom Software errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may recover a portion of the fees paid to the contractor for the Custom Software with the uncorrected defect or in the event that the Custom Software is still deemed, by the State in its sole discretion, to be usable by the State even with the uncorrected defect, the State may recover a portion of the fees paid to the contractor for the Custom Software (up to the total amount of such charges for such Custom Software) to reflect any reduction in the value of the Custom Software Deliverable as a result of the uncorrected defect. Under no circumstances does this warranty provision limit the contractor's obligations in the event of a breach of confidentiality.

e. The contractor does not warrant that Custom Software is error-free or that it will operate uninterrupted.

3. IT Services

a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that all Services will be provided in a professional manner consistent with industry standards. The State shall notify the contractor of any Services warranty deficiencies within ninety (90) days from performance of the deficient Services.

b. In the event of any breach of this warranty, the contractor shall re-perform the deficient Services, or if the contractor cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant Services and recover the fees paid to the contractor for the deficient Services.

4. Hardware

a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that 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. The contractor warrants that all equipment supplied to the State and operated by electrical current is UL listed where applicable.

c. The contractor warrants that all new machines are to be guaranteed as fully operational for one (1) year from time of Acceptance by the State. For the avoidance of doubt, Acceptance with respect to Hardware in this subsection (d) shall occur no later than sixty (60) days after delivery, as evidenced by a signed delivery receipt. The contractor shall render prompt service without charge, regardless of geographic location.

d. The contractor warrants that sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters.

e. The contractor warrants that trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice.

f. The contractor warrants that all Software included with the Hardware shall perform substantially in accordance with specifications, for one (1) year from the time of Acceptance. The contractor warrants that Software media will be free from material defects in materials and workmanship for a period of one (1) year from the date of Acceptance.

g. In the event of any breach of this warranty, the contractor shall promptly repair, replace or refund the purchase price of product rejected for failure to conform with the contractor's product specifications.

5. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND THE CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

V. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL INFORMATION TECHNOLOGY CONTRACTS WHICH INCLUDE SOFTWARE AS A SERVICE (SAAS)/CLOUD SOLUTION

A. ADDITIONAL TERMS FOR A CONTRACTOR'S DATA PROTECTION OBLIGATIONS

1. Data Ownership: The State will own all right, title and interest in its State Data that is related to the services provided by this contract. The Provider shall not use or access State user accounts or State Data, except (i) in the course of data center operations, (ii) in response to service or technical issues, (iii) as required by the express terms of this contract, or (iv) at the State's written request.

   Provider shall not collect, access, or use State Data except as strictly necessary to provide its solution to the State. No information regarding the State's use of the solution may be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall survive and extend beyond the term of this contract.

2. Data Protection: Protection of personal privacy and data shall be an integral part of the business activities of the Provider to ensure that there is no inappropriate or unauthorized use of State Data at any time. To this end, the Provider shall safeguard the confidentiality, integrity, and availability of State Data and comply with the following conditions:

a. The Provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized good industry practice and not less stringent than the measures the Provider applies to its own Personal Data and Non-Public Data of similar kind.
b. All Personal Data shall be encrypted at rest and in transit with controlled access. Provider is responsible for encryption of the Personal Data. The level of protection and encryption for all Personal Data shall be identified and made a part of this contract.
c. Provider shall encrypt all Non-Public Data at rest and in transit. The level of protection and encryption for all Non-Public Data shall be identified and made a part of this contract.
d. Personal Data shall not be stored on Mobile Devices. Where Mobile Devices are required for Provider to accomplish the work, the Provider shall ensure the Mobile Device is hard drive encrypted consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all Personal Data.
e. At no time shall any data or processes, which either belongs to or are intended for the use of State or its officers, agents, or employees, be copied, disclosed, or retained by the Provider or any party related to the Provider for subsequent use in any capacity that does not include the State.

