

New Jersey Educational Facilities Authority

REQUEST FOR PROPOSALS

FOR ARBITRAGE COMPLIANCE SERVICES



103 College Road East, 2nd Floor
Princeton, NJ 08540

July 18, 2019

Question & Answer Cut-Off Date: July 25, 2019

Proposals Due: August 2, 2019

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY

REQUEST FOR PROPOSALS FOR ARBITRAGE COMPLIANCE SERVICES

Date Issued: July 18, 2019

1.0 BACKGROUND OF THE AUTHORITY

The New Jersey Educational Facilities Authority (“NJEFA” or “Authority”), an independent and self-supporting state entity, was created as a public body corporate and politic of the State of New Jersey (the “State”) pursuant to the New Jersey Educational Facilities Authority Law (being Chapter 72A of Title 18A of the New Jersey Statutes, as amended and supplemented), *N.J.S.A. 18A:72A-1 et seq.* (the “Act”), to provide a means for New Jersey public and private colleges and universities of higher education (the “Institutions”) to construct educational facilities through the financial resources of a public authority empowered to sell tax-exempt and taxable bonds, notes and other obligations. NJEFA is New Jersey’s primary issuer of municipal bonds to finance and refinance the construction and development of academic facilities at the Institutions.

The Authority finances and refinances various types of projects for Institutions of higher education in New Jersey. Projects include, but are not limited to, the construction, renovation and acquisition of residential, academic, and research facilities; libraries; technology infrastructures; student life and athletic facilities; parking structures; energy and utilities-related projects; and refinancing of existing debt. The Authority also, from time to time, issues State-backed bonds to fund the State of New Jersey’s Higher Education Capital Grant Programs and public library facilities.

The obligations issued by the Authority are special and limited obligations of the Authority and are not a debt or liability of the State of New Jersey or of any political subdivision thereof other than the Authority and are not a pledge of the faith and credit of the State or of any such political subdivision thereof. The Authority has no taxing power. The obligations issued by the Authority are payable solely from amounts received by the Authority under the transaction documents and amounts on deposit in certain funds established under the transaction documents. The Authority’s State-backed bond programs for higher education and public library facilities provide that debt service will be paid by the State Treasurer pursuant to a contract between the Authority and the State Treasurer, subject to annual appropriation by the New Jersey State Legislature.

This solicitation of responses is being conducted pursuant to State laws, regulations and executive orders, specifically Executive Order No. 26 (Whitman, 1994) (“EO 26”) and Executive Order No. 37 (Corzine, 2006) (“EO 37”), and the policies and procedures of the Authority with regard to the procurement of professional services.

2.0 PURPOSE AND INTENT OF REQUEST FOR PROPOSALS

The Authority is seeking proposals from qualified vendors to provide complete arbitrage compliance service for bonds and notes for a three-year period beginning September 1, 2019 through June 30, 2022 with two (2) additional successive periods of twelve (12) months each at the Authority's discretion. The Authority intends to select one or more service providers and assignments will be made on a case-by-case based on the circumstances of the particular issuance, the service provider's expertise, and the best interests of the Authority. The Authority reserves the right to re-assign current issues to existing providers.

3.0 MINIMUM REQUIREMENTS

A vendor must meet the following minimum requirements:

- 3.1** Bidders must be capable of servicing the account and meeting the required due dates for any number of issues. (Recent issuance has approximated 1-3 issues per year).
- 3.2** Bidder must have at least ten (10) years of experience providing arbitrage compliance services for bonds and notes of governmental issuers of municipal securities.
- 3.3** Key members of the Bidders team assigned to the Authority's account must have at least five (5) years of experience providing arbitrage compliance services for bonds and notes of governmental issuers of municipal securities.
- 3.4** Bidders must be in sound financial condition.
- 3.5** Bidders must have professional errors and omissions liability insurance coverage with limits of at least \$5 million, underwritten by carriers acceptable to the Authority.
- 3.6** Bidders must have access to and/or affiliation with qualified tax attorneys.

Failure of a vendor to meet minimum requirements will result in immediate rejection of the vendor's proposal.

4.0 SCOPE OF SERVICES

The vendor selected for this engagement shall provide some or all of the services identified below at the request of the Authority:

- 4.1** Performance of all typical and routine duties associated with arbitrage calculations and reporting to the I.R.S.
- 4.2** Determination of eligibility for exceptions to rebate.
- 4.3** Calculation and reporting of the rebate liability (a) annually as of each June 30, and (b)

for fifth-year and final installment calculation dates.

