

New Jersey Educational Facilities Authority

**REQUEST FOR PROPOSALS  
FOR VERIFICATION AGENT SERVICES  
RELATING TO THE SALE OF  
NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY  
REVENUE REFUNDING BONDS FOR  
RIDER UNIVERSITY**



103 College Road East, 2<sup>nd</sup> Floor  
Princeton, NJ 08540

Date Issued: May 12, 2020

Question & Answer Cut-Off Date: May 14, 2020

Proposals Due: May 19, 2020

# **NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**

## **REQUEST FOR PROPOSALS FOR**

### **VERIFICATION AGENT SERVICES**

**Date Issued: May 12, 2020**

#### **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.

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 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 New Jersey Educational Facilities Authority (the “Authority”) invites you to submit a proposal in response to this Request for Proposals to provide Verification Agent services (the “RFP”) related to the Authority’s Revenue Refunding Bonds, Rider University Issue (the “Bonds”).

It is expected that the Bonds will be issued for the restructuring and refunding of all or a portion of the Authority’s 2012 Series A Bonds issued on behalf of Rider University (the “Bonds to be Refunded”). The 2012 Series A Bonds are outstanding in the aggregate principal amount of \$30,200,000. The Bonds are expected to be publicly offered via negotiated sale during the third quarter of calendar year 2020.

Relevant pages from the Official Statements for the Bonds to be Refunded have been provided for your information.

## **3.0 MINIMUM REQUIREMENTS**

A vendor must meet the following minimum requirements:

**3.1** Must be an independent certified public accountant or accounting firm.

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

## **4.0 SCOPE OF SERVICES**

The Verification Agent is asked to provide a verification report. The scope of the engagement will include:

For the 2012 Series A Bonds:

**4.1** The computation to determine that the anticipated receipts from the investment of the escrow will be sufficient to pay when due the principal and interest payment requirements of the Bonds on and prior to the redemption date.

**4.2** The computations of yield on the Bonds and on the escrow fund.

### **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, and must contain all of the information requested, preferably 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 information for those individuals who will be directly responsible for the preparation of the verification report.
- 5.2** Provide a description of the program your firm uses to calculate the numbers necessary to prepare the verification report.
- 5.3** Provide a description of your firm's qualifications to serve as verification agent, including a list of transactions on which your firm has served as verification agent in the past two (2) years.
- 5.4** Provide a sample verification report, redacted to remove confidential information, if you have not provided verification services to the Authority previously or if the format of your reports have changed since you last provided verification services.
- 5.5** Provide three (3) references.
- 5.6 Proposed Fees**  
Please provide a separate fee schedule for each item 4.1 through 4.3, under the Scope of Services described above. Proposals that provide one fee only will not be reviewed. Please note that your fee will only be paid if the refunding occurs and a verification report is required by bond counsel.

The Authority places significant reliance on fee proposals and expects the vendor to prepare them with care. Please understand that any deviation from the fee proposal established for a transaction based on the scope of services described in this RFP for a specific matter will be considered only as the result of a material or unforeseeable substantial change in the structure or circumstances of the transaction and as agreed upon by the parties. The Authority expects to be consulted promptly if you feel that the most recent fee proposal that you have provided is no longer accurate. A request for a proposed fee increase must be in writing and the rates to be charged for actual services rendered must be set forth in a schedule of billing rates as provided for in this RFP response.

## 5.7 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

In order to be considered for appointment, your response must be received by the Authority no later than **12:00 Noon EDT on Tuesday, May 19, 2020** via e-mail to [Procurement@njefa.nj.gov](mailto:Procurement@njefa.nj.gov).

Proposals received after **12:00 Noon EDT on May 19, 2020** will not be considered.

All inquiries related to this RFP must be received by **Thursday, May 14, 2020** and directed in writing via email to:

Steve Nelson  
Director of Project Management  
Email: [Procurement@njefa.nj.gov](mailto:Procurement@njefa.nj.gov)

All inquiries must be received by **5:00 PM EDT on May 14, 2020**. 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](http://www.njefa.nj.gov) on or about **May 15, 2020**. 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" ("OPRA") (*N.J.S.A. 47:1A et seq.*), as amended, and including all applicable regulations and policies and applicable case law, including the New Jersey Right-to-Know law. In responding to an OPRA request, any proprietary and/or confidential information in a vendor's proposal will be redacted by the Authority. The vendor 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 vendor 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 vendor accordingly. The Authority will not honor any attempt by a vendor 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 vendor's assertion of confidentiality with which the Authority does not concur, the vendor shall be solely responsible for defending its designation.

## **7.0 SELECTION PROCESS**

In accordance with EO 37 and EO 26, 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.

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/](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 A-1 and A-2**.

### 8.2 Form for Disclosure of Investment Activities in Iran

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.

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

### 8.4 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](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](http://www.state.nj.us/treasury/revenue/index.html).

#### **8.5 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.

#### **8.6 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.

#### **8.7 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.

#### **8.8 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.



### **8.9 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/>

### **8.10 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](http://www.njstart.gov) and click on "Register" to start the process.