3. Data Location: Provider shall provide its services to State and its End Users solely from data centers in the U.S. Storage of State Data at rest shall be located solely in data centers in the U.S. Provider shall not allow its personnel or contractors to store State Data on Mobile Devices, including personal computers, except for devices that are used and kept within the physical structure of its U.S. data centers. Provider shall permit its personnel and contractors to access State Data remotely only as required to provide technical support or upon prior notice and approval. The Provider may provide technical user support on a seven-day by 24-hour basis, unless otherwise prohibited in this contract.

4. Security Incident and Breach of Security Responsibilities.
   a. Security Incident Reporting Requirements: Once Provider reasonably determines that a Security Incident occurred, the Provider shall report a Security Incident to the appropriate State identified contact within 24 hours by the agreed upon method as defined in the contract. Provider will provide the State regular updates and all available relevant information including a description of the incident and those measures taken by Provider in response to the Security Incident.
   b. Breach of Security Reporting Requirements: If the Provider confirms or reasonably believes that there has been a Breach of Security, the Provider shall (1) immediately notify the appropriate State identified contact by the agreed upon method within 24 hours, unless a shorter time is required by applicable law, (2) take commercially reasonable measures to address and investigate the Breach of Security in a timely manner and (3) cooperate with the State as reasonably requested by the State and/or law enforcement to investigate and resolve the Breach of Security. Provider will provide the State regular updates and all available information to assist the State with notification to law enforcement and third parties as required by applicable law, including a description of the Breach of Security and those measures taken by Provider in response to the Breach of Security.
   c. Incident Response: When commercially reasonable to do so, Provider may communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries (subject to preapproval by the State if Provider specifically identifies the State or State Data), and seeking external expertise as mutually agreed at the time, defined by law, or contained in the SLA. Discussing Security Incidents with the State should be handled on an urgent as needed basis, as part of Provider communication and mitigation processes as mutually agreed at the time, defined by law, or contained in the SLA.
   d. Following a Security Incident or Breach of Security, Provider shall promptly implement necessary remedial measures, if necessary, and document responsive actions taken related to the Security Incident or Breach of Security, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

5. Termination and Suspension of Service:
   a. In the event of termination of the contract, the Provider shall implement an orderly return of State Data in a mutually agreeable format and the subsequent secure disposal of State Data remaining in Provider's possession.
   b. Suspension of services: During any period of suspension, the Provider shall not take any action to intentionally erase any State Data.
   c. Unless otherwise stipulated, in the event of termination of any services, SLA, or this contract in its entirety, the Provider shall not take any action to intentionally erase any State Data for a period of:
      1) 10 business days after the effective date of termination, if the termination is in accordance with the expiration of the defined contract term;
      2) 30 business days after the effective date of termination, if the termination is for convenience; or
      3) 60 business days after the effective date of termination, if the termination is for cause.

      After such period, the Provider shall have no obligation to maintain or provide any State Data and shall thereafter, unless legally prohibited, delete all State Data in its systems or otherwise in its possession or under its control in accordance with subsection (e) below.

   d. Post-Termination Assistance: The State shall be entitled to any post-termination assistance with respect to the services unless a unique data retrieval arrangement has been established as part of the contract.

   e. Secure Data Disposal: When requested by the State, the provider shall destroy all requested data in all of its forms, including but not limited to: disk, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be

recoverable, according to National Institute of Standards and Technology (NIST) approved methods and certificates of destruction shall be provided to the State.

6. Background Checks: The Provider shall conduct criminal background checks and not utilize any staff, including sub-contractors, to fulfill the obligations of the contract who has been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or any misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The Provider shall promote and maintain an awareness of the importance of securing the State's Data among the Provider's employees and agents.

7. Access to security logs and other reports: The Provider shall provide logs and reports to the State in a format as specified in the contract and agreed to by both the Provider and the State. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State Data related to this contract, including but not limited to data, file management, transactions, or tools used to provide, manage, secure, or analyze the State's Data. The Provider shall maintain the reports and logs for the contract term and for two (2) years after the conclusion of the term, and shall provide them to the State in the course of a State audit or upon written request from the State.

8. Service Level Audit: The Provider shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion, at the State's expense.

9. Data Center Audit: The Provider shall have an independent third party audit of its data center(s) performed at least annually at their own expense, and provide the audit report to the State upon request.