- 4.4** Compliance with and calculation of yield restriction/yield reduction payment requirements (a) annually as of each June 30, and (b) for fifth-year and final installment calculation dates.
- 4.5** Fifth-year installment calculations and final calculations required by no later than two (2) weeks prior to IRS payment due dates.
- 4.6** Annual interim calculations showing the accrued rebate liability as of each June 30, beginning June 30, 2020, are required by no later than July 14 of each year. Annual interim calculations may be based upon investing activity occurring through the immediately preceding April 30, if necessary to meet the July 14 reporting deadline.
- 4.7** Preparation of required Internal Revenue Service forms and returns.
- 4.8** Assist the Authority as necessary in the event of an Internal Revenue Service inquiry/audit involving the computation of rebate or yield restriction with respect to any computation covered by the contract.
- 4.9** Provide consultation to Authority staff as necessary on matters related to the Internal Revenue Code Rebate Provisions.
- 4.10** Provide assistance and consultation as necessary for proper retention of arbitrage records and documentation by the Authority.
- 4.11** Provide training, webinars or seminars as necessary to Authority staff and/or its borrowers
- 4.12** Provide a legal opinion from a nationally recognized bond counsel firm as to the liability due to the I.R.S. under any of the arbitrage regulations. The opinion must include a statement that the calculation methodology used is consistent with current tax laws and regulations and may be relied upon by the Authority in determining its liability payments to the I.R.S.
- 4.13** Analyze reports to determine if reports are no longer needed due to other factors outside of the two-year exception to rebate.

The Firm's legal counsel is required to work with and be available to the Authority's legal counsel throughout the term of the contract. The Firm may be requested to address any post-issuance compliance inquiries by the Authority throughout the term of the contract.

Note: Documentation

All bond financing documents and contractual arrangements will be governed by New Jersey law and the form and substance of any agreements must be satisfactory to both Bond Counsel and the Office of the Attorney General.

5.0 REQUIRED COMPONENTS OF THE VENDOR'S PROPOSAL IN RESPONSE TO THE REQUEST FOR PROPOSALS

Each vendor submitting a proposal must follow the instructions contained in this RFP. Proposals must be in writing, should be completed in the most concise manner possible, must contain all of the information requested, and should be submitted in the order and format requested. All terms and conditions set forth in this RFP will be deemed to be incorporated by reference in their entirety into any proposal submitted by each vendor.

In responding to this RFP, please address the following areas:

- 5.1 Please provide the addresses, telephone numbers and email addresses for those individuals who will be directly responsible for serving the Authority on a day-to-day basis and the individual(s) who will have primary responsibility for the engagement. Provide brief resumes including relevant experience for those individuals.
- 5.2 A description of your organization's capabilities, qualifications, and experience with performing arbitrage compliance services for governmental issuers of municipal securities with complex programs including, but not limited to, variable rate debt issues, swap transactions, transferred proceeds, hedges, other derivative structures, commingled funds, and pooled transactions.
- 5.3 A description of any affiliation or relationship with qualified tax attorneys who may provide an opinion of tax counsel. Provide brief resumes including relevant experience for those individuals.
- 5.4 A representative list of at least five (5) clients serviced by the referenced servicing location and a description of the services provided. Please provide a contact name and phone number for each listed client.
- 5.5 Evidence of satisfactory professional errors and omissions liability insurance coverage with limits of at least \$5 million.
- 5.6 Evidence of the organization's sound financial condition (e.g. a copy of the most recent audited financial statements).
- 5.7 A copy of the organization's proposed engagement letter. **Please Note** that (a) the engagement letter must include by reference, all terms and conditions included in this Request For Proposal (the "RFP"), (b) the Authority is not permitted to provide indemnification in any form, and (c) any agreement must be subject to the laws of the State of New Jersey.