### **8.11 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>

### **8.12 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.**

<b>RFP CHECKLIST – It is recommended that all applicable and required forms and documents below be submitted simultaneously with the written proposal.</b>			<b>CHECK BOX IF INCLUDED</b>
<b>PROPOSAL</b>	<b>1</b>	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"/>
<b>EXHIBITS</b>	<b>2</b>	<b>EXHIBITA-1</b> - Mandatory Equal Employment Opportunity Language – <i>Please sign to indicate acceptance and acknowledgment.</i>	<input type="checkbox"/>
	<b>3</b>	<b>EXHIBIT A-2</b> – Acknowledgment of State Policy Prohibiting Discrimination in the Workplace	<input type="checkbox"/>
<b>FORMS</b>	<b>4</b>	<a href="#"><u>Disclosure of Investment Activities in Iran</u></a>	<input type="checkbox"/>
	<b>5</b>	<a href="#"><u>Chapter 271 Vendor Certification and Political Disclosure Form</u></a>	<input type="checkbox"/>
	<b>6</b>	<a href="#"><u>Proof of New Jersey Business Registration</u></a>	<input type="checkbox"/>
	<b>7</b>	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:** \_\_\_\_\_

## Redemption

The 2012 Series A Bonds are subject to optional redemption, extraordinary optional redemption and mandatory sinking fund redemption as described below.

Optional Redemption: The 2012 Series A Bonds maturing on or before July 1, 2021 are not subject to optional redemption prior to maturity, except for Extraordinary Optional Redemption as described below. The 2012 Series A Bonds maturing on or after July 1, 2022 are subject to redemption prior to maturity on or after July 1, 2021 at the option of the Authority and with the prior consent of the University as a whole or in part at any time at a redemption price of 100% (expressed as a percent of the principal amount of such 2012 Series A Bonds to redeemed), plus accrued interest to the date of redemption.

Redemption of any of the 2012 Series A Bonds shall otherwise be effected in accordance with the Indenture.

Extraordinary Optional Redemption: If all or a portion of the Project financed by the 2012 Series A Bonds or the Refunded Bonds is condemned or there is substantial damage to any portion of the Mortgaged Property rendering such property, in the opinion of the Authority, unsuitable for its intended purposes or if all or a portion of the Mortgaged Property is condemned, the 2012 Series A Bonds are subject to “extraordinary optional redemption” prior to maturity in whole or in part, at any time or from time to time, from and to the extent of any insurance proceeds or condemnation awards that are received in respect to any damage to or destruction or taking under the power of eminent domain of all or any part of the Project and which insurance proceeds or condemnation awards are not applied to the replacement, restoration or repair of such property, but are instead deposited in the Redemption Fund pursuant to the Loan Agreement and the Mortgage, at the election of the Authority with the consent of the University. Any such redemption shall be made at the earliest practicable date at a Redemption Price of 100% of the principal amount to be so redeemed, plus accrued interest to the redemption date.

Mandatory Sinking Fund Redemption: The 2012 Series A Bonds maturing on July 1, 2032 and July 1, 2037 shall be retired by sinking fund installments which shall be accumulated in the Principal Account at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the redemption date. The sinking fund installments shall be sufficient to redeem the principal amount of the 2012 Series A Bonds on July 1 in each of the years and in the principal amounts as follows:

<u>2012 Series A Bonds Maturing on July 1, 2032</u>		<u>2012 Series A Bonds Maturing on July 1, 2037</u>	
<u>Principal Year</u>	<u>Principal Amount</u>	<u>Principal Year</u>	<u>Amount</u>
2028	\$1,425,000	2033	\$1,815,000
2029	1,495,000	2034	1,910,000
2030	1,570,000	2035	1,010,000
2031	1,650,000	2036	1,065,000
2032*	1,730,000	2037*	1,115,000

\*Final Maturity

Redemption of any of the 2012 Series A Bonds shall otherwise be effected in accordance with the Indenture.

**Notice of Redemption**

Notice of redemption of the 2012 Series A Bonds will be given by the Trustee by mailing a copy of such notice to DTC, as the registered owner of the 2012 Series A Bonds, and such mailing shall be a condition precedent to such redemption. Failure of any Beneficial Owner to receive a copy of such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of such 2012 Series A Bonds.

If less than all of the 2012 Series A Bonds of one maturity shall be called for redemption, the Trustee at the direction of the Authority shall notify DTC not less than thirty (30) nor more than forty-five (45) days prior to the date fixed for redemption of the particular amount of such maturity to be redeemed. DTC shall determine the amount of each Participant's interest in such maturity to be called for redemption and each Participant shall then select the ownership interest in such maturity to be redeemed. At such time as DTC or its nominee is not the registered owner of the 2012 Series A Bonds, the transfer provisions and notice of redemption provisions applicable to the 2012 Series A Bonds will be adjusted pursuant to the Indenture.

Interest on any 2012 Series A Bonds called for redemption shall cease to accrue from and after the date fixed for redemption if, on such date, sufficient moneys for the redemption of all such 2012 Series A Bonds, together with interest to the date fixed for redemption, shall be held by the Trustee.

**Negotiable Instruments**

The 2012 Series A Bonds issued pursuant to the Act are negotiable within the meaning of the Uniform Commercial Code of the State, subject only to the provisions for registration contained in the 2012 Series A Bonds.

## **EXHIBIT A-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 A-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.

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4A:7-3.1