10. Change Control and Advance Notice: The Provider shall give advance notice to the State of any upgrades (e.g. major upgrades, minor upgrades, system changes) that may impact service availability and performance. Said notice shall be provided at least thirty days in advance of the upgrade, unless otherwise agreed in the SLA.

11. Security: The Provider shall disclose its non-proprietary security processes and technical limitations to the State by completing the State's Security Controls Checklist or equivalent system security document, available upon request from the Office of Information Technology, as updated from time to time, such that adequate protection and flexibility can be attained between the State and the Provider.

12. Non-disclosure and Separation of Duties: The Provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of State Data to that which is absolutely needed to perform job duties.

13. Import and Export of Data: The State shall have the ability to import or export data in piecemeal or in entirety at its discretion without interference from the Provider. This includes the ability for the State to import or export data to/from other Providers.

14. Responsibilities and Uptime Guarantee: The Provider shall be responsible for the acquisition and operation of all hardware, software, and network support related to the services being provided. The technical and professional activities required for establishing, managing, and maintaining the environment are the responsibilities of the Provider. The system shall be available 24 hours per day, 365 days per year (with agreed-upon maintenance downtime), and Provider shall provide service to the State as defined in the Service Level Agreement.

15. Right to Remove Individuals: The State shall have the right at any time to require that the Provider remove from interaction with the State any Provider representative who the State believes is detrimental to its working relationship with the Provider. The State will provide the Provider with notice of its determination, and the reasons it requests the removal. If the State signifies that a potential security violation exists with respect to the request, the Provider shall immediately remove such individual. The Provider shall not assign the person to any aspect of the contract or future work orders without the State's consent.

    Business Continuity and Disaster Recovery: The Provider shall provide a business continuity and disaster recovery plan upon request and ensure that the State's Recovery Time Objective (RTO) is met. The RTO shall be defined in the SLA.

B. INDEMNIFICATION FOR SAAS

Section 4.1 Indemnification of the SSTC is deleted in its entirety and replaced with the following;

4.1 INDEMNIFICATION

A. CONTRACTOR RESPONSIBILITIES - The Contractor's liability to the State and its employees in third party suits shall be as follows:

1. The Contractor shall indemnify, defend, and save harmless the State and its officers, agents, servants and employees, from and against any and all third party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:

    i. For or on account of the loss of life, tangible property (not including lost or damaged data) or injury or damage to the person, body or property (not including lost or damaged data) of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or products supplied under this Contract; and

ii. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of the contract; and

iii. For or on account of a Breach of Security resulting from Contractor's breach of its obligation to encrypt Personal Data or otherwise prevent its release or misuse; and

iv. The Contractor's indemnification and liability under Section 4.1(A)(1) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of the State Standard Terms and Conditions.

2. In the event of a claim or suit involving third-party Intellectual Property Rights, the Contractor, at its option, may: (1) procure for the State the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties. The State will: (1) promptly notify Contractor in writing of the claim or suit; (2) Contractor shall have control of the defense and settlement of any claim that is subject to Section 4.1(A)(1); provided, however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the Contractor at its expense. Furthermore, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey, nor purport to act as legal representative of the State of New Jersey, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of DPP. The State of New Jersey may, at its election and expense, assume its own defense and settlement.
3. Notwithstanding the foregoing, Contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from: (1) the State's unauthorized combination, operation, or use of a product supplied under this contract with any product, device, or software not supplied by Contractor; (2) the State's unauthorized alteration or modification of any product supplied under this contract; (3) the Contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides Contractor with such designs, specifications, requests, or instructions, Contractor shall review same and advise if such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the Contractor to proceed with one or more designs, specifications, requests or instructions that present potential issues of patent or copyright infringement; or (4) the State's failure to promptly implement a required update, use a new version of the product, or to make a change or modification to the product if requested in writing by Contractor.
4. Contractor will be relieved of its responsibilities under Subsection 4.1(A)(1)(i), (ii), and (iii) for any claims made by an unaffiliated third party that arise solely from the actions or omissions of the State, its officers, employees or agents.
5. This section states the entire obligation of Contractor and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and Contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product.
6. The provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in the Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the State from taking any other actions available to it under any other provisions of the contract or otherwise at law or equity.
7. The Contractor agrees that any approval by the State of the work performed and/or reports, plans or specifications provided by the Contractor shall not operate to limit the obligations of the Contractor assumed in the Contract.
8. The State of New Jersey will not indemnify, defend or hold harmless the Contractor. The State will not pay or reimburse for claims absent compliance with Section 4.1(B) below and a determination by the State to pay the claim or a final order of a court of competent jurisdiction.