- 5.8** A copy of sample reports anticipated to be issued for this engagement, including bond yield calculation with a swap, transferred proceeds analysis, commingled funds analysis and any report with an associated investment agreement. Reports must include assumptions and methodology.
- 5.9** A copy of the opinion letters which would accompany each report – opinions to include one certifying the mathematical correctness of the calculations, accompanied by an opinion of tax counsel regarding compliance with applicable laws and regulations.
- 5.10** A brief description of the software used by your firm and the firm's ability to receive data and disseminate reports electronically.
- 5.11** Describe your firm's physical presence in the State of New Jersey, including number of offices, number of employees and the type of business activity conducted in the State.
- 5.12** Please describe the participation of women and minorities in your firm. Indicate the percentage of your firm that is owned by women and/or minorities.
- 5.13** Please provide any additional information or documentation that you feel will assist the Authority in evaluating your organization and its ability to service the Authority.
- 5.14** Please indicate the location where the services will be performed.
- 5.15** Please provide a copy of your firm's current New Jersey business registration certification (or interim registration).
- 5.16 Proposed Fees**
Submit a comprehensive itemized list of services and the respective costs including the hourly rate charged for adhoc consulting services on the attached **EXHIBIT A**. Proposed fees as stated in the completed **EXHIBIT A** shall remain in effect for the duration of the term of the contract. The Authority reserves the right to negotiate final fees with the vendor selected to provide services.
- 5.17 Litigation**
Describe any pending, concluded or threatened litigation and/or investigations, administrative proceedings or federal or state investigations or audits, subpoenas or other information requests of or involving your firm or the owners, principals or employees which might materially affect your ability to serve the Authority. Describe the nature and status of the matter and the resolution, if any.

Identify whether your firm's or any employee's ability to practice have been suspended or revoked by any federal, state or local government or agency thereof. If so, provide

the details leading to the suspension, the duration of the suspension and the dates the suspension began and the date of reinstatement.

5.18 Conflicts of Interest

Describe any actual or potential conflicts of interest that might arise if your firm is selected to serve as Arbitrage Compliance Provider to the Authority taking into consideration both the Authority and its college and university clients.

5.19 Required Documents and Forms

In addition to all required components of the Proposal as listed above, all documents and forms listed in the RFP Checklist referenced below must be timely submitted in order for your proposal to be considered responsive to this RFP.

6.0 SUBMISSION OF THE PROPOSAL

Proposals must be limited to **thirty (30)** pages, not including materials in the Appendices.

Joint proposals are not permitted.

In order to be considered for appointment, your firm must submit one (1) original and (1) hard copy of your proposal addressing the specific requirements outlined herein by no later than **3:00 EDT on August 2, 2019** at the following location:

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY
Attention: Brian Sootkoos
103 College Road East, Second Floor
Princeton, NJ 08540-6612**

All inquiries related to this RFP must be received by **3:00 PM EDT on Thursday, July 25, 2019** and directed in writing via email or fax to:

Brian Sootkoos
Director of Finance
Email: Brian.Sootkoos@njefa.nj.gov
Facsimile: (609) 987-0850

If due to delivery service delay, a vendor's proposal is received after 3:00 PM EDT on Friday August 2, 2019, the proposal shall be deemed responsive provided the vendor submits proof that but for delivery service delay, the vendor's proposal would have been received by the Authority prior to the stated deadline.

All inquiries related to this RFP must be received by 3:00 PM Thursday, July 25, 2019 and directed in writing via email or fax to:

Brian Sootkoos
Director of Finance
Email: Brian.Sootkoos@njefa.nj.gov
Facsimile: (609) 987-0850

All inquiries must be received by **3:00 PM EDT on Thursday, July 25, 2019**. No vendor submitting a proposal may make any inquiries concerning this RFP, except as expressly set forth herein, to any other NJEFA or Institution employee, Board member, or other state official until final selections have been determined.

If the Authority determines that any answers to such inquiries should be provided to all potential bidders, the answers will be posted on the Authority's website at www.njefa.nj.gov on or about **Friday, July 26, 2019**. It is your responsibility to check the Authority's website for any updates. All answers to inquiries or addenda shall be incorporated into and made part of this RFP.

The Authority assumes no responsibility and bears no liability for costs incurred in the preparation and submission of a proposal, or attendance of interviews, if any, in response to this RFP. The Authority assumes no responsibility and bears no liability for the disclosure of any information or material received in connection with this solicitation, whether by negligence or otherwise.

All documents and information submitted in response to this RFP will become property of the Authority and shall be open to inspection by members of the general public once the selection process is complete, in accordance with the "New Jersey Open Public Records Act" (N.J.S.A. 47:1A-1 et seq.), as amended and including all applicable regulations and policies and applicable case law, including the New Jersey Right-to-Know law

Any proprietary and/or confidential information in a vendor's proposal will be redacted by the Authority. A Proposer may designate specific information as not subject to disclosure pursuant to the exceptions to OPRA found at N.J.S.A. 47:1A-1.1, when the Proposer has a good faith legal and/or factual basis for such assertion. The Authority reserves the right to make the determination as to what is proprietary or confidential, and will advise the Proposer accordingly. The Authority will not honor any attempt by a Proposer to designate its entire proposal as proprietary, confidential and/or to claim copyright protection for its entire proposal. In the event of any challenge to the Proposer's assertion of confidentiality with which the Authority does not concur, the Proposer shall be solely responsible for defending its designation.

7.0 SELECTION PROCESS

In accordance with EO 37, the factors used to evaluate responsive proposals shall include, but are not limited to:

- The background, qualifications, skills and experience of the vendor and its staff;
- The vendor's degree of expertise;
- The rates or fees to be charged by the vendor;
- The Authority's prior experience with the vendor;
- The vendor's familiarity with the work, requirements, and systems of the Authority;
- The vendor's capacity to meet the requirements listed in the Scope of Services;
- The vendor's references; and,
- Geographical location of the vendor's offices.
- Capability for servicing the account and meeting the specified reporting deadlines;
- Overall arbitrage and yield restriction qualifications and experience of the firm and the individuals assigned to the account;
- Experience of the firm and individuals assigned the account with higher education issuing authorities and college and university clients;
- Analytical capabilities;
- Financial strength and reputation of the bidder;
- Satisfactory professional errors and omissions insurance coverage;
- Satisfactory form of engagement letter, reports and opinions;
- Performance on similar engagements;
- Access of organization to qualified tax attorneys and inclusion of tax attorney opinions with reports; and
- Capability to receive data and disseminate reports electronically.

All proposals will be reviewed to determine responsiveness. Non-responsive proposals will be rejected without evaluation. Responsive proposals will be reviewed and scored by an evaluation committee pursuant to the grading scale it creates and a recommendation for appointment will be made to the Authority's Board. The Authority reserves the right to request clarifying information subsequent to the submission of the proposal if necessary.

In making the appointment, strong consideration will be given to the respective price quotations submitted. The Authority reserves the right to establish a fee schedule that is acceptable to the vendor selected and to the Authority and to negotiate fees when appropriate.

The Authority reserves the right to request additional information if necessary or to request an interview with vendor(s) in which the evaluation committee will participate. The Authority also reserves the right to reject any and all submitted proposals with or without cause, and waive any irregularities or informalities in the proposals submitted.

The Authority further reserves the right to make such investigations as it deems necessary as to the qualifications of any and all vendors submitting proposals. In the event that all proposals are rejected, the Authority reserves the right to resolicit proposals.

8.0 ADDITIONAL TERMS AND CONDITIONS

These additional terms and conditions are required by law as indicated herein. The below forms are hyperlinked in the following RFP Checklist and can be downloaded from the Department of the Treasury website at: <http://www.state.nj.us/treasury/purchase/forms.shtml>.

All statutes, regulations, and Executive Orders can be accessed online by visiting the NJ State Library's website at: https://www.njstatelib.org/research_library/legal_resources/.

8.1 Equal Employment Requirements and Anti-Discrimination Policy

Vendors and bidders are required to comply with the requirements of *N.J.S.A. 10:5-31 et seq.* and *N.J.A.C. 17:27 et seq.* and the terms set forth in **EXHIBITS B-1 and B-2**.

8.2 Ownership Disclosure -Must be submitted with Proposal

The Ownership Disclosure form addresses the requirements of *N.J.S.A. 52:25-24.2*, for any contract or service agreement.

8.3 Disclosure of Investigations and Other Actions Involving Vendor

This form requires that the vendor/bidder list all officers and directors and to disclose certain information regarding the individuals.

8.4 Disclosure of Investment Activities in Iran - Must be submitted with Proposal

Pursuant to *N.J.S.A. 52:32-58*, vendors must certify that neither the bidder, nor any 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 is involved in any of the investment activities set forth in *N.J.S.A. 52:32 – 56(f)*. If the bidder is unable to so certify, the bidder shall provide a detailed and precise description of such activities.

8.5 Affirmative Action Compliance

N.J.S.A. 10:5-31 to -34 and *N.J.A.C. 17:27.3.1 et seq.* addresses Affirmative Action Compliance. The vendor/bidder must submit to the Authority one of the following three documents:

- New Jersey Certificate of Employee Information Report
- Federal Letter of Approval Verifying a Federally Approved or Sanctioned Affirmative Action Program (dated within one (1) year of submission)
- Affirmative Action Employee Information Report (AA-302)

8.6 Two-Year Chapter 51 and Executive Order No. 117 Certification and Disclosure of Political Contributions

Pursuant to P.L. 2005, c. 51 ("Chapter 51") and Executive Order No. 117 (Corzine 2008) ("Executive Order 117"), State departments, agencies and independent authorities, such as the Authority, are precluded from awarding contracts exceeding

\$17,500 to vendors who make certain political contributions on and after October 15, 2004, to avoid any appearance that the selection of contracts is based on the contractors' political contributions. The vendor(s) selected pursuant to this RFP shall be required to maintain compliance with Chapter 51 and Executive Order 117 during the term of its engagement.