B. STATE RESPONSIBILITIES - Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Section 4.1(A)(1)(i), (ii), and (iii) which results in an unaffiliated third party claim. This is Contractor's exclusive remedy for these claims.

B. INSURANCE FOR SAAS

Section 4.2 Insurance of the SSTC is supplemented with the following:

1. Professional Liability Insurance

   The Contractor shall carry Errors and Omissions, Professional Liability Insurance, and/or Professional Liability Malpractice Insurance sufficient to protect the Contractor from any liability arising out the professional obligations performed pursuant to the requirements of this Contract. The insurance shall be in the amount of not less than $1,000,000 and in such policy forms as shall be approved by the State. If the Contractor has claims-made coverage and subsequently changes carriers during the term of this Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance, and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

2. Cyber Breach Insurance

   The Contractor shall carry Cyber Breach Insurance in sufficient to protect the Contractor from any liability arising out of its performance pursuant to the requirements of this Contract. The insurance shall be in an amount of not less than $2,000,000 in such policy forms as shall be approved by the State. The insurance shall at a minimum cover the following: Data loss, ransomware and similar breaches to computers, servers and software; Protection against third-party claims; cost of notifying affected parties; cost of providing credit

monitoring to affected parties; forensics; cost of public relations consultants; regulatory compliance costs; costs to pursue indemnity rights; costs to Data Breach and Credit Monitoring Services analyze the insured's legal response obligations; costs of defending lawsuits; judgments and settlements; regulatory response costs; costs of responding to regulatory investigations; and costs of settling regulatory claims.

C. LIMITATION OF LIABILITY FOR SAAS

Section 4.0 Indemnification and Insurance of the SSTC is supplemented with the following:

4.3 LIMITATION OF LIABILITY

A. The Contractor's liability for actual, direct damages resulting from the Contractor's performance or non-performance of, or in any manner related to, the Contract for any and all third party claims, shall be limited in the aggregate to 200% of the fees paid by the State during the previous twelve months to Contractor for the products or services giving rise to such damages. Notwithstanding the preceding sentence, in no event shall the limit of liability be less than $1,000,000. This limitation of liability shall not apply to the following:

i. The Contractor's indemnification obligations as described in Section 4.1; and

ii. The Contractor's breach of its obligations of confidentiality described in this Bid Solicitation.

A. Notwithstanding the foregoing exclusions, where a Breach of Security is a direct result of Contractor's breach of its contractual obligation to encrypt Personal Data pursuant to this Bid Solicitation or otherwise prevent its release as reasonably determined by the State, the Contractor shall bear the costs associated with (1) the investigation and resolution of the Breach of Security; (2) notifications to individuals, regulators, or others required by federal and state laws or as otherwise agreed to; (3) a credit monitoring service required by state or federal law or as otherwise agreed to; (4) a website or a toll-free number and call center for affected individuals required by federal and state laws — all not to exceed the average per record, per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute for the public sector at the time of the Breach of Security; and (5) completing all corrective actions as reasonably determined by Contractor based on root cause of the Breach of Security.

B. The Contractor shall not be liable for punitive, special, indirect, incidental, or consequential damages.

I HEREBY ACCEPT THE TERMS AND CONDITIONS OF THIS CONTRACT

Signature

12/26/2022

Date

Andrew Hwang, Chief Executive Officer

Print Name and Title

The Consultants Consortium (TCC)

Print Name of Contractor