If your firm has questions regarding the requirements of P.L. 2005, c. 51/Executive Order No. 117, please contact Brian Sootkoos, Director of Finance, at 609-987-0880.

8.7 Disclosure Requirement of P.L. 2005, c. 271.

Pursuant to P.L. 2005, c. 271 ("Chapter 271"), at least ten (10) days prior to entering into any agreement or contract with a value over \$17,500 with the Authority, business entities are required to submit a disclosure of certain political contributions.

Vendors are also advised of their 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-20.13* (P.L. 2005, c. 271, Section 3) if your firm receives contracts with public entities, such as the Authority, in excess of \$50,000 or more in the aggregate in a calendar year. It is the vendor's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or www.elec.state.nj.us.

8.8 New Jersey Business Registration

Pursuant to *N.J.S.A. 52:32-44*, the Authority is prohibited from entering into a contract with any entity providing goods or services to the Authority unless the bidder/vendor/contractor has a valid New Jersey Business Registration Certificate (or interim registration) on file with the Division of Revenue and Enterprise Services within the New Jersey Department of the Treasury.

Pursuant to *N.J.S.A. 54:49-4.1*, a business organization that fails to provide a copy of a business registration as required, 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 proof of business registration not properly provided under a contract with a contracting agency.

To verify the registration status of your business and obtain a Business Registration Certificate visit the Division of Revenue website at: https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp. If your firm is not already registered with the New Jersey Division of Revenue, the form should be completed online at the Division of Revenue website at: www.state.nj.us/treasury/revenue/index.html.

8.9 Source Disclosure

In accordance with Executive Order 129 (McGreevey 2004) and *N.J.S.A. 52:34-13.2* (P.L. 2005, c.92), all services performed pursuant to this RFP shall be performed within the United States.

8.10 New Jersey Conflicts of Interest Law

The New Jersey Conflicts of Interest Law, *N.J.S.A. 52:13D-12 et seq.* and Executive Order 189 (Kean, 1988), prohibit certain actions by persons or entities which provide goods or services to any State Agency.

8.11 Obligation to Maintain Records

The firm shall maintain all records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment under the RFP unless otherwise specified in the RFP. Such records shall be made available to the Authority for audit and review upon request.

8.12 Set-off for State Taxes

Pursuant to *N.J.S.A. 54:49-19 et seq.* (P.L. 1995, c159), and notwithstanding the provision of any other 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 so much of that payment as shall be necessary to satisfy the indebtedness. The amount set-off shall not allow for the deduction of any expense or other deduction 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 of the set-off to the taxpayer, partner or shareholder and provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under *N.J.S.A. 54:49-19*. No request for conference, protest, or subsequent appeal to the Tax Court from any protest shall stay the collection of the indebtedness.

8.13 New Jersey State W-9

No firm shall be paid unless a New Jersey State W-9 has been completed and is on file with the Authority.

8.14 State of New Jersey SBE/MBE/WBE Certification

Potential Small Business Vendors wishing to participate in the NJ State Set-Aside program may register their company with the New Jersey Division of Revenue and Enterprise Services, Small Business Enterprise Unit at: <https://www.njportal.com/DOR/SBERegistry/>

Firms that wish to become certified as a Minority and/or Women Business Enterprise may apply at: <https://www.nj.gov/njbusiness/contracting/>

8.15 NJStart Vendor Registration

It is recommended that all vendors register to use NJStart. It provides access to such information as the status of a vendor's Chapter 51 Certification, Business Registration, Ownership Disclosure, AA/EEOC Compliance and other required forms. Vendors can visit www.njstart.gov and click on "Register" to start the process.

8.16 Diane B. Allen Equal Pay Act

Vendors and bidders are advised that pursuant to the Diane B. Allen Equal Pay Act, L. 2018, c. 9, any State Contractor providing services within the meaning of that Act is required to file the report required therein, with the New Jersey Department of Labor and Workforce Development. Information about the Act and the reporting requirement is available at: <https://nj.gov/labor/equalpay/equalpay.html>

8.17 Local, State and Federal Laws

The vendor must comply with all local, State and federal laws, rules and regulations applicable to this contract and to the services performed hereunder. All contractual arrangements 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.

9.0 RFP CHECKLIST

The following RFP Checklist is to be executed by an authorized signer of your firm, and it is recommended that all required forms and documents listed therein be included and submitted with your proposal as contract award or authorization to the successful bidder is contingent upon receipt.

RFP CHECKLIST – It is recommended that all applicable and required forms and documents below be submitted simultaneously with the written proposal.		CHECK BOX IF INCLUDED	
PROPOSAL	1	Your written proposal in response to this Request for Proposals. Please Note: Written proposals that do not address all items listed in Section 5.0 above, “Required Components of the Proposal”, will not be evaluated and will be rejected as non-responsive.	<input type="checkbox"/>
	EXHIBITS	2	EXHIBIT A - Fee Proposal to NJEFA
3		EXHIBIT B-1 - Mandatory Equal Employment Opportunity Language – <i>Please sign to indicate acceptance and acknowledgment.</i>	<input type="checkbox"/>
4		EXHIBIT B-2 – Acknowledgment of State Policy Prohibiting Discrimination in the Workplace	<input type="checkbox"/>
5		EXHIBIT C – Certification of No Change (If applicable. See 9b below.)	<input type="checkbox"/>
DIVISION OF PURCHASE & PROPERTY FORMS	6	<u>Ownership Disclosure Form – Must be submitted with proposal</u>	<input type="checkbox"/>
	7	<u>Disclosure of Investigations and Other Actions Involving Vendor</u>	<input type="checkbox"/>
	8	<u>Disclosure of Investment Activities in Iran - Must be submitted with proposal</u>	<input type="checkbox"/>
	9	Affirmative Action Compliance (submit one of the following)	
		a. New Jersey Certificate of Employee Information Report	<input type="checkbox"/>
		b. Federal Letter of Approval Verifying a Federally Approved or Sanctioned Affirmative Action Program (dated within one (1) year of submission of Proposal)	<input type="checkbox"/>
		c. <u>Affirmative Action Employee Information Report (AA-302)</u>	<input type="checkbox"/>
	10	Disclosure of Political Contributions (submit one of the following) a. <u>Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions</u> b. Certification of No Change and Proof of Two-Year Approval (See EXHIBIT C for the Certification. Only for vendors who have previously submitted the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form.)	<input type="checkbox"/>
	11	<u>Chapter 271 Vendor Certification and Political Disclosure Form</u>	<input type="checkbox"/>
	12	<u>Proof of New Jersey Business Registration</u>	<input type="checkbox"/>
13	<u>Source Disclosure Form</u>	<input type="checkbox"/>	
14	Small, Minority and/or Women-Owned Business Enterprise Certification or Documentation (if applicable)	<input type="checkbox"/>	

I hereby agree to the Additional Terms and Conditions set forth in Section 8.0 above and understand that all applicable and required documents and forms listed in this RFP Checklist must be provided to the Authority prior to contract award or authorization.

Firm Name: _____

Submitted By: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT A

Arbitrage Compliance Services

Date Issued: July 18, 2019

FEE PROPOSAL TO NJEFA

DESCRIPTION

PROPOSED FEE

1. Engagement Fee:	
2. Base Report Fee:	
3. Legal opinion Fee	
4. Extra Period Fee (For Reporting Periods in Excess of 12 months):	
5. Commingled Fund Fee:	
6. Transferred Proceeds Fee:	
7. Variable Rate Fee:	
8. Yield Restriction Fee:	
9. Fee Per Additional Project Loan Account:	
10. Rebate Payment Filing Fee:	
11. Consulting Fee (Hourly Rate)	
12. Other Fees (Describe):	

EXHIBIT B-1

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 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 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, where applicable, will send to each labor union or representative or 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.

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 employ minority and women workers consistent with the applicable county employment goals established in accordance with *N.J.A.C. 17:27-5.2*, or a binding determination of the applicable county employment goals determined by the Division, pursuant to *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, labor unions, that it does not discriminate on the basis of age, 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 applicable 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, 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

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO 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 Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

Firm Name: _____

Submitted By: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT B-2

**VENDOR ACKNOWLEDGMENT OF RECEIPT OF NEW JERSEY STATE POLICY
PROHIBITING DISCRIMINATION IN THE WORKPLACE**

New Jersey Educational Facilities Authority is committed to establishing and maintaining a workplace environment that is free from discrimination or harassment.

Attached for your review is the New Jersey State Policy Prohibiting Discrimination in the Workplace, which must be distributed to all vendors/contractors with whom New Jersey Educational Facilities Authority has a direct relationship.

Please sign and return this Acknowledgment of Receipt to confirm you have received a copy of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

Vendor Name: _____

Submitted By: _____

Signature: _____

Title: _____

Date: _____

NEW JERSEY STATE
POLICY PROHIBITING DISCRIMINATION IN THE WORKPLACE

I. POLICY

a. Protected Categories

The State of New Jersey is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.

To achieve the goal of maintaining a work environment free from discrimination and harassment, the State of New Jersey strictly prohibits the conduct that is described in this policy. This is a zero tolerance policy. This means that the state and its agencies reserve the right to take either disciplinary action, if appropriate, or other corrective action, to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.

b. Applicability

Prohibited discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. Thus, this policy applies to all employees and applicants for employment in State departments, commissions, State colleges or universities, agencies, and authorities (hereafter referred to in this section as “State agencies” or “State agency”). The State of New Jersey will not tolerate harassment or discrimination by anyone in the workplace including supervisors, co-workers, or persons doing business with the State. This policy also applies to both conduct that occurs in the workplace and conduct that occurs at any location which can be reasonably regarded as an extension of the workplace (any field location, any off-site business-related social function, or any facility where State business is being conducted and discussed).

This policy also applies to third party harassment. Third party harassment is unwelcome behavior involving any of the protected categories referred to in (a) above that is not directed at an individual but exists in the workplace and interferes with an individual’s ability to do his or her job. Third party harassment based upon any of the aforementioned

protected categories is prohibited by this policy.

II. PROHIBITED CONDUCT

a. Defined

It is a violation of this policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in I (a) above. This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions and career development.

It is also a violation of this policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set forth in I(a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.

Examples of behaviors that may constitute a violation of this policy include, but are not limited to:

- Discriminating against an individual with regard to terms and conditions of employment because of being in one or more of the protected categories referred to in I(a) above;
- Treating an individual differently because of the individual's race, color, national origin or other protected category, or because an individual has the physical, cultural or linguistic characteristics of a racial, religious, or other protected category;
- Treating an individual differently because of marriage to, civil union to, domestic partnership with, or association with persons of a racial, religious or other protected category; or due to the individual's membership in or association with an organization identified with the interests of a certain racial, religious or other protected category; or because an individual's name, domestic partner's name, or spouse's name is associated with a certain racial, religious or other protected category;
- Calling an individual by an unwanted nickname that refers to one or more of the above protected categories, or telling jokes pertaining to one or more protected categories;
- Using derogatory references with regard to any of the protected categories in any communication;

- Engaging in threatening, intimidating, or hostile acts toward another individual in the workplace because that individual belongs to, or is associated with, any of the protected categories; or
- Displaying or distributing material (including electronic communications) in the workplace that contains derogatory or demeaning language or images pertaining to any of the protected categories.

b. Sexual Harassment

It is a violation of this policy to engage in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of prohibited behaviors that may constitute sexual harassment and are therefore a violation of this policy include, but are not limited to:

- Generalized gender-based remarks and comments;
- Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement;
- Verbal, written or electronic sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, text messages, invitations, gestures or inappropriate comments about a person's clothing;
- Visual contact, such as leering or staring at another's body; gesturing; displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals; or displaying sexually suggestive material on a bulletin board, on a locker room wall, or on a screen saver;

- Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention;
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluation or promotional opportunity; or
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

III. EMPLOYEE RESPONSIBILITIES

Any employee who believes that she or he has been subjected to any form of prohibited discrimination/harassment, or who witnesses others being subjected to such discrimination/harassment is encouraged to promptly report the incident(s) to a supervisor or directly to the State agency's Equal Employment Opportunity/Affirmative Action Officer or to any other persons designated by the State agency to receive workplace discrimination complaints.

All employees are expected to cooperate with investigations undertaken pursuant to VI below. Failure to cooperate in an investigation may result in administrative and/or disciplinary action, up to and including termination of employment.

IV. SUPERVISOR RESPONSIBILITIES

Supervisors shall make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Supervisors shall immediately refer allegations of prohibited discrimination/harassment to the State agency's Equal Employment Opportunity/Affirmative Action Officer, or any other individual designated by the State agency to receive complaints of workplace discrimination/harassment. A supervisor's failure to comply with these requirements may result in administrative and/or disciplinary action, up to and including termination of employment. For purposes of this section and in the State of New Jersey Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace (Model Procedures), a supervisor is defined broadly to include any manager or other individual who has authority to control the work environment of any other staff member (for example, a project leader).

V. DISSEMINATION

Each State agency shall annually distribute the policy described in this section, or a summarized notice of it, to all of its employees, including part-time and seasonal employees. The policy, or summarized notice of it, shall also be posted in conspicuous

locations throughout the buildings and grounds of each State agency (that is, on bulletin boards or on the State agency's intranet site). The Department of the Treasury shall distribute the policy to State-wide vendors/contractors, whereas each State agency shall distribute the policy to vendors/contractors with whom the State agency has a direct relationship.

VI. COMPLAINT PROCESS

Each State agency shall follow the Model Procedures with regard to reporting, investigating, and where appropriate, remediating claims of discrimination/harassment. See N.J.A.C. 4A:7-3.2. Each State agency is responsible for designating an individual or individuals to receive complaints of discrimination/harassment, investigating such complaints, and recommending appropriate remediation of such complaints. In addition to the Equal Employment Opportunity/Affirmative Action Officer, each State agency shall designate an alternate person to receive claims of discrimination/harassment.

All investigations of discrimination/harassment claims shall be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations shall be conducted in a prompt, thorough and impartial manner. The results of the investigation shall be forwarded to the respective State agency head to make a final decision as to whether a violation of the policy has been substantiated.

Where a violation of this policy is found to have occurred, the State agency shall take prompt and appropriate remedial action to stop the behavior and deter its reoccurrence. The State agency shall also have the authority to take prompt and appropriate remedial action, such as moving two employees apart, before a final determination has been made regarding whether a violation of this policy has occurred.

The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment.

Each State agency shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate.

VII. PROHIBITION AGAINST RETALIATION

Retaliation against any employee who alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by this policy. No employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation.

Following are examples of prohibited actions taken against an employee because the employee has engaged in activity protected by this subsection:

- Termination of an employee;
- Failing to promote an employee;
- Altering an employee's work assignment for reasons other than legitimate business reasons;
- Imposing or threatening to impose disciplinary action on an employee for reasons other than legitimate business reasons; or
- Ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees)

VIII. FALSE ACCUSATIONS AND INFORMATION

An employee who knowingly makes a false accusation of prohibited discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, may be subjected to administrative and/or disciplinary action, up to and including termination of employment. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

IX. CONFIDENTIALITY

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. All persons interviewed, including witnesses, shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in administrative and/or disciplinary action, up to and including termination of employment.

X. ADMINISTRATIVE AND/OR DISCIPLINARY ACTION

Any employee found to have violated any portion or portions of this policy may be subject to appropriate administrative and/or disciplinary action which may include, but which shall not be limited to: referral for training, referral for counseling, written or verbal reprimand, suspension, reassignment, demotion or termination of employment. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

XI. TRAINING

All State agencies shall provide all new employees with training on the policy and procedures set forth in this section within a reasonable period of time after each new employee's appointment date. Refresher training shall be provided to all employees, including supervisors, within a reasonable period of time. All State agencies shall also provide supervisors with training on a regular basis regarding their obligations and duties under the policy and regarding procedures set forth in this section.

Issued: December 16, 1999

Revised: June 3, 2005

Revised: September 5, 2013 See N.J.A.C.
4A:7-3.1

EXHIBIT C

P.L. 2005, c. 51 / Executive Order No. 117
Certification of No Change

I, _____ the _____ of _____ in connection with the Request for Proposals for Arbitrage Rebate Services issued by the New Jersey Educational Facilities Authority (the "Authority") do hereby certify that all information, certifications and disclosure statements previously provided in connection with P.L. 2005, c. 51, which codified Executive Order No. 134 (McGreevey 2004), as amended by Executive Order No. 117 (Corzine 2008), are true and correct as of the date hereof and that all such statements have been made with full knowledge that the Authority and the State of New Jersey shall rely upon the truth of the statements contained therein and herein in connection with the RFP.

IN WITNESS WHEREOF, we have executed this Certification as of this _____ day of _____, _____.

[NAME OF FIRM]

Submitted By: _____

Title: _____

Date: _____

Firm's EIN: _____

ATTENTION: Please attach proof of your firm's two-year approval